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CO-OPERATION DEPARTMENT

NOTIFICATION

The 31st July 1996

S. R. O. No. 480/96—Whereas the draft of certain rules further to amend the Orissa Agricultural Produce Markets Rules, 1958 was published as required by sub-section (4) of section 27 of the Orissa Agricultural Produce Markets Act, 1956 (Orissa Act 3 of 1957), in the extraordinary issue No. 446 of the *Orissa Gazette*, dated the 15th April, 1995 under the notification of the Government of Orissa in the Co-operation Department No. 6124-Co-op., dated the 5th April 1995 inviting objections and suggestions from all persons likely to be affected thereby till the expiry of a period of thirty days from the date of publication of the said notification ;

And whereas objections or suggestions received in respect of the said draft within the period so specified have been duly considered by the State Government ;

Now, therefore, in exercise of the powers conferred by section 27 of the said Act, the State Government do hereby make the following rules, further to amend the Orissa Agricultural Produce Markets Rules, 1958, namely :—

1. *Short Title and Commencement*—(1) These rules may be called the Orissa Agricultural Produce Markets (Amendment) Rules, 1996.

(2) They shall come into force with effect from the date of their publication in the *Orissa Gazette*.

2. In the Orissa Agricultural Produce Markets Rules, 1958 (hereinafter referred to as the said rules),—

(a) for rule 25, the following rule shall be substituted, namely :—

25 (1) The Chairman shall be the controlling and supervising officer of the Market Committee and all officers and servants of the Market Committee shall, subject to these rules and the direction, if any, given by the Market Committee, be subject to his control.

(2) The Chairman shall—

- (a) keep a watch over the financial and administrative matter of the Market Committee;
- (b) direct, in case of emergency, to stop execution of any work or the doing of any act which requires the sanction of the Market Committee;
- (c) be the authority competent to grant leave to the Secretary;
- (d) make correspondence with the Government, Board or Directorate, as the case may be, in regard to the affairs of the Market Committee as and when deemed necessary;
- (e) convene or cause to be convened meetings of the Market Committee and record or cause to be recorded minutes thereof.



3. In the said rules after rule 25, the following rule shall be inserted, namely:—

**"25-A. Secretary of the Market Committee and his Functions and Powers—**

- (1) Every Market Committee shall have a Secretary appointed by the Market Committee with the approval of the Board, who shall be the Chief Executive and custodian of all records and properties of the Market Committee.
- (2) He shall perform and discharge the following powers and duties, namely:—
  - (i) Convene the meeting of the Market Committee under the authority of the Chairman or a special meeting of the Market Committee on a requisition under rule 87 and maintain minutes of the proceedings thereof;
  - (ii) convene the meetings of the Sub-Committee, if any, of the Market Committee, under the authority of the Chairman of the Sub-Committee ;
  - (iii) attend the meeting of the Market Committee and of every Sub-Committee and take part in the discussions but shall not move any resolution or vote at any such meeting ;
  - (iv) take action to give effect to the resolutions of the Committee and of the Sub-Committee and report about all action taken in pursuance of such resolutions to the Committee in its immediately following meeting ;
  - (v) prepare the budget proposals ;
  - (vi) furnish to the Market Committee/Director/Board/Government such returns, statements, estimates, statistics and reports as they may from time to time require, including reports,—
    - (a) regarding the fines and penalties levied, or any disciplinary action taken against the member of the staff and the market functionaries and others ;
    - (b) overtrading by traders ;
    - (c) contravention of the Act, rules, bye-laws or the standing orders, by any person ;
    - (d) suspension or cancellation of licences ;
    - (e) administration of the Market Committee and regulation of the Marketing ;
  - (vii) produce before the Committee/Director/Board/Government whenever called for, such documents, books, registers and the like as may be necessary to the transaction of the business of the Committee or the Sub-Committee ;
  - (viii) direct the work of all employees of the Market Committee in such a manner as to ensure proper efficient working of the Market Committee, and towards that end all such employees shall be subject to his immediate control;
  - (ix) supervise the work of the officers and other employees of the Market Committee and initiate necessary disciplinary action against any of them for their negligences and misconduct, etc. with the prior approval of the Chairman ;
  - (x) be responsible for collection of fees and other money leviable by or due to the Market Committee ;
  - (xi) be responsible for proper maintenance of accounts for all money received and paid for by and on behalf of the Market Committee ;
  - (xii) make disbursements of all money lawfully payable by the Market Committee :

Provided that if individual disbursement exceeds Rs. 500-00 (Rupees five hundred), it shall be passed by the Chairman.

