R.D & P.R Dept only

TAMIL NADU LEGISLATIVE ASSEMBLY

COMMITTEE ON DELEGATED LEGISLATION

(2007-2008)

(THIRTEENTH ASSEMBLY)

FIFTH REPORT

(Presented to the Assembly on 17 APR 2008)

Legislative Assembly Secretariat,
Chennai- 600 009.

TAMIL NADU LEGISLATIVE ASSEMBLY



COMMITTEE ON DELEGATED LEGISLATION

(2007-2008)

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FIFTH REPORT

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TAMIL NADU LEGISLATIVE ASSEMBLY
வாய்மையே வெல்லும்
TRUTH ALONE TRIUMPHS

TAMIL NADU LEGISLATIVE ASSEMBLY

COMMITTEE ON DELEGATED LEGISLATION

(CONSTITUTED ON 15 TH MAY 2007)

CHAIRMAN

1. Thiru Durai Chandrasekaran

MEMBERS

2. Thiru O. Subramaniam
3. Thiru M. Anbazhagan
4. Thiru P.N. Periyannan
5. Dr.M. Tambidurai
6. Thiru G. Senthamizhan
7. Thiru R. Nedunchezhian
8. Thiru P. Veldurai
9. Thiru R.M. Palanisamy
10. Thiru T.A. Meganathan
11. Thiru D. Moorthy
12. Thiru G. John Joseph

SECRETARIAT

Thiru M. Selvaraj - Secretary

Thiru A.M.P. Jamaludeen - Deputy Secretary

Thiru P.S.K. Singaravelu - Under Secretary

REPORT OF THE COMMITTEE ON DELEGATED LEGISLATION

PART-I

INTRODUCTION

I, the Chairman of the Committee on Delegated Legislation having been authorised by the Committee present this Fifth Report on its behalf.

This Report includes some of the observations and decisions of the Committee for the year 2003-2004, 2004-2005 and 2005-2006 based on the consideration of the Memoranda that were placed before it. The present Committee for 2007-08 after having carefully perused the Memoranda and the proceedings thereon, endorses those observations and decisions without any modifications.

SITTINGS OF THE COMMITTEE

The Committee for 2003-2006, which was constituted on 21.5.2003, met for 20 days. It also undertook a Study Tour in the States of New Delhi, Utharanchal and Uttar Pradesh from 6.8.2005 to 13.8.2005.

ITEMS CONSIDERED BY THE COMMITTEE

The Committee considered 105 Memoranda and 9 Notes for Committee covering rules, amendments to rules, notifications etc., laid on the Table of the House besides the seventh report (XII Assembly) on Tamil Nadu Prohibition Act, 1937 and Eleventh Report (XII Assembly) on Tamil Nadu Panchayat Act, 1994 and statement of action taken and further action taken on the recommendations of the Committee Contained in the Twenty Fifth Report (XI Assembly), Twelfth Report (XI Assembly), Thirteenth Report (XI Assembly) , Eighth Report (XII Assembly) Fourteenth Report (XII Assembly),First Report (XII Assembly), Eleventh Report (X Assembly) and Sixth Report (XII Assembly).

This Report exclusively deals with notifications and amendments to the rules issued under the Tamil Nadu Panchayats Act, 1994. Extract of the proceedings of the meetings of the Committee are appended to this Report.

The Committee approved this Report on the 3rd April 2008.

PART - II

1. NOTIFICATIONS ISSUED UNDER TAMIL NADU PANCHAYATS ACT 1994

The Tamil Nadu Panchayats (Action Against illicit cutting of tree) Rules, 2001

(G.O.Ms.No.179 Rural Development (C.4). dated 13.8.2001)

In exercise of power conferred Under Section 242 (1) read with Clause (f) of Section 131 (1) of the Tamil Nadu Panchayats Act,1991 (Tamil Nadu Act,21 of 1994), the Government have issued the Tamil Nadu Panchayats (Action Against illicit cutting of Tree) Rules, 2001.

Rule - 4 relates to assignment of value of the tree and compounding of offences.

The Committee observed that in rule 4, it has been mentioned that the notice to the offender shall indicate whether the seizure of the parts involved in the offence will be returned to the offender or will be confiscated.

In this connection, if may observed that section 43 of the Tamil Nadu forests Act, 1882 reads as follows:

> When any person is convicted of forest Offence, all timber or forest produce in respect of which such offence has been committed and all tools,. ropes, chains, boats (Vehicles) and cattles used in committing such offence shall be confiscated to the Government".

The Committee observed that in rules under examination, the reasons for the return of the illicitly cut tree parts to the offender are not explicit. and that the Forest Act dealt with Forests only and that in the Panchayats trees were cut only permission of the concerned Panchayats.

