



THE ASSAM GAZETTE

অসাধাৰণ

EXTRAORDINARY

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No. 511 Dispur, Friday, 27th December, 2019, 6th Pausa, 1941 (S. E.)

GOVERNMENT OF ASSAM
ORDERS BY THE GOVERNOR
SOCIAL WELFARE DEPARTMENT

NOTIFICATION

The 27th December, 2019

No. SWD.428/2017/197.- Whereas a draft of the Rights of Persons with Disabilities (Assam) Rules, 2019 was published as required under sub-section (1) of section 101 of the Rights of Persons with Disabilities Act, 2016 (49 of 2016) in the Assam Gazette, Extraordinary, vide No. SWD 428/2017/184 dated 15th February, 2019 inviting objections and suggestions from all persons likely to be affected thereby, before the expiry of a period of twenty one days from the date on which the copies of the Official Gazette containing the said notification were made available to public.

And whereas the copies of the Official Gazette in which the said notification was published were made available to the public on 16th February, 2019.

And whereas the objections and suggestions received from the public in respect of the said draft rules during the stipulated period have been duly considered by the Government.

Now, therefore, in exercise of the powers conferred by sub-section (1) and (2) of section 101 of the Rights of Persons with Disabilities Act, 2016 (49 of 2016) the Governor of Assam is hereby pleased to publish the following rules, namely :-

CHAPTER-I

Preliminary

1. Short title and commencement .-

(1) These rules may be called The Rights of the Persons with Disabilities (Assam) Rules, 2019.

(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, -

(a) "Act" means the Rights of Persons with Disabilities Act, 2016 (49 of 2016);

(b) "certificate" means a certificate of disability issued by a certifying authority under sub-section (1) of section 57 of the Act;

(c) "certificate of registration" means a certificate of registration issued by the competent authority under section 50 of the Act;

(d) "Commissioner" means the State Commissioner for Persons with Disabilities of the State Government;

(e) "Form" means a form appended to these rules;

(f) "rules" means The Rights of Persons with Disabilities (Assam) Rules, 2019;

(g) "State" means the Government of the State of Assam;

(h) "dependent" means anyone, including a person over the age of eighteen years, who is unable to care for or support himself or herself, physically, financially, in decision making and / or in terms of looking over their general well being and looks for such care and/or support from another. A person qualifying as a dependent generally may include a person's child, stepchild, adopted child, grandchild, great-grand child, son or daughter-in-law, father or mother-in-law, brother or sister-in-law, parent, brother, sister, grand parent, step-parent, stepbrother or sister, half brother or sister, spouse and, if related by blood, uncle, aunt, niece, or nephew, whose day-to-day support and care the person is entrusted with;

(i) "section" means section of the Act.

(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. State Committee for Research on Disability .-

(1) The Committee for Research on Disability shall be constituted as per clause (ii) of sub-section (2) of section 6 of the Act. The Committee shall consist of the following members, namely :-

- (i) An eminent person having vast experience related with disability affairs or an eminent person having vast experience in the field of science and research to be nominated by the State Government - Ex-officio-Chairperson;
- (ii) The Director of Health Services of the State Government or his nominee - Ex-officio Member;
- (iii) Officer in-charge of the Composite Regional Centre under the Ministry of Social Justice and Empowerment, Government Of India – ex-officio Member;
- (iv) One expert in the field of medical and health nominated by the State Government - Member;
- (v) 6 (six) members from registered State level organizations or individuals belonging to different groups of disabilities representing each of five groups specified disabilities as mentioned in the Schedule of the Act as nominated by the State Government – Members :
Provided that at least one representative of the registered organizations is a woman.
- (vi) One Member or his representative from Assam State Legal Services Authority – Member ;
- (vii) Any other expert(s) special invitee(s) which the Chairperson may invite – Member ;
- (viii) Chairperson or his representative from the Assam State Commission for Women, Guwahati, Assam – Member ;
- (ix) Chairperson or his representative from the Assam State Commission for Protection of Child Rights, Guwahati, Assam – Member ;
- (x) Chairperson or his representative from Assam Human Rights Commission – Member;
- (xi) The Director, Social Welfare, Assam – Member Secretary;

(2) The terms 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 member shall be eligible for re-nomination for up to two consecutive terms.