- (xiii) report to the Chairman/Director/Board as soon as possible in respect of fraud, embezzlement, theft or loss of market committee funds or property ;



- (xiv) sanction of casual leave to all officers and servants of Market Committee, and also earned leave with the approval of the Chairman;
  - (xv) advise the Committee and its Chairman in the light of the provisions of the Act, rules and bye-laws and the previous decisions or direction of the Committee/Director/Board;
  - (xvi) supervise all construction and repair works in the market-yard in addition to the technical supervision by the Engineering staff, if any;
  - (xvii) forward to the Director/Board or any other persons authorised in his behalf copies of the proceedings of all meetings of the Market Committee and Sub-Committee duly attested by him and furnish the same, when called for by the State Government under Section 25 of the Act;
  - (xviii) make correspondence with the Government or the Board or the Directorate as and when necessary;
  - (xix) maintain a monthly diary of inspections and records of seizure of Books of accounts and unauthorised agricultural produces, detention of vehicles, assessment of market fees and all other important occurrences and send copies of the same to the Director, Board and any other Officer authorised in this behalf by the Director or the Board, and to the Government as and when called for by it; and
  - (xx) make an annual assessment of the work of the employees of the Market Committee and submit the same to the Chairman.
- (3) On receipt of a complaint either written or oral, regarding any matter concerning sale and purchase of Agricultural Produces in the market yards, the Secretary shall conduct an enquiry and shall make a report of the same to the Chairman for taking such action as he may think necessary in accordance with the provision of the Act, rules and bye-laws. It shall also be the duty of the Secretary to check if proper payment to sellers in the market-yard is being made and that no irregularities in making weightment of Agricultural Produces are being committed.
- (4) If any decision of the Committee or the direction of the Chairman or Vice-Chairman is apparently contrary to the Act, rules or bye-laws, the Secretary shall apprise the Government, Board and the Director of such apparent violation, before giving effect to the same and carry out the decision of the Government or such other person authorised by it in that behalf thereon.
- (5) The decision of the Government under sub-rule (4) shall be final and deemed to be a decision of the Market Committee.

4. In the said rules for rule 33, the following rule shall be substituted, namely:—

“33 (1) The Market Committee may appoint such Officers and servants as may be necessary for the proper management of the market:

Provided that the superior Officers of the Committee shall be appointed only with the previous approval of the Board.

- (2) Superior officers shall be the Secretary, Clerks and such officers and servants of the Market Committee as the Board may determine from time to time.
- (3) The terms and conditions of service of superior officers shall be such as may be approved by the Board and those of others shall be such as the Market Committee may decide from time to time.
- (4) The Market Committee shall be the Disciplinary Authority in respect of all officers and servants of the Committee :

Provided that the removal or dismissal of superior officers as a measure of punishment shall be subject to the approval of the Board.

5. In the said rules, in sub-rule (2) of rule 39, for the words, “Director or any officer authorise by him in this behalf”, and for the words “Director or any such Officer”, occurring therein, the words “Board or any other Officer authorised in that behalf by the Board” shall respectively be substituted.

6. In the said rules, for rule 41, the following rule shall be substituted, namely :—

“41. Approval of Plans and Estimates—

- (1) Plans and Estimates for works up to a value of rupees five thousand each shall be approved by the Market Committee and the Plans and the Estimates for works of a value exceeding rupees five thousand each shall be approved by the Board, on the recommendation of the Market Committee.



(2) Plans and Estimates for all works shall be prepared by the Engineering Cell of the Board."

7. In the said rules for rule 42, the following rule shall be substituted, namely :—

42. Supervision of works—

(1) All construction works of the Market Committee shall be executed under the technical supervision of the Engineering Cell of the Board.

(2) Subject to the provision of sub-rule (1), the Chairman of the Market Committee or any member of the Market Committee duly authorised in this behalf by the Chairman shall exercise overall supervision and control over the execution of all works of the Market Committee.

(3) Tenders shall be called for in respect of every work which is to be executed on contract basis :

Provided that the Market Committee may dispense with the calling of tenders in the case of

(i) a supplemental maintenance work relating to a road or a building which is found necessary after the annual maintenance contract for that road or building has been settled, if the estimated cost of the supplemental maintenance work does not exceed 50% of the amount of the original maintenance estimates or Rs. 5,000-00 whichever is less, and such supplemental work is necessitated by reasons other than negligence of the original maintenance contractor as certified by the Technical Cell of the Board.