The Committee after some discussion decided to seek clarification from the Government in Rural Development Department as to whether the seizure of the tree parts involved in the offence will be returned to the offender or will be confiscated.

2. NOTIFICATIONS ISSUED UNDER TAMIL NADU PANCHAYATS ACT 1994

The Tamil Nadu Panchayats (Lease and licensing of Fishing Rights in Water sources vested and regulated by village Panchayats and panchayat Union councils) Rules, 1999

Ref: 1. G.O.Ms.No.169, Rural Development (C.4). dated 16.8.1999
2. From the Rural Development Department U.O. Note No.33346/C.4/2000-18, dated 15.3.2005

The Committee on Delegated Legislation during its meeting held on 05.07.200 considered the Tamil Nadu Panchayats (Lease and licensing of fishing Rights in water sources vested and regulated by village Panchayats and Panchayat Union councils) rules, 1999 issued in government Order first read above.

The Committee was of the view that:

(1) There were no adequate provisions for disposal of the forfeited fish

(2) The burden of proof was on the Licensee to prove to the satisfaction of the Executive Authority and the provisions in this rule did not correlate with the provisions of criminal Jurisprudence and was also against equitable justice and decided to seek clarifications on the above lines:

The Government in Rural Development Department in its U.O. Note second read above has furnished the clarification as under:

" Necessary amendments to the Tamil Nadu Panchayats (Lease and Licensing of Fishery Rights in Water sources vested and regulated by Village Panchayats and Panchayat Union Councils) Rule, 1999 have been issued in G.O.Ms.1, Rural Development Department , dated 5.1.2005.

However, the Committee may recommend that suitable provisions be made for the disposal of the forfeited fish referred to in rule 4 of the said rules as the Department has not furnished any remarks in respect of the first part of the clarification sought for by the committee.

3. NOTIFICATIONS ISSUED UNDER TAMIL NADU PANCHAYAT S ACT 1994

(G.O. Ms.No.161 Rural Development Department dated 13.10.2004)

In exercise of the powers Conferred under Section 261(1) of the Tamil Nadu Panchayats Act, 1994 (Tamil Nadu Panchayats Act, 1994) the Government have issued amendment to an earlier notification consequent on the bifurcation of Dharmapuri District empowering to exercise the powers and functions under the Tamil Nadu Panchayats Act/Rules by the elected ward Members instead of the Special Officer i.e. the Collector of the District. This was based on an interim order of the High Court.

The Committee observed that the Department ought to have taken action at the time of bifurcation itself keeping in view the rights of the ward Members so that the problem of going to the Court by the ward Members

might have been avoided. This shows that the Department had not acted in time.

The Rural Development Department replied that the position was only for 8 months and we regretted for that. Now the things were set right. Also there was no intention of depriving the rights of the ward Members.

The Committee also observed that it was an undemocratic act. The elected Members of the wards were obstructed from performing their duties and the ward members were powerless for 8 months even though they were elected.

After some discussion, the Committee observed that detailed report on this matter might be called for from the Department.

4. NOTIFICATIONS ISSUED UNDER TAMIL NADU PANCHAYATS (RESIGNATION OF CHAIRMAN, VICE CHAIRMAN, VICE AND MEMBERS OF DISTRICT PANCHAYAT UNION COUNCIL AND OF THE PRESIDENT, VICE PRESIDENT AND MEMBERS OF VILLAGE PANCHAYAT) RULES, 1999

(G.O.Ms.No.167, Rural Development (C4) Department, dated 1.11.2004)

In exercise of powers conferred under Clause (iV) of Sub-Section (2) of Section 242 of the Tamil Nadu Panchayats Act, 1994 (Tamil Nadu Act 21 of 1994), the Government issued an amendment to the Tamil Nadu Panchayats (Resignation of Chairman, Vice-Chairman and Members of District Panchayat, Chairman, Vice-Chairman and Members of Panchayat Union Council and of the President, Vice-President and Members of Village (Panchayats) Rules, 1999

The Committee observed that in the preamble of the notification, it had been wrongly printed as 'by Clause (iv) of sub-section 242' instead of

the expression 'by Clause (iv) of Sub-section (2) of Section 242'. He observed that it might be printing error.