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

(4) The non-official members and special invitees belonging to non-official category shall be entitled to travel allowance and dearness allowance as admissible to Class I Officers of the State Government.

(5) The Committee shall be provided with such clerical and other staff as the State Government may consider necessary.

(6) The Committee shall consider any application for research in the field of disability as per provision of sub-section (1) and (2) of section 6 of the Act and recommend to the Government for approval or rejection of such an application.

4. Person with disability not to be a subject of research .-

- (1) No person with disability shall be considered to be a subject of research except when , -
 - (i) the relevance of the proposed research is established and the consent of the person concerned has been obtained;

- (ii) the manner and method of obtaining consent from the concerned person as per clause (i) of sub-section (2) of section 6 of the Act;
 - (iii) ethical practices are adopted for the proposed research;
 - (iv) any other aspect bearing on the person or persons concerned.
- (2) The Committee may call for further information from the applicant as it deems fit.

5. Procedure to be followed by Executive Magistrate .-

For the purpose of dealing with the complaints under sub-section (3) of 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).

6. Procedure to be followed by Police Officer .-

On receipt of the complaint, the Police Officer assigned to enquire into the act of abuse, violence and exploitation against the person with disabilities shall follow the procedure laid down in the sub-section (4) of section 7 of the Act and also proceed in accordance with law for the time being in force upon receipt of information to the commission of a cognisable offence.

7. Reports of complaints .-

Reports of complaints of abuse, violence and exploitation shall be made in Form I.

CHAPTER - III

Limited Guardianship

8. Manner of providing Limited Guardianship .-

- (1) A District Court or any Authority as designated by the State Government shall grant support of limited guardianship to a person with disability to take legally binding decision as per sub-section (1) of section 14 of the Act.
- (2) Application for limited guardianship: Under section 14(1) of the Act, an application for appointment of limited guardian for a person with disability shall be made by a person with disability, parent, relative or an organization registered under the Act to the Designated authority in prescribed format, Form - II.

Note: For those persons who do not have support from parent, relative or organization as care giver, applications for limited guardianship may be made by any prominent person of the locality on his or her behalf or a person of choice of the person with disability provided that the name of the prominent person is approved by the Designated authority on Disability as a care-giver to such person with disability who does not have support from any other.

- (3) The District Court or any Authority as designated by State Government on its own or otherwise shall grant the support of limited guardianship to a person with disability to take a legally binding decision on his behalf.
- (4) The District Court or the designated authority shall take a decision preferably within a period of one month from the date of receipt of an application regarding grant of limited guardianship or from the date of coming to its notice 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.

(5) The limited guardianship as appointed under sub-rule (1) shall be valid unless terminated.

(6) While granting the support of limited guardianship, the designated authority shall consider a suitable person to be appointed as a limited guardian in the following order of preference :-

- (i) The spouse or parents or adult children of the person with disability; or
- (ii) Immediate adult brother or sister; or
- (iii) Other relatives; or
- (iv) Registered organizations under the Act.
- (v) Prominent Person of the locality already approved as care-giver by the designated authority.

(7) The Designated authority, shall refer the application for detailed assessment to the Assessment Board formed by the Designated authority as constituted as per section 72 of the Act as the case may be.

(8) The Assessment Board shall conduct the assessment as per the following guidelines :-

- (i) A current analysis and evaluation of the person's mental and physical condition;
- (ii) A description of the nature, type and extent of specific cognitive and functional limitations;
- (iii) An explanation of how the disability affects the person's decision making;
- (iv) The date of assessment or examination on which the report is based.

