


The
Kolkata Gazette
Extraordinary
Published by Authority



सत्यमेव जयते

CAITRA 15]

MONDAY, APRIL 5, 2010

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PART I—Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury, etc.

GOVERNMENT OF WEST BENGAL
DEPARTMENT OF PANCHAYATS & RURAL DEVELOPMENT
Jessop Building (1st Floor),
63, Netaji Subhas Road, Kolkata – 700 001.

No. 1832/PN/O/1/3R-5/04(Pt-IV)

Kolkata, the 5th April, 2010.

NOTIFICATION

Whereas the following draft of amendments to amend the West Bengal Panchayat (Gram Panchayat Accounts, Audit and Budget) Rules, 2007 (hereinafter referred as the said Rules), was published as required under sub-section (1) of section 224 of the West Bengal Panchayat Act, 1973 (West Ben. Act XLI of 1973) (hereinafter referred to the said Act) vide notification no.1556/PN/O/1/3R-5/04 (Pt-IV) dt. 18th day of March, 2010 in the Kolkata Gazette, Extraordinary dated March 18, 2010 inviting objection and suggestions from all persons likely to be affected thereby, within fifteen days from the date of its publication;

And whereas no objections and suggestions has been received by this Department during the period of fifteen days.

Now, therefore, in exercise of the power conferred by sub-section (1) of section 224 of the said Act, the Governor has been pleased hereby to make the following amendments in the said rules :-

Amendments

In the said rules, —

(1) in sub-rule (1) of rule 9, after the words “The Executive Assistant, after verification,” insert the words “with the assistance of the Nirman Sahayak or the Secretary as the case may be,”;

(2) in rule 11,—

(i) for sub-rule (2), substitute the following sub-rule:—

“(2) Subject to such direction as may be issued by the State Government from time to time for the purpose of ensuring financial propriety, the Gram Panchayat, for procurement of any stock of articles or materials irrespective of its type or the manner of its utilization, shall adopt the following procedure :—