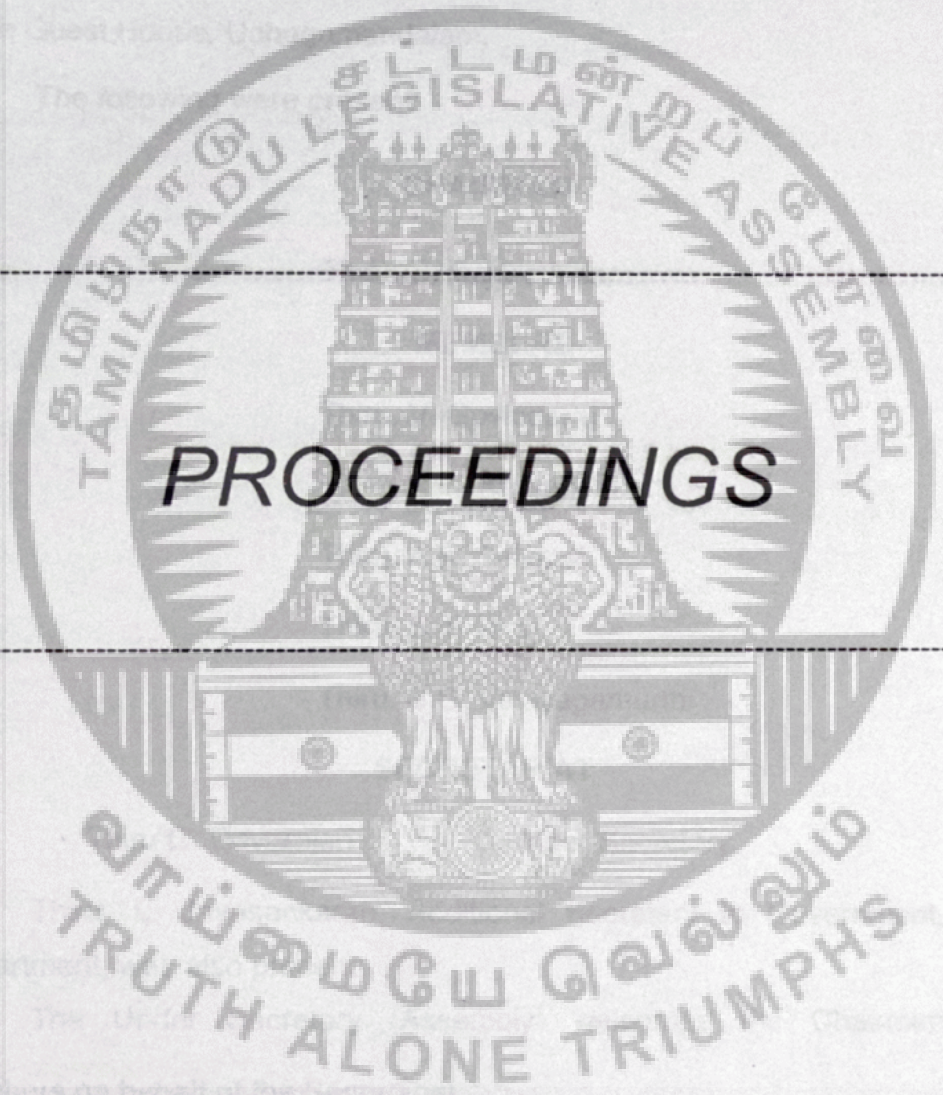
The Committee further stated that the papers laid on the table of the House were of high authentic value and in future the Department should take more care while placing the notification on the table of the House.

After some discussion the Committee decided to reiterate its earlier recommendation and to issue an errata for the error crept in the said notification.

Chennai - 600 009
3rd April, 2008
Panguni,21
Thiruvalluvar Aandu,2039

DURAI CHANDRA SEKARAN
CHAIRMAN

TAMILNADU LEGISLATIVE ASSEMBLY
TRUTH ALONE TRIUMPHS



PROCEEDINGS


தமிழ்நாடு சட்டமன்றப் பேரவை
TAMIL NADU LEGISLATIVE ASSEMBLY
வாய்மையே வெல்லும்
TRUTH ALONE TRIUMPHS

TAMIL NADU LEGISLATIVE ASSEMBLY

PROCEEDINGS OF THE MEETING OF THE COMMITTEE ON DELEGATED LEGISLATION

THURSDAY, THE 26TH JUNE 2003

The Committee on Delegated Legislation met at 9.30 a.m. on Thursday, the 26th June, 2003 in the chambers of Chairman at Tamizhagam, State Guest House, Udhagamandalam.

The following were present:

CHAIRMAN

Thiru. P. Rajarethinam

MEMBERS

Thiru. V. Govindaraj

Thiru. K.C. Karuppannan

Thiru. A.K. Selvaraj

Thiru. S. Sivaraj

Thiru. S.G. Vinayagamurthi

SECRETARIAT

Thiru G. Devarajan .. Under Secretary

Thiru. L. Jayasankaran, Additional Secretary to Government, Law Department, was also present.

The Under Secretary (Assembly) welcomed the Chairman and Members on behalf of the Secretariat.

The Committee took up for consideration the following Memoranda.

(Memorandum No.6 -2003-2004)

Sub: Amendments to Tamil Nadu Town Panchayats Municipalities and Corporation (Delimitation of Wards of Divisions and Reservation) rules,1998.

(G.O. Ms. No. 85. M.A. & W.S, dated 18.6.2001)

No modification was recommended.