(9) The Assessment Board shall apprise the Designated authority that the limited guardianship may include the authority to support the decisions of the persons with disability in medical decisions or financial decisions or a combination of the said two areas and that in all other matters the limited guardian has no authority at all.

(10) The Assessment Board shall apprise the Designated authority if there is a need for grant of limited guardianship repeatedly including the nature and manner of support to be provided.

(11) The Designated authority shall on review of the recommendation of the Assessment Board grant the support of limited guardianship to a person with disability to take a legally binding decision on his or her behalf or its own considered decision.

(12) While taking a decision on the appointment of a limited guardian, the designated authority shall ensure that the person whose name has been suggested for appointment as a limited guardian is ,-

- (a) devoid of vested interest;
- (b) a citizen of India;
- (c) is not of unsound mind or is currently undergoing treatment for mental illness;
- (d) doesn't have a history of criminal conviction;
- (e) is not a destitute and dependent on others for his or her own living; and
- (f) has not been declared insolvent or bankrupt.

(13) In case the designated authority considers awarding the limited guardianship to a registered organization under this Act, under sub-rule (2), the guidelines to be followed shall be ,-

- (i) The institution shall be recognised by the State or the Central Government;
- (ii) The institution shall have a minimum of 5 years of experience in offering disability rehabilitation services including running residential facilities or hostels for person with disabilities of the concerned category;
- (iii) The residential facility or hostel for person with disabilities shall maintain minimum standards in terms of space, staff, furniture, rehabilitation and medical facilities as specified by the Government.
- (iv) The confirmation of appointment of guardian on such application shall be made in Form – III ;
- (v) The guardian shall submit a return covering property and assets of the ward within 6 months of his appointment in Form – IV ;
- (vi) The guardian shall submit a return covering property and assets of the ward within a period of 3 months of the close of every financial year in Form – V ;
- (vii) A quarterly report shall be submitted by the Designated authority to the Government or to the state level agency authorised by the Government giving particulars of the applications for guardianship received and orders passed thereon in Form – VI;

(14) The designated authority shall take a decision preferably within a period of one month from the date of receipt of an application regarding grant of limited guardianship or from the date of coming to its 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 in Form VII.

(15) The validity of the limited guardianship as appointed under sub-rule (6) shall be initially for a period of five years which can be further extended by the designated authority as the case may be :

Provided that while extending the validity of the limited guardianship, the designated authority shall abide by the same procedure as was followed while granting the initial guardianship.

(16) Only those individuals who are over the age of 18 years and who have not been previously convicted of any cognizable offence under the Indian Penal Code or any other law for the time being in force shall be appointed.

(17) Any decision shall be made jointly and on mutual understanding and trust between the guardian and the person with disability.

(18) 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.

(19) Complaint against a limited guardian under section 14 of the Act :-

- (a) shall be made by the person with disability, parent, relative, or a registered organization under the Act or anyone, in good faith on the ground of abuse or neglect of a person with disability or inefficiency of the limited guardian to meet the best interest of the person with disability, to the designated authority;