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- (a) when the estimated value of material is not more than rupees two thousand, it shall not be necessary to invite any quotation or tender; nevertheless it shall be prudent to ascertain the rates prevalent in the market at the material time on enquiry from a few traders or firms before purchase;
- (b) when the estimated value of material exceeds rupees two thousand but does not exceed rupees twenty thousand, quotation shall be invited on behalf of the *Artha O Parikalpana Upa-Samiti* from at least three reputed traders or firms by publishing a notice giving at least seven days time and copies of notice shall be displayed in the notice board of the office of the *Gram Panchayat* and the *Panchayat Samiti* having jurisdiction;
- (c) when the estimated value of materials exceeds rupees twenty thousand but does not exceed rupees one lakh, sealed tenders shall be invited on behalf of the *Artha O Parikalpana Upa-Samiti* from the firms and establishments generally known to deal in the articles and materials to be so purchased by publishing a notice giving at least seven days time and copies of notice shall be displayed in the notice board of the office of the *Gram Panchayat* and the *Panchayat Samiti* having jurisdiction as well as in display board of the rural library and Tathya Mitra Kendra within the area of concerned *Gram Panchayat*, as may be available;
- (d) when the estimated value of material exceeds rupees one lakh, but does not exceed rupees five lakh, sealed tenders shall be invited on behalf of the *Artha O Parikalpana Upa-Samiti* from the firms and establishments generally known to deal in the articles and materials to be so purchased by publishing a notice giving at least fifteen days time and copies of such notice shall be displayed in the notice board of the office of the *Gram Panchayat*, the *Panchayat Samiti* and the Sub-Divisional Officer having jurisdiction as well as in display board of the rural library and Tathya Mitra Kendra within the area of concerned *Gram Panchayat*, as may be available;
- (e) when the estimated value of material is more than rupees five lakh, tenders shall be invited on behalf of the *Artha O Parikalpana Upa-Samiti* from the firms and establishments generally known to deal in the articles and materials to be so purchased by publishing a notice giving at least fifteen days time and such notice openly inviting tenders in sealed cover shall be published in at least one local newspaper widely circulated in the area concerned; on the date of such publication copies of tender notice shall also be displayed prominently in the notice board of the *Gram Panchayat* and other places as mentioned in clause (d);
- (f) all intending tenderers under clauses (c), (d) and (e) shall be required to deposit an earnest money representing 2% of the estimated value of the articles or materials and the receipt number and date of such deposit shall be quoted on the tender paper submitted. The amount of earnest money shall be deposited in cash or in cheque or Bank draft drawn in favour of the *Gram Panchayat* or in Government Bonds or Securities duly pledged in favour of the *Pradhan* of the *Gram Panchayat*. In case of cash, cheque or draft, proper receipts in Form 5 shall be issued and it shall be recorded in the relevant books of accounts and in case of instruments to be pledged, all particulars shall be recorded separately in a register maintained for this purpose. For a final decision, the said *Upa Samiti* shall open the sealed covers in presence of attending tenderers and shall draw comparisons among at least three such tender papers submitted taking into account rates and other charges quoted, specifications and quality of materials and other terms and conditions as also the antecedents of such firms. If the number of tender papers received is less than three, it shall again invite tender in the same manner without opening the tender papers already received; on the due date, all the tender papers received on both occasions shall be opened for taking a decision. If the total number of tender papers even after second invitation remains below three, the *Upa Samiti* shall place the entire matter with its views in the next meeting of the *Gram Panchayat* for a final decision;
- (g) no member or employee of a *Gram Panchayat* shall directly or indirectly participate in any tender for supply of articles or materials;
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- (h) the *Artha O Parikalpana Upa-Samiti* shall reserve the right to reject any tender or quotation in consideration of the specification or quality of the material offered, antecedents of the person or the firm concerned or for any other reason after recording the ground for such rejection as also recording any dissenting opinion of a member or an invitee attending the meeting;
 - (i) in case the tender or quotation so rejected is the lowest tender or quotation, the matter shall be placed in the next meeting of the *Gram Panchayat* for taking final decision in this behalf;
 - (j) the successful tenderer shall enter into an agreement with the *Gram Panchayat* wherein the description, specification, quantity and the date of completion of delivery of the materials shall be mentioned;
 - (k) *Gram Panchayat* shall maintain registers, as may be required or directed, for capturing information relating to procurement of articles or materials from time to time;
 - (l) The *Gram Panchayat* shall complete the process of procurement culminating into issue of the supply order from the date of publication of notice within a period of 60 days; during this period a tenderer shall be bound by the rates quoted by him and shall for no reason whatsoever demand for any change of rate or any other terms and conditions as recorded by the tenderer.”;
- (ii) after sub-rule (2), insert the following sub-rule:—
- “(2A) (a) The time limit for supply of articles or materials, as specified in the agreement entered into thereon, shall be observed by the supplier and shall be calculated from the date on which the agreement is signed. If the supplier fails to supply the articles or materials within the stipulated period or the quality of articles or materials supplied in connection with a work is not of the quality agreed upon, the supplier shall be liable to pay penalty not exceeding one percent of the value of work for each day of delay in supply of quality material as agreed upon which will be recovered from the earnest money in realization of such penalty and if there is any additional amount due on this account that shall be recovered from the supplier concerned through due process of law;
- (b) the specific amount of penalty for each day of such delay shall be determined by the *Artha O Parikalpana Upa-Samiti* after giving an opportunity of being heard to the supplier, who may prefer an appeal to the *Gram Panchayat* within fifteen days and its decision shall be final and binding;
 - (c) in such case the agreement made with such supplier may be annulled and after that second lowest tenderer shall be offered an opportunity to provide articles or materials and to enter into agreement with the *Gram Panchayat* at the same rate offered by the lowest tenderer under same terms and conditions.”;
- (3) in rule 17,—
- (i) in sub-rule (3), for the words “exceeds rupees two lakh”, substitute the words “exceeds rupees one lakh in case of general works or sanitary and plumbing works or rupees twenty thousand in case of electrical works”;
 - (ii) for sub-rule (4), substitute the following rule:—
- “(4) (a) For engagement of contractor, as referred to in sub-rule (3), the *Gram Panchayat* may enter into contract in the manner as provided in these rules, with any contractor from the list of approved contractors of the corresponding class, maintained in a register, if the estimated value of the work exceeds rupees one lakh in case of general works or sanitary and plumbing works or rupees twenty thousand in case of electrical works. For this purpose *Gram Panchayat* shall maintain a separate list of enlisted contractors for three categories of works, viz. (a) general works, (b) sanitary and plumbing works and (c) electrical works; and in each category of works three classes of contractors shall be enlisted according to the financial limit of estimated value of works in such manner as may be directed;