(Memorandum No.7 -2003-2004)

Sub: Tamil Nadu Panchayats (Recovery of sums due to the Panchayat Union Council and the District Panchayats) Rules 2000

(G.O. Ms. No. 277. R.D. , dated 24.10.2000)

The Committee noted that there was a delay of one and a half year in placing the copies of the notification on the Table of the House even though the notification was published in the year 2000 itself.

(Memorandum No.9 -2003-2004)

Sub: Tamil Nadu Panchayats (Prohibition against obstructions in or over public roads, removal of encroachments, etc.) Rules, 2000

(G.O. Ms. No. 311. R.D. (C4) , dated 29.11.2000)

Rule 1 to Rule 8:

No modification was recommended

Rule 9

The Committee noted that there was no mention about the amount to be levied as annual fee and hence decided to seek clarification from the Department about the quantum of annual fee to be levied.

Thiru Sivaraj wanted to know whether this rule included hoardings also.

Then, the Committee decided to seek clarification as to whether 'hoardings also come under its purview.

Rule 10.

No modification was recommended)

Rule 11 & Rule 12

The Committee noted that in sub-rules 11 and 12, it has been wrongly guoted as ' Rule8' Rule 8 deals with powers of inspector for cancellation of License. It should be read as ' Rule7'.

The Committee recommend that the error be rectified by issue of necessary amendments.

Rule 13 to 15

No modification was recommended

Rule 18

The Committee observed that the marginal heading ' penalty and compensation' dose not seem fit to Rule 16, as it deals with permitting persons to plant or remove tree or other property etc.,

The Committee then decided to recommend that marginal heading be suitably altered.

From I

The committee noted that there was no mention in from 1 about' purpose and period for which llcence is applied as rule 6 (2) deals with furnishing of particulars regarding the period for which the license is required.

After some discussion, the Committee decided to recommend that item 4 under From I might be modified as' purpose and period for which llcence is applied"

From II

The Committee observed that there was no mention about ' Description' of the temporary structure for which the licence in granted

After some discussion the Committee decided to recommend that the ' Description' of the temporary structure should also be included in Form I

(Memorandum No.10 -2003-2004)

Sub: Amendments to Tamil Nadu Town Panchayats (Reservation of seats and rotation of reserved seats) Rules, 1995

(G.O. Ms. No. 157. R.D (C.1) dated 14.6.2001)

No modification was recommended

MONDAY, THE 8TH DECEMBER 2003

The Committee on Delegated Legislation met at 3.00 P.M. on Monday, the 8th December, 2003 in the Committee Room (erstwhile Legislative Council Chamber), Secretariat, Chennai - 600 009.

The following were present:

CHAIRMAN

Thiru. P. Rajarethinam

MEMBERS

Thiru. V. Govindaraj

Thiru. J. Hemachandran

Thiru. K.C. Karupannan

Thiru. S. Natarajan

Thiru. A.K. Selvaraj

Thiru. A. Sivaperumal

Thiru. S.G. Vinayagamurthi

SECRETARIAT

Thiru K. Sampathrajan .. Deputy Secretary

Thiru. K. Krishnan .. Under Secretary

Thiru.C.B. Manoharan, Deputy Secretary to Government, Law Department, was also present.

The Committee took up for consideration the following Memoranda.

MEMORANDUM NO. 33/2003-2004

Sub: The Mdurai City Municipal Corporation Building (Water Conservation) Rules, 2002

(G.O. No. 140, Municipal Administration and Water Supply Department, dated 11.10.2002)

No modification was recommended

MEMORANDUM NO. 35/2003-2004

Sub: Notifications issued Under Tamil Nadu Panchayats Act 1994 - The Tamil Nadu Panchayats (Action Against illicit cutting of tree) Rules, 2001

(G.O.Ms.No.179 Rural Development (C.4). dated 13.8.2001)

Deputy Secretary stated that in exercise of power conferred Under Section 242 (1) read with Clause (f) of Section 131 (1) of the Tamil Nadu Panchayats Act,1991 (Tamil Nadu Act,21 of 1994), the Government have issued the Tamil Nadu Panchayats (Action Against illicit cutting of Tree) Rules, 2001.

Rule - 4 relates to assignment of value of the tree and compounding of offences.

Under Secretary stated that in rule 4, it has been mentioned that the notice to the offender shall indicate whether the seizure of the tree parts involved in the offence will be returned to the offender or will be confiscated.

He further stated that section 43 of the Tamil Nadu forests Act,1882 reads as follows:

> When any person is convicted of forest Offence, all timber or forest produce in respect of which such offence has been committed and all tools,. ropes, chains, boats (Vehicles) and cattles used in committing such offence shall be confiscated to the Government".

Deputy Secretary stated that in the above rule the reasons for the return of the illicitly cut tree parts to the offender were not explicit.