- (b) the designated authority shall upon receipt of the Complaint, shall appoint a team of investigators consisting of not less than 3(three) persons. The team shall consist of one person with technical expertise on the category of disability nominated by the designated authority, one person with disability and one Government official associated with disability not below the rank of District level Officer ;
- (c) The team of investigators while investigating a complaint for assessing the abuse or neglect of a person with disability or inefficiency of the limited guardian to meet the best interest of the person with disability, shall follow the guidelines specified by the government;
- (d) The team of investigators shall submit their report within a period of 15 days of being assigned the task;
- (e) The following acts of commission or omission shall constitute abuse or neglect or inefficiency on the part of the guardian/limited guardian, namely ,-
- (i) solitary confinement of a person with disability in a room or confined space for long periods of time;
 - (ii) chaining of the person with disability;
 - (iii) beating or treating a person with disability resulting in bruises, skin or tissue damage (not due to self-injurious behaviour indulged by the person with disability);
 - (iv) sexual abuse of the person with disability;
 - (v) deprivation of physical needs such as food, water and clothing;
 - (vi) no provisions or non-compliance of available rehabilitation or training programs as specified by experts in the field of disability rehabilitation in the district;
 - (vii) misappropriation or misutilization of the property of person with disability;
 - (viii) lack of facility or no provision of trained or adequate staff for meeting the training and management needs of the person with disability as determined by the specific term of reference during assuming of limited guardianship;
- (f) Upon receiving the report of the investigation team, the designated authority shall take final decision on the complaint within a period of two weeks after giving the guardian an opportunity of being heard. If the designated authority is not satisfied with the explanation of the said guardian, they may take appropriate decisions to safeguard the interest of the persons with disability including removal of the guardian.
- (g) The designated authority shall record in writing the reason of removal of the guardian or rejection of the application.
- (h) The designated authority in the event of removal of limited guardianship shall take steps for immediate restoration of care to the person with disability till such date he/she is provided with limited guardianship as per rules.
- (i) In the event of demise of the appointed limited guardianship, the designated authority, shall on intimation of such information or suo moto, take steps for immediate restoration of care to the person with disability till such date he/she is provided with limited guardianship as per rules.

9. Appellate Authority .-

State Government shall notify the Appellate Authority under sub-section (3) of section 14 of the Act for appeal by any person with disabilities, parent, relative or a registered organisation under the Act or any person aggrieved by the order of the designated authority within a period of 30 (thirty) days of receipt of the report of the order of designated authority. The Appellate Authority may co-opt expert(s) in the respective field of disability for the service of the Appellate Authority and pass necessary order within sixty days of receipt of the appeal after giving the appellant the opportunity of being heard.

CHAPTER IV

Certificate of Registration of Institutions

10. Application for and grant of certificate of registration .-

(1) A person who desires of establishing or maintaining an institution for reception, care, protection, education, training, rehabilitation and any other activities for persons with disabilities may make an application to Competent Authority as appointed by State Government as per section 49 of the Act for a certificate of registration.

(2) As per section 51 of the Act every application for the certificate made under sub-rule (1) shall be made along with documents in Form VIII with the following documents :-

- (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 qualification of the professionals employed by the Institution, and
- (g) the proof of residence of the applicant.

(3) Every application made under sub-rule (1) shall comply with the following requirements in respect of the concerned institution, namely:-

- (a) that the institution had been working in the field of care, protection, education, training, rehabilitation, rights and any other activities for 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 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 or other trained professionals to cater to the special needs of persons with disabilities
- (e) that the institution has adequate facilities to cater to the needs of persons with disabilities in areas where the institution works in; and
- (f) that the institution has submitted its audited accounts and annual reports of last three years with the Directorate of Social Welfare, Assam.
- (4) On receipt of the application the competent authority shall verify the information furnished and may make enquiries from the District Officer dealing with disability of the district concerned or ask for additional information from the applicant and, if satisfied, shall issue the certificate and, if otherwise, refuse to grant it after giving the applicant a reasonable opportunity of being heard.
- (5) Every application shall be disposed of within ninety days from the date of receipt.
- (6) **Validity of certificate .-** The certificate of registration under this rule, unless revoked under section 52 of the Act, shall remain in force for a period of five years and from the date on which it is granted or renewed.
- (7) **Renewal of certificate .-** An application for the renewal of certificate of registration shall, be made in the same manner as per the application for grant of certificate under sub-rule (1) accompanied with the previous certificate of registration and a statement that the application 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, Assam 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.
- (8) If the application for renewal of certificate of registration is made before its expiry as specified in the proviso to sub-rule (8), 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.
- (9) As per sub-section (7) of section 51, every application made under clause (1) of sub-rule (8), in which the competent authority referred to in sub-section (1) of Section 51 of the Act, is satisfied that the requirements for grant of certificate of registration under the Act, and rules made there under have been complied with, shall be disposed of by it within a period of ninety days.