- (b) if the *Gram Panchayat* has no such list or the list is inadequate, the *Gram Panchayat* may approach the *Panchayat Samiti* and the *Zilla Parishad* for the required category of contractors;
 - (c) no member or employee of a *Gram Panchayat* shall directly or indirectly participate in bidding process or execution of work as Contractor or Sub-Contractor;
 - (d) the *Artha O Parikalpana Upa-Samiti* shall reserve the right to reject at any stage a tender in consideration of the specification or quality of the works proposed or executed, antecedents of the person or the firm concerned or for any other reason after recording the ground for such rejection as also recording any dissenting opinion of a member or an invitee attending the meeting;
 - (e) in case the tender or quotation so rejected is the lowest tender, the matter shall be placed in the next meeting of the *Gram Panchayat* for taking final decision in this behalf.”;
- (iii) for sub-rule (5), *substitute* the following rule:—

"(5) (a) For engagement of contractor, when the estimated value of the proposed work is above rupees one lakh but does not exceed rupees five lakh in case of general works, or sanitary and plumbing works, or rupees twenty thousand but does not exceed rupees two lakh in case of electrical works, tenders shall be invited by the *Artha O Parikalpana Upa-Samiti* by publishing a notice giving at least fifteen days time and copies of notice shall be displayed in the notice board of the office of the *Gram Panchayat*, the *Panchayat Samiti* and the Sub-Divisional Officer having jurisdiction as well as in display board of the rural library and Tathya Mitra Kendra within the area of the concerned *Gram Panchayat* as may be available; enlisted contractors of the *Gram Panchayat* shall be eligible to participate in such tender in the manner as may be directed;

- (b) if the estimated value of the work exceeds rupees five lakh in case of general works or for sanitary and plumbing works or rupees two lakh in case of electrical works, sealed tenders shall be invited openly on behalf of the *Artha O Parikalpana Upa Samiti* by publishing a notice giving at least fifteen days time and copies of notice inviting competitive bids in sealed cover shall be published in at least one local newspaper widely circulated in the area concerned well in advance; in addition, the tender notices shall be displayed prominently in the notice board of the *Gram Panchayat* and other places as mentioned in clause (a); the contractors enlisted in Class-I category of the *Gram Panchayat* shall also be eligible to participate in such open bidding;

Provided that for undertaking work of a special nature under clause (a) or (b) which will require technical specification calling for prior assessment of technical competence of contractors, a 'two stage' bidding procedure shall be used where one envelope shall contain technical specifications only without mentioning any price or commercial offer and the other shall contain financial bid; if any tenderer fails to satisfy his technical competence, his envelope containing financial bid shall not be opened.”;

- (iv) after sub-rule (11), *insert* the following sub-rule:—

"(11 A) (a) After execution of agreement, the contractor shall be made acquainted with the site, alignment and other specifications of the work as early as possible within seven days by the Nirman Sahayak or any other engineer-in-charge of the work for immediate commencement of the work;

- (b) The time limit for execution of work, as specified in the agreement entered into thereon, shall be observed by the contractor and shall be calculated from the date on which the site and alignment is shown to the contractor. If the contractor fails to commence or execute the work within the stipulated period or the work so far executed is not of the quality agreed upon, the contractor shall be liable to pay penalty not exceeding one percent of the value of work for each day of delay in execution of works as agreed upon which will be recovered from the security money in realization of such penalty and if there is any additional amount due on this account that shall be realised from the contractor concerned through due process of law;