Thiru J Hemachandran stated that certain provisions were contradictory with those of the Forest Act and asked which rule will prevail.

Thiru S. G. Vinayamurthi opined that the forest Act dealt with forests only and that in the Panchayats, trees were cut only with the permission of concerned Panchayats.

The Committee after some discussion decided to seek clarification from the Government in Rural Development Department as to whether the seizure of the tree parts involved in the offence will be returned to the offender or will be confiscated.

MEMORANDUM NO. 37/2003-2004

Sub: Tamil Nadu Town Panchayats and Municipal and Corporation Council (Elections) Rules, 1996 - Amendments - Issued

(G.O. Ms. No.86, Municipal Administration and Water Supply (Election) Department, dated: 18.6.2001.

Deputy Secretary stated that in exercise of the powers conferred by section 3-H, 7-A, 43-C and 303 of the Tamil Nadu district Municipalities Act, 1920 subsection (4) of Sections 28,29, 59 (1) and 347 of the Chennai City Municipal Corporation Act, Sections 29,30,68 and 430 of the Coimbatore City Municipal Corporation Act,1981, read with Section 8 of the Tiruchirappalli, Tiruneveli, Salem City Municipal corporation Act, 1994, the Government have

issuerd amendments to the Tamil Nadu Town Panchayats and Municipal and Corporation Councils (Election) rules, 1996.

Rule 7)
Rule 9)
Rule 11)
Rule 12) No modification were recommended.
Rule 18)
Rule 54 (1))
Rule 54 (3)

Deputy Secretary stated that according to Clause (c) of the newly substituted rule 54(3), the Returning Officer shall not count the votes cast at such election until the adjourned poll ordered in clause (a) or (b) has been completed.

The Committee, after some discussion, decided to recommend that the expression ..... ":the Returning Officer shall not count the votes at such election" might be substituted by the expression ..... "Returning Officer shall not commence the counting of votes cast at such election".

Sub - rule (4),(5),(6) &(7)

No modifications were recommended.

Rule 55)
Rule 60)
Rule 61)

Rule 66)
Rule 75) No modification were recommended.
Form II)

MEMORANDUM NO. 38/2003-2004

Sub: The Tamil Nadu town Panchayats Act, 1994 The Tamil Nadu Panchayats (Elections) Rules, 1995 - Amendments - Issued

(G.O. Ms. No.213, Rural Development (PE), dated 21.8.2001)

No modification was recommended

G.O. Ms. No.241, Rural Development (PE), dated 24.7.2001

No modification was recommended

MEMORANDUM NO. 39/2003-2004

Sub: Tamil Nadu Panchayats (opening and Maintenance of Market) Rules,2001.

(G.O. Ms. No.3, Rural Development (C 4), dated 4.1.2001

The Deputy Secretary stated that in exercise of the powers conferred by sections 147 (2), 148 (2) and Clause (XXXVII) of Section 242 (2) of the Tamil Nadu Panchayats Act, 1994 (Tamil Nadu Act,1994) and in superssion of earlier rules, the Government had issued the Tamil Nadu Panchayuats (Opening and Maintenance of Markets) Rules, 2001.

Rules 1 to 6

No modification was recommended

Rules 7

Deputy Secretary stated that rule 7 enumerated certain particulars required to be furnished for opening a private market. He also stated that as per the definitions given in the Rules, Private market means a market run by private person under license either from the Village Panchayat or the Panchayat Union Council.

He further stated that sub-rule (1) of rule 7 stated that no person shall open and maintain a private market without obtaining a licence from the village Panchayat and requested the Committee to examine as to whether the expression " Village Panchayat" in this Rule in view of the definition of private market occurring in Rule 2(e).

Thiru S. G. Vinayagamoorthy stated that literally the word Panchayat includes Panchayat Union also and asked why there should be dual authority and opined that the existing rules framed was very clear and hence suggested that no modification need to be made.

The Committee decided accordingly.

THURSDAY, THE 9TH SEPTEMBER 2004

The Committee on Delegated Legislation met at 10.00 a.m. on Thursday, the 9th September, 2004 in the Conference Hall, P.W.D. Water Resources Consolidation Project House, Kodaikanal.

The following were present:

CHAIRMAN

Thiru. P. Rajarethinam

MEMBERS

Thiru. K.C. Karupannan

Dr. D. Kumaradas

Thiru. S. Ramaraj

Thiru. S.G. Vinayagamurthi

SECRETARIAT

Thiru R. Muruganandam .. Joint Secretary

Thiru.T. Subbiah, Joint Secretary to Government, Law Department, was also present.

The Committee took up for consideration the following Memoranda.

MEMORANDUM NO. 46/2003-2004

Sub: Tamil Nadu Municipal Corporations Service rules,1996 - Amendments - Issued.