11. Revocation of Registration .-

Every institution registered by the competent authority under the Act shall be subject to revocation of registration as per section 52 of the Act.

12. Appeal against the order of competent authority .-

Any person aggrieved by the order of the Competent Authority as referred to in sub-section (1) of section 51 of the Act refusing to grant a certificate of registration or revoking a certificate of registration under sub-section (1) of section 52, may within ninety days from the date of the order, prefer an appeal against that order to the appellate

authority notified by the State Government under sub-section (1) of the section 53 of the Act, and the appellate authority may after such enquiry into the matter as it considers necessary and after giving the appellant an opportunity of being heard, make such order as it thinks fit.

CHAPTER V

Certificate of Disability

13. Application for certificate of disability .-

(1) Any person with specified disability notified by the Central Government along with guidelines for assessment of specified disability referred to in section 59 of the Act may apply in FORM - VIII as mentioned in sub-rule (2) of rule 10 for a certificate of disability as per section 58 of the Act to the certifying authorities designated by State Government as per section 51 of the Act.

(2) The certifying Authority shall issue a certificate of disability in terms of the guidelines issued by Central Government and after satisfying himself that the applicant is a disabled person issue the certificate of disability in his favour as per Forms.

(3) The application shall be accompanied by –

(a) proof of residence (including but not restricted to Passport, Ration Card with Photograph, Pass Book from bank or Post Office with Photograph, Aadhar Card or Aadhar Enrolment Number, EPIC card, Government I Card with Photograph, Pension Certificate with photograph, Driving Licence, Utility Bills, Certificate of address issued by MP/MLA/ Gazetted Officer on their letterhead, Certificate of a Gaon Burah countersigned by a Revenue Officer)

(b) two recent passport size photographs;

14. Issue of certificate of disability .-

On receipt of an application under sub-rule (1) of rule 13, the medical authority or any other appointed as certifying authority shall, verify the information as provided by the applicant and shall assess the disability in terms of the relevant guidelines issued by the Central Government and after satisfying himself that the applicant is a person with disability, issue a certificate of disability in his favour in Form V, VI and VII, as prescribed by Government of India in Rights of Persons with Disability Rules 2017, vide notification No. GSR 591(E) dated 15th June, 2017.

(2) The certifying authority shall issue the certificate of disability within a month from the date of receipt of the application.

(3) The certifying authority shall, after due examination –

(i) issue a permanent certificate of disability in cases where there are no chances of variation of disability over time in the degree of disability; or

(ii) issue a certificate of disability indicating the period of validity, in cases where there is any chance of variation over time in the degree of disability.

(4) If an applicant is found ineligible for issue of certificate of disability, the certifying authority shall convey the reasons to him in writing under Form IX within a period of one month from the date of receipt of the application.

(5) The State Government shall ensure that the certificate of disability is granted on online platform from such date as may be notified by the State Government.

(6) A person who is under treatment for any of the 21 specified disabilities under the Act, if found being above the benchmark of 40 percent, the medical authority in charge of said treatment, whether government or private, shall be mandated to issue Disability Certificate on the spot without charging any further dues in appropriate specified forms, irrespective of the fact whether the certificate is demanded by the person with disability who comes / is brought in for diagnosis / treatment or not. Such certificate should be countersigned by the Joint Director Health Services based on the findings of the doctor.

15. Certificate issued under rule 14 to be generally valid for all purposes .-

A person to whom the certificate issued under rule 14 shall be entitled to apply for facilities, concessions and benefits admissible for persons with disabilities under schemes of the Government and of non-Governmental organizations funded by the Government. However, for certificates issued under sub-rule (6) of rule 14 disbursement of any facility, concession or benefit shall be made to such a disabled person.

16. Validity of certificate of disability issued under the repealed Act .- The certificate of disability issued under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (1 of 1996) shall continue to be valid after commencement of the Act for the period specified therein.