- (c) the specific amount of penalty for each day of such delay shall be determined by the *Artha O Parikalpana Upa-Samiti* after giving an opportunity of being heard to the contractor, who may prefer an appeal to the *Gram Panchayat* within fifteen days and its decision shall be final and binding;
- (d) in case of inordinate delay, as mentioned in the agreement the agreement made with such contractor may be annulled and after that second lowest tenderer shall be offered an opportunity to execute the works and the procedure as referred to in sub-rule (11) shall be followed.”;
- (4) in sub-rule (2) of rule 18, for the words “sub-rule (2) of rule 11” substitute the words “sub-rules (2) and (2A) of rule 11.”;
- (5) in sub-rule (1) of rule 26, for the words “sub-rule (2) of rule 10” substitute the words “sub-rules (2) and (2A) of rule 11.”;
- (6) in rule 31,—
- (i) in proviso to sub-rule (1), —
- (a) after the words “may engage one additional Tax Collector”, insert the words “for one year at a time”;
- (b) for the words “the same”, substitute the word “remaining”;
- (ii) in sub-rule (2), for the words “as soon as the Tax Collector has rupees one thousand or more in hand he shall make over the amount”, substitute the words and figures “the amount collected shall be handed over by the Tax Collector in terms of the provision laid down in sub-rule (6) of rule 10”;
- (iii) in sub-rule (3), after the words “to submit his explanation within a specified time”, insert the words “which will be not less than fifteen days”;
- (iv) for sub-rule (4) substitute the new sub-rule:—
- “(4) A Tax Collector shall not claim renewal or extension of its contract as a matter of right. However, a *Gram Panchayat* shall not normally refuse to renew his contract if the service rendered by him appears reasonably satisfactory. If the *Gram Panchayat* in consideration of his performance for the past years deems it necessary in its interest to refuse renewal or extension of his contract, it shall inform him in writing before termination of his contract, the grounds for such refusal asking him to explain in writing within a specified period which will be not less than seven days why he should be allowed further renewal; the *Gram Panchayat* in consideration of his explanation and also giving him an opportunity of being heard in person shall either renew his contract or refuse to renew it and shall forthwith communicate its decision to the person concerned.”.
- (v) after sub-rule (4) insert the following sub-rule :-
- “(5) If the Tax Collector is not satisfied with the decision of the *Gram Panchayat* under sub-rule (4), he may prefer an appeal to the Block Development Officer having jurisdiction against such decision within twenty one days from the date of receipt of the communication conveying such decision. On receipt of such appeal petition, the Block Development Officer may direct the *Gram Panchayat* to refrain from engaging any other person as Tax Collector in place of the appellant. The Block Development Officer after serving notice to the *Gram Panchayat* concerned and to the appellant shall hear the matter and take a decision within thirty days from the date of appeal. Such decision shall be final and binding on both the parties.”.
- (7) in Form 13, after the words, “for payment of salary to the employees” insert the words “remuneration, honorarium and allowances to the elected functionaries and allowances to the Tax Collectors”;

- (8) in Form 24, in the 'Note', after serial no. and the entries (2), add the following serial no. and entries :—
- “(3) In column (1), when no dealer is involved, total stock at *Gram Panchayat* store shall be entered.
- (4) In column (5), when no dealer is involved, the column shall be left blank.”;
- (9) in Form 38, —
- (i) in column 3 of RECEIPTS, for the words “Actual receipts for the last six months”, *substitute* the words “Actual receipts during the last nine months”;
- (ii) in column 4 of RECEIPTS, for the words “Probable receipts for the next six months”, *substitute* the words “Probable receipts for the next three months”;
- (iii) columns of Payment shall be numbered consecutively as (1), (2), (3), (4), (5), (6);
- (iv) in column 3 of PAYMENTS, for the word “six”, *insert* the word “nine”;
- (v) in column 4 of PAYMENTS, for the word “six”, *insert* the word “three”.

By order of the Governor,

M. N. ROY,
Principal Secretary to the Government of West Bengal.