(ii) any emergent work, if the estimated cost of the work does not exceed Rs. 5,000-00 and the Chairman certifies that the delay, labour or cost involved will out-weigh the advantage arising from calling for tenders.

(4) (i) Tender in sealed cover shall be invited by the Chairman through advertisement in one or more newspapers having wide circulation in the market area, and of other concerned local offices and also by a public notice affixed on the Notice Board of the Office of Market Committee.

(ii) Every advertisement and notice so published shall ordinarily state—

(a) time and place where the contract documents may be inspected;

(b) the prescribed form of tendering, that is, whether it should be at a specified percentage below or above the estimated rates, or whether definite rates should be quoted for each item of work included in the Schedule;

(c) time and place where tenders are to be submitted;

(d) time and place where tenders are to be opened;

(e) the amount of earnest money which shall accompany the tender and the amount and nature of security required in case the tender is accepted;

(f) the authority competent to accept the tender; and

(g) that the authority, competent to accept the tender, reserves the right to reject any or all of the tenders received without assigning any reasons.

(5) Before tenders are invited for the execution of any work, the Engineer-in-charge of the work in the Engineering Cell of the Board shall prepare contract documents which shall include:—

(i) a Schedule of quantities of various items of work to be executed and of materials required under each such item, and

(ii) a set of conditions of contract to be complied with by the tenderer in case his tender is accepted.

(6) No tender shall ordinarily be treated as valid unless it is accompanied with a money receipt in support of deposit of earnest money. A separate list of all sums deposited as earnest money shall be maintained under the signature of a person or an officer of the Market Committee authorised by the Market Committee in that behalf.

(7) The amount of earnest money to be deposited shall be sufficiently large as to be the security against any loss that may be caused on account of the contractor failing to furnish the required security within the appointed time after the acceptance of his tender or until the sums due to him form a sufficient guarantee, as the case may be.



- (8) A tender Committee consisting of Chairman, Secretary of the Market Committee and the Engineer-in-charge of the work shall, at the time and place specified for the purpose, open the sealed covers containing the tenders in the presence of tenderers or their authorised agents as may be present. Until the sealed covers are so opened they shall be kept in the personal custody of the Secretary of the Market Committee. On opening the tenders the Chairman shall initial all corrections in each tender paper which may have been made by the tenderer and duly attested by him. If there are corrections in the tender un-attested by the tenderer a note of such corrections shall be made on the tender itself, when it is opened.
- (9) After the tenders are opened they shall be entered in a Register against each work. The Secretary shall certify to the corrections of the entries with reference to the original tenders which shall be preserved and made available for the purpose of audit and inspection.
- (10) (i) The lowest tender shall ordinarily be accepted by the Committee. Where it is considered undesirable to accept the lowest tender the reasons shall be clearly recorded in writing by the Chairman.
- (ii) Where the capacity for work and the integrity of a tenderer is not known his tender need not be necessarily rejected. But in such case an additional security not ordinarily exceeding 15% of the contract amount as the Committee consider necessary shall however be taken from such tenders if the circumstances so warrant. Where the lowest tender is rejected next lower tender shall be considered. If it is considered undesirable to accept that tender the next lower tender shall be considered. In every order of rejection of a tender the reasons shall be recorded in writing by the Chairman.
- (iii) In no case shall a tender be accepted at rates higher than those quoted in the tender by the tenderer.
- (iv) There shall be no avoidable delay in the disposal of tenders after they are opened. The Committee shall dispose of tenders ordinarily within seven days from the date on which they are opened. If the Committee fails to dispose of the tender within a period of seven days after recording reasons therefore may dispose of the same within a period of two months from the date of opening of the tender.
- (v) Tenders remaining undisposed of for a period exceeding two months from the date on which they are opened shall stand cancelled and on such cancellation the work in respect of which the said tenders had been originally called for shall be put to re-tender within a period of 15 days from the date of such cancellation. Cost escalation taking place, if any, between the date of such cancellation and the date of finalisation of the re-tender, shall be recovered from the person responsible for non-finalisation of the original tender, or the re-tender, as the case may be.
- (vi) Save as otherwise provided, the provisions of the Orissa Public Works Department Code relating to tenders and execution of works shall *mutatis mutandis* be followed.