17. Appeal regarding certificate of disability .-

(1) Any person aggrieved with the decision of the certifying authority in respect of issuing the certificate of Disability may prefer an appeal before the appellate authority to be designated by the State Government under sub-section (1) of section 59 of the Act.

(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 appellate authority shall provide the appellant an opportunity to present his case and thereafter pass such reasoned and detailed order as it may deem appropriate to present the case before a Medical Assessment Board and on the basis of report of this Board, the authority may pass appropriate order.

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

CHAPTER - VI

State Advisory Board

18. Constitution of the Board .-

The State Government shall constitute with members as envisaged in section 66 of the Act, the State Advisory Board.

19. Nomination of District members to the State Board .-

Five members to be nominated by the State Government by rotation to represent the District under sub-clause (ii) of clause (e) of sub-section (2) of section 66 shall be in the alphabetical manner in which the name of the District shall appear.

20. Notice of the Meeting .-

(1) The meeting 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 ordinary be held in Guwahati on such dates as may be fixed by its Chairperson :

Provided that the Board shall meet at least once in every four months.

(2) The Chairperson of the Board shall, upon the written request of not less than ten members of the Board, call for 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 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, thinks 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, permits 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).

21. Allowances for the Members of the State Advisory Board .-

(1) The non-official Members of the State Advisory Board on disability, shall be paid an allowance of Rs 2000 /- (rupees two thousand only) per day for each day of the actual meeting of the said Board. They shall also be entitled to draw TA / DA as admissible to a Class I officer of the State Government to attend the meeting.

(2) A fixed honorarium of rupees one thousand five hundred per day of the actual meeting to all the members on due attendance and participation in the State Advisory Board.

22. Procedure of conduct of Business of State Advisory Board .-

(1) 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 authorised representative of the Chairperson or in his absence the representatives of the Vice chair person shall preside over meeting.

(2) Quorum -

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

(b) If 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.

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

(d) Where a meeting of the Board is adjourned under clause (b) for want of quorum to the following day or to another date with sufficient gap, notice of such an adjourned meeting shall be given to the members who were supposed to be present in the adjourned meeting and it shall not be necessary to give notice of the adjourned meeting to other members in the matter as specified in sub-rule (4) of the rule 22;

(e) 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 except as referred to in sub-rule (4) of rule 22 of these rules.

(3) Minutes -

(a) Record shall be kept of names of all 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.

(b) 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.

(c) 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.

(4) Agenda for the meeting of the State Advisory Board -

At any meeting of the Board business shall be transacted which is entered in the agenda, unless otherwise resolved in the meeting with the permission of the Presiding Officer as per provisions of these rules :

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.

(5) 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 Chairperson and the Vice-Chairperson, the Member presiding at the meeting, as the case may be, shall have a second or casting vote.

(6) 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.

(7) Place for holding meeting -

Meetings of the Board may be held at Guwahati or at any place in the State and the notices shall specify the venue, time and place of the meeting to be held.

(8) Co-option of experts –

If any case arises where an opinion or special advice is required, the Board may invite to a meeting, a person possessing adequate knowledge in the field to be present or refer the case to a consultant and seek his opinion or advice. Such person(s) shall not be part of the quorum and shall not carry voting rights.

(9) Nodal Department –

The Social Welfare Department of Government of Assam shall be Nodal Department on all matters relating to policies for persons with disabilities and co-ordination.

23. Functions of the State Advisory Board .-

The functions of the State Advisory Board as per clause (g) sub-section (2) of section 71 of the Act shall be :-

(1) The State Government may designate the Senior most Secretary to the Social Welfare Department to be the Member Secretary of the State Advisory Board.

(2) The functions of the Member Secretary shall be to-

- (a) issue all notices and deal with correspondences pertaining to the Board;
- (b) keep or cause to be kept the records and accounts of the Board;
- (c) record and maintain the proceedings of Board meetings and take follow up action; and
- (d) perform such other functions and duties as are normally incumbent on such officer.