Ref: (G.O. Ms. No.13 Municipal Administration and Water Supply (MC IV) Department, Dated:14.2.2003)

No modification was recommended

MEMORANDUM NO. 48/2003-2004

Sub: Tamil Nadu district Municipalities (Hill Stations) Building, Rules,1993

Ref: (G.O. Ms. No.156, Municipal Administration and Water Supply Department, Dated:8.11.2002)

No modification was recommended

MEMORANDUM NO. 53/2003-2004

Sub: Rules - Tamil Nadu District Municipalities Building, Rules,1972 and The Tamil Nadu district Municipalities (Hill Stations) Building, Rules,1993 - Amendments - Issued

Ref: (G.O. Ms. No.112, Municipal Administration and Water Supply (MA 1) Department, Dated:16.8.2002)

No modification was recommended

MEMORANDUM NO. 60/2003-2004

Sub: Rules - Tamil Nadu Panchayats Acts, 1994 - appointment of Panchayat Union Commissioners as Special Officers of certain Village Panchayats.

Ref: (G.O. Ms. No.219, Rural Development Department, Dated:22.10.2003)

No modification was recommended

WEDNESDAY, THE 22ND JUNE 2005

The Committee on Delegated Legislation met at 12.00 P.M. on Wednesday, the 22nd June, 2005 in the Meeting Hall, Tamizhagam Government Guest House at Udhagamandalam.

The following were present:

CHAIRMAN

Thiru. P. Rajarethinam

MEMBERS

Thiru. J. Hemachandran

Thiru. K.C. Karuppannan

Thiru. A.K. Selvaraj

Thiru. S. Sivaraj

Thiru. S.G. Vinayagamurthi

SECRETARIAT

Thiru. A.M.P. Jamaludeen .. Deputy Secretary

Thiru.Vijaya Rajkumar, I.A.S., Collector, The Nilgiris District and Thiru. R. Veeramani, Deputy Secretary to Government, Law Department, were also present.

The Committee took up for consideration the following not for Committee and Memoranda:

NOTE FOR COMMITTEE NO.1 /2003-2005

Memorandum No.18/2000-2001

Sub; Tamil Nadu village Panchayats (Collection of Tax on profession, Trades, Callings and Employments) Rules, 1998

(G.O. Ms. No.9, Rural Development (C2) Department, Dated:18.1.1999)

Deputy Secretary stated that the Committee at its meeting held on 31.7.2000 sought a clarification from the Rural Development Department whether there was any payment of arrears of professional Tax, in view of the

fact that the notification had been published on 10th March 1999, where the extended period was up to 28th February 1999.

The Rural Development Department in its clarification stated that no traders and professionals had filed their returns in Form I as per the provisions in the Tamil Nadu Village Panchayuats (Collection of arrears of Tax on profession, Trades Callings and Employment) Rules, 1998 and no arrears of professional Tax had been paid by the Traders and professionals for the period 1992-1998.

The Committee observed that the delay in furnishing the reply to the clarification sought by the Committee was unjustifiable.

Thiru J. Hemachandran wanted to know the reasons for the failure on the part of the Department to get the statement from the traders during the period 1992,-98 which had resulted in heavy loss to the Government. He also suggested that the Committee should strongly condemn such attitude of the Department. It was a serious lapse and dereliction of duty on the part of the officials concerned.

Thiru S. G Vinayagamurthi thanked the Chairman for having implemented the suggestion to invite the Department officials to give reply to the Members' queries even at the time of consideration of Memoranda so as to settle matters then and there. He sought information from the Department on the action taken against the officials for not collecting any arrears of Professional Tax..

The Rural Development Department in its clarification had stated that necessary amendments were issued to the said Rules vide G.O. Ms. No.1 Rural Development Department,. dated 5.1.2005.

The committee decided to accept the amendment made to Rule in consonance with the provisions of Section 243 of the Act.

However the Committee recommended that suitable provisions also be made for the disposal of forfeited fish referred to in Rule 4 of the said Rules, as the Department has not furnished any remarks in that respect.

Deputy Secretary further stated that it was open for the Committee to seek further clarifications or to drop the matter.

Thiru S.G. Vinayagamoorthy opined that fish being a perishable item, the Committee could drop the matter.

After some discussion, the Committee decided tom accept the clarifications furnished by the department and not to pursue the matter further..

NOTE FOR COMMITTEE NO.2 /2003-2005

(Memorandum No.12/2000-2001)

Sub: Notification Issued Under Tamil Nadu Panchayats Act 1994

(G.O.Ms.No.169, Rural Development (C.4). dated 16.8.1999)

Deputy Secretary stated that the Committee at its meeting held on 5.7.2000 while considering the Tamil Nadu Panchayats (Leave and licensing of fishing

Rights in water sources vested and regulated by Village Panchayats and Panchayat Union Councils) rules, 1999 expressed the view that there were no adequate provisions for disposal of forfeited fish and the burden of proof was on the licenses to prove to the satisfaction of the Executive Authority and the provisions in that rule did not correlate with the provisions of criminal Jurisprudence and were against equitable justice. The Committee, therefore, sought the clarifications.