24. District Level Committee .-

(1) The District Level Committee on disability referred in section 72 of the Act shall be constituted in every district in the State shall consist of the following members, namely :-

- (i) Deputy Commissioner of the district ex-officio Chairperson
- (ii) District Development Commissioner / Additional Deputy Commissioner
(Social Welfare) Vice chairperson
- (iii) Superintendent of Police of the District Member,
- (iv) Secretary, District Legal Services Authority Member,
- (v) Joint Director of Health Services of the DistrictMember,
- (vi) A clinical Psychologist/Psychiatrist of the District..... Member,

- (vii) District Inspector of School/ District Elementary Education Officer
..... Member,
- (viii) District Employment Officer
..... Member,
- (ix) Public Prosecutor of the District
..... Member,
- (x) District Child Protection Officer
..... Member,
- (xi) Two Representatives of Registered Organizations dealing with disability
..... Member,
- (xii) Two Persons with disabilities as defined in clause (s) of section 2 of the Act
out of which one shall be a woman
.....Member;
- (xiii) District Social Welfare Officer
.....Member Secretary;
- Any other person (s) invited as expert (s) by the Chairperson.

25. Functions of the Committee .-

(1) The District Level Committee on disability shall perform the following functions namely:-

- (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) Perform as district level authority for appointment of limited guardianship for persons with disabilities as provided in rule 8 of the Assam State RPwD Rules.
- (e) 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.
- (f) 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.
- (g) Hold minimum of one meeting in a month.
- (h) Submit progress reports to the Social Welfare Department for action taken in every month in Form X .
- (i) An Assessment Board shall be formed with the following members, namely , -
 - (i) The Joint Director Health Services of the District or his representative not below the rank of Senior Medical and Health Officer - Chairman
 - (ii) One Social Worker or representative of a registered organization under the Act - Member
 - (iii) District Social Welfare Officer or his or her representative - Member Secretary.
- (j) Any other functions as may be assigned by the State Government.

CHAPTER - VII

State Commissioner for Persons with Disabilities

26. Salary and allowance of the State Commissioner .-

(1) The salary and allowances of the State Commissioner shall be the salary and allowances as admissible to an Additional Chief Secretary of 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 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, by the amount of such commuted portion of the pension.

27. Other terms and conditions of service of the State Commissioner .- The other terms and conditions of service of State Commissioner as per clause (3) sub-section (1) of section 79 of the Act, shall be such as specified below, namely:-

(1) 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 unless,-

- (a) he has special knowledge or practical experience in respect of the matters relating to rehabilitation of Persons with Disabilities;
- (b) he has attained the age of fifty five 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;
- (c) he possesses the following educational qualifications and experience:-
 - (i) Graduate from a recognized University;
 - (ii) At least twenty years experience in a Class I level or equivalent post:-
 - (a) in Central or State Government; or
 - (b) public sector undertakings or semi Government or autonomous bodies dealing with disability related matters or social sector; or
 - (c) worked in the capacity of a senior level functionary in a registered state or national or international level voluntary organization in the field of disability or social development;

Provided that out of the total twenty years experience mentioned in this sub-clause, at least two years of experience had been in the field of social development or empowerment of persons with disabilities.

(2) Mode of appointment of the State Commissioner:

(a) 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 sub-rule (1) of rule 27.

(b) A Committee shall be constituted by the Government of Assam to select a suitable candidate for appointment to the post of the State Commissioner. The Committee shall recommend to the Government the name of one candidate for appointment as State Commissioner and the government shall appoint the State Commissioner based on the recommendation of this Committee.

(c) The Committee referred to in clause (b) sub-rule (2) above shall be constituted as follows :-

- | | | |
|-------|---|-----------------------|
| (i) | Chief Secretary. | Chairperson |
| (ii) | One Additional Chief Secretary |Member |
| (iii) | Senior-most Secretary Health and Family Welfare Department..... | Member |
| (iv) | Senior -most Secretary in-charge of Social Welfare Department |Member Secretary |

(3) Term of the State Commissioner:

(a) 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.