THURSDAY, THE 23RD JUNE 2005

The Committee on Delegated Legislation met at 10.00 P.M. on Thursday, the 23rd June, 2005 in the Meeting Hall, Tamizhagam Government Guest House at Udhagamandalam.

The following were present:

CHAIRMAN

Thiru. P. Rajarethinam

MEMBERS

Thiru. J. Hemachandran

Thiru. K.C. Karuppannan

Thiru. A.K. Selvaraj

Thiru. S. Sivaraj

Thiru. S.G. Vinayagamurthi

SECRETARIAT

Thiru. A.M.P. Jamaludeen .. Deputy Secretary

Thiru. R. Veeramani, Deputy Secretary to Government, Law Department, were also present.

The Committee took up for consideration the following Memorandum :

MEMORANDUM NO. 83/2003-2005

Sub: The Chennai city Municipal Corporation Licensing of Hoardings and Levy and Collection of Advertisement Tax Rules,2003 - Notified.

(G.O.Ms.No.48, Municipal Administration and Water Supply, dated 26.6.2003)

Rule 1 to Rule 19

No modifications were recommended

The Committee observed that 'licene' prescribed in form II should be authenticated by the appropriate authoruity and Form III should be signed by the licence holder.

After some discussion the committee decided to recommended that an erratum be issued in this regard suitably.

The Committee also decided to recommend that in Form V, item 7 be substituted by the expression, "Details of Annual rent, licence fee and advertisement tax paid".

G.O. Ms. No.53, Municipal Administration and Water Supply, dated 9.7.2003

No modification was recommended.

WEDNESDAY, THE 21ST DECEMBER 2005

The Committee on Delegated Legislation met at 11.00 A.M. on Wednesday, the 21st June, 2005 in the Committee Room, Legislators Residential Quarters, Chennai - 600 002.

The following were present:

CHAIRMAN

Thiru. P. Rajarethinam

MEMBERS

Thiru. V. Govindaraj

Thiru. J. Hemachandran

Thiru. K.C. Karuppannan

Dr. D. Kumaradas

Thiru. S. Ramaraj

Thiru. A.K. Selvaraj

Thiru. S. Sivaraj

Thiru. S.G. Vinayagamurthi

SECRETARIAT

Thiru. G. Anees Ahmed .. Joint Secretary

Thiru. A.M.P. Jamaludeen .. Deputy Secretary

Thiru. A. Nawab John .. Under Secretary

Thiru.C.B. Manoharan, Deputy Secretary to Government, Law Department, were also present.

The Committee took up for consideration the following Memoranda.

MEMORANDUM No.96/2003-2006

Sub: Notifications under Tamil Nadu Panchayats Act, 1994.

(G.O.Ms.No.18, Rural Development (C1) Department, dated 28.01.2004).

Notifications I, II and III.

Deputy Secretary (Assembly) stated that in exercise of the powers the Government constituted a new District Panchayat for the Krishnagiri District on 28.1.2004.

The Committee observed that the said notifications were published in the Tamil Nadu Government Gazette on 28.1.2004 whereas copies of them were laid on the table of the House in April 2005 i.e. after a period of more than one year.

Deputy Secretary, Rural Development Department expressed their regret and assured that this mistake would not be repeated.

After some discussion the Committee decided to reiterate its earlier recommendation that rules framed or notifications issued in pursuance of delegation of Legislative powers be placed on the table of the House within a period not exceeding six months from the date of their publication in the Government Gazette.

MEMORANDUM No.99/2003-2006

Sub: Amendments to Tamil Nadu Panchayat (Elections) Rules, 1995.

(G.O.Ms.No.164, Rural Development Department, dated 27.10.2004.)

No modification was recommended.

(G.O.Ms.No.168, Rural Development Department, dated 1.11.2004.)

No modification was recommended.

MEMORANDUM No.100/2003-2006

Sub: Amendment to Notification issued under Tamil Nadu Panchayat Act. 1994.

(G.O.Ms.No.161, Rural Development Department, dated 15.10.2004)

Deputy Secretary (Assembly) stated that in exercise of the powers under Section 261(1) of the Tamil Nadu Panchayats Act, 1994 the Government have amended an earlier notification consequent on the bifurcation of Dharmapuri District empowering to exercise the powers and function under the Tamil Nadu Panchayats Act/Rules by the elected ward Members instead of the Special Officer i.e. the Collector of the District. This was based on an interim order of the High Court.

Thiru S.G. Vinayagamurthy stated that the Department ought to have taken action at the time of bifurcation itself keeping in view the rights of the ward Members so that the problem of going to the Court by the ward Members might have been avoided. This shows that the Department had not acted in time.

Deputy Secretary, Rural Development Department replied that the position was only for 8 months and we regretted for that. Now the things were set right. Also there was no intention of depriving the rights of the ward Members.

Thiru J. Hemachandran commented that it was an undemocratic act. The elected Members of the wards were obstructed from performing their duties. The Secretary might be summoned to appear before the Committee for giving explanation.

Thiru S. Sivaraj expressed his view that the members were powerless for 8 months even though they were elected.

Thiru A.K. Selvaraj observed that the delay might be due to adoption of reservation policy with regard to Krishnagiri District.

Chairman observed that detailed report on the matter might be called for from the Department.

The Committee decided accordingly.

MEMORANDUM No.101/2003-2006

Sub: Amendment to Tamil Nadu Panchayats (Resignation of Chairman, Vice-Chairman and Members of District Panchayat, Chairman, Vice-Chairman and Members of Panchayat Union Council and of the President, Vice-President and Members of Village Panchayat) Rules, 1999.

(G.O.Ms.No.167, Rural Development (C4) Department, dated 1.11.2004)

Deputy Secretary (Assembly) stated that in the preamble of the notification, it had been wrongly printed as 'by Clause (iv) of sub-section 242' instead of the expression 'by Clause (iv) of Sub-section (2) of Section 242'. He observed that it might be printing error.

Thiru J. Hemachandran observed that the lethargic attitude of the Department should be condemned.

Chairman observed that papers laid on the table of the House were of high authentic value and in future the Department should take more care while placing the notification on the table of the House.

After some discussion the Committee decided to reiterate its earlier recommendation and to issue an errata for the error crept in the said notification.

MEMORANDUM No.102/2003-2006

Sub: Amendment to Tamil Nadu Panchayats (Lease and Licensing of Fishery Rights in water sources vested and regulated by Village Panchayats and Panchayat Union Councils) Rules, 1999.

(G.O.Ms.No.1, Rural Development (C4) Department, dated 5.1.2005)

Deputy Secretary (Assembly) stated in exercise of the powers conferred under section 242 of the Tamil Nadu Panchayats Act 1999, the Government have issued an amendment to rule 3 of the Tamil Nadu Panchayats (Lease and Licensing of Fishery Rights in water sources vested and regulated by Village Panchayat and Panchayat Union Councils) Rules, 1999 in order to reduce the existing ceiling of a fine of Rs.500/- prescribed for the first offence and Rs.50/- per day for the subsequent offence to Rs.100/- and Rs.15/- respectively.

The Committee decided to call for a detailed report as the circumstances under which such reduction was made.

PROCEEDINGS OF THE COMMITTEE ON DELEGATED LEGISLATION

WEDNESDAY, THE 22ND NOVEMBER 2006

The Committee on Delegated Legislation met at 10-30 a.m. on Wednesday, the 22nd November 2006 in the Conference Hall, Legislators' Residential Quarters, Chennai-600 002.

The following were present:

CHAIRMAN

Thiru. R. Rajendran

MEMBERS

Thiru. V.S. Babu

Thiru. T. Mahesh Krishnasamy

Thiru. D. Selvaraj

Thiru. T.A. Meganathan

Thiru. G. John Joseph

SECRETARIAT

Thiru. A.M.P. Jamaludeen .. Deputy Secretary

Tmt. Janahee, Joint Secretary to Government, Law Department, was also present. Deputy Secretary (Assembly) welcomed the Chairman and Members.

The Committee took up for consideration the following Memoranda::

MEMORANDUM NO.7/2006-2007

Sub : Notification issued under Tamil Nadu Town Panchayats and Municipal and Corporation Councils (Elections) Rules 1996 (T.N. District Municipalities Act 1920) T.N. Act V of 1920)

(G.O.Ms.No.58, MAWS (Election) Department, dated 11.5.2005)

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No modification was recommended.

MEMORANDUM No.14/2006-2007

Sub: Amendment to Tamil Nadu Third Grade Municipalities and Municipal and Corporation Councils (Elections) Rules, 1996.

(G.O.Ms.No 103, Municipal Administration and Water Supply (Election) Department, Dated 8-7-2005.

No modification was recommended.

MEMORANDUM No.16/2006-2007

Sub: Amendment to Tamil Nadu Panchayats (Prohibition) against obstructions in or over public roads, removal of encroachments, etc.) Rules, 2000.

(G.O. (Ms) No.184, Rural Development (C4) Department, dated 23.12.2004.

No modification was recommended.

M. SELVARAJ,
SECRETARY.

TAMILNADU LEGISLATIVE ASSEMBLY
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