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

(4) Leave :

The State Commissioner shall be entitled to such leave as is admissible to an officer of the rank of Additional Chief Secretary.

(5) Leave Travel Concession :

The State Commissioner shall be entitled to such Leave Travel Concession as is admissible to an officer of the rank of Additional Chief Secretary.

(6) Medical :

The State Commissioner shall be entitled to such medical benefits as is admissible to an officer of the rank of Additional Chief Secretary

28. Resignation and removal .-

(1) The State Commissioner may, by notice in writing, under his hand, addressed to the Senior-most Secretary of Social Welfare Department of State Government, resign from his post :

Provided that the State Commissioner shall continue in the office until expiry of one month of notice period or until his resignation is accepted by the Government, whichever is earlier.

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

- (a) becomes an un-discharged 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 is 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 sixty 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.

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

29. 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.

30. Advisory Committee to assist the State Commissioner .-

(1) As per sub-section (7) of section 79 of the Act, the State Government shall appoint an Advisory Committee comprising of the following members, namely :-

- (a) 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;
- (b) One expert each in the field of barrier-free environment, i.e. (i) for built environment, (ii) for transportation, (iii) for information, communication technology and other services.
- (c) One expert in the area of employment of persons with disabilities; and
- (d) One legal expert.

(2) 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.

(3) The tenure of the members of the Advisory Committee shall be for a period of three years.

(4) The members of the Advisory Committee, shall be paid an honorarium of rupees one 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 Class I officer of the State Government.

31. Submission of annual report .-

(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 as per provision of section 83 of the Act.

(2) In particular, the annual report referred to in sub-rule (1) shall consist 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 with under the Act and the highlights of the performance in this regard;
- (c) the main recommendation 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 – VIII

Public Prosecutor

32. Remuneration of Public Prosecutor .-

The fee and other remunerations of the Special Public Prosecutor specified or appointed under sub-section (2) 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 - IX

State Fund for Persons with disabilities

33. State Fund for Persons with disabilities and its managements .-

(1) There shall be constituted a fund to be called " The Assam State Fund for Persons with Disabilities" as per section 88 of the Act (hereinafter referred to as the State Fund), into which shall be credited ,-

- (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) A corpus fund with an initial subscription of Rupees Five crores shall be created by the State Government.

34. Management of the State Fund .-

(1) There shall be a governing body for the management of the State fund for persons with disability.

(2) The Governing Body shall consist of the following members to manage the State Fund, namely :-

- (a) The Senior-most Secretary of the Department dealing with Empowerment of Persons with Disabilities, in the State Government – Chairperson;

(b) two representatives from the Department of Health and Family Welfare, Department of Education, Department of Labour and Employment, Department of Skill, Employment and Entrepreneurship Development, Department of Finance, Department of Panchayat and Rural Development in the State Government, not below the rank of a Joint Secretary, by rotation in alphabetical orders – Members

(c) two persons representing different types of disabilities to be nominated by the State Government, by rotation - Members;

(d) 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 twice 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 (1) of these rules 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.

35. Utilisation of the State Fund .-

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

(a) financial assistance in the areas which are not specifically covered under any scheme and programme of the State Government or are not adequately funded under any scheme or programme of the Central/State Government;

(b) for the purpose of implementation of the provisions of the Act;

(c) administrative expenses of the fund, as may be required to be incurred by or under the Act not exceeding total interest accrued every year.

(d) such other purposes 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 Chief Executive Officer may engage existing staff under his administrative control to administer the Fund.

36. 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 and June every year and shall place the same for consideration of the governing body.

37. Annual Administrative Report .-

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

38. Annual audit of the State fund .-

The annual audit of the State Fund and all expenses made under the Act and Rules by all functionaries should be carried out by a competent authority, determined by the Governing Body. The accounts of the State Fund shall be maintained.