8. In the said rules after rule 42, the following rule shall be inserted, namely :—

“42-A. Register of contractors—

- (i) A register of contractors in such form as may be prescribed by the Board from time to time, shall be maintained in the office of Market Committee, containing names and other particulars of contractors licenced by P. W. Department and other such Government organisations and such register shall be treated as confidential.
- (ii) The Register of contractors shall be kept up-to-date. An officer of the Board specially authorised by the Board in this behalf shall scrutinise the register at least once a year, and sign it in token of his scrutiny.
- (iii) In the remarks column of the register, the qualification of the contractor, his solvency, the quality of work previously executed by him and all other relevant particulars shall be entered.
- (iv) Any person desirous of being registered as a contractor of the Market Committee, shall apply to the Chairman of the Market Committee stating his qualification and previous experience and solvency. The Chairman shall make an enquiry and obtain orders of the Market Committee on the application, before registering him as a contractor for the Market Committee.
- (v) Any person who is not licenced contractor of the P. W. D. or other such Government Organisation may also be registered as a contractor of the Market Committee on deposit of such amount as may be fixed by the Market Committee from time to time :

Provided that such contractor shall not be eligible to execute works of a value exceeding Rs. 50,000-00 each.”



9. In said rules, in rule 45—

- (i) for the word "Director" wherever occurring therein, the word "Board" shall be substituted ;
- (ii) for the words, "the Chairman or any other member of the Market Committee authorised by him in this behalf", the words "the Secretary of the Market Committee or any officer of the Market Committee authorised by the Secretary" shall be substituted.

10. In the said rules after Part-IV, the following part and new rules shall be inserted, namely :—

#### "PART IV-A

##### 45-A Marketing Development Fund—

- (1) All moneys received by or on behalf of the Board shall be credited to a fund called the Marketing Development Fund.
- (2) All expenditure incurred by the Board shall be defrayed out of the said fund.]
- (3) Subject to the provisions of the Act, the Marketing Development Fund shall be utilised by the Board for the following purposes, namely :—
  - (i) grading and standardisation of Agricultural Produces ;
  - (ii) general improvement of the regulation of Marketing in the State ;
  - (iii) granting subventions to Market Committees for the purposes of this Act on such terms and conditions as the Board may determine from time to time ;
  - (iv) acquisition of land and construction of buildings for due discharge of the functions of the Board or efficient functioning of the markets under its supervision ;
  - (v) Pay, pension, leave allowance, gratuities, compensations for injuries resulting from accidents, compassionate allowances, contribution towards leave allowances, pension or provident fund of the officers and servants employed by the Board as may be decided by the Board from time to time ;
  - (vi) travelling and other allowances to the members of the Board ;
  - (vii) propaganda and publicity on matters relating to regulated Marketing of Agricultural Produce;
  - (viii) meeting any legal expenses incurred by the Board ;
  - (ix) imparting education in regulated Marketing of Agricultural Produce to the producers, traders, consumers and the members as well as functionaries of the Market Committees and the Board;
  - (x) training of the officers and staff of the Market Committees and Board ;
  - (xi) organising and arranging workshops, seminars, exhibitions, etc. on development of marketing and regulation of marketing of agricultural produces as envisaged under the Act;
  - (xii) general improvements of the facilities for the storage and transport of notified Agricultural Produce to the Market Yard ;
  - (xiii) providing technical and administrative assistance to Market Committee including execution of works;
  - (xiv) for any other purposes, as may be deemed necessary by the Board for execution of the functions assigned to it under this Act, or as may be specified by the Government for carrying out the purposes of the Act.

##### 45-B. Contribution to be paid to the Board—

Every Market Committee shall make contributions to the Board as required under section 18-G of the Act, at a rate of five percentum of its gross income derived from licence fee and market fees in a market year, besides paying such an additional percentum of the said income as may be fixed by the Board in proportion to cost of the works of the Market Committee, executed in that year.

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#### 45-C—Accounts of the Board—

The Accounts of the Board shall be maintained in such forms as may be decided by the Board from time to time with the approval of the State Government."

#### 11. In the said rules, in rule 48—

(a) for sub-rule (1), the following sub-rule shall be substituted, namely :—

"(1) The Market Committee shall levy and collect Market fees from—

- (a) a purchaser of notified agricultural produce marketed in the market area ;
- (b) the person deemed to be a purchaser under the explanation to Section 11 of the Act in respect of the notified agricultural produce ; and
- (c) the persons bringing any notified agricultural produce into the market area for the purpose of processing or for export only, but not processing it therein or exporting it therefrom within the period of thirty days as provided in the provisos to sub-section (6) of section 4 of the Act, at such rates as may be specified in its bye-laws, subject to the minima and the maxima specified in Section 11 of the Act".

(b) in sub-rule (2) for the word "Yard" the word "area" shall be substituted ;

(c) for sub-rule (3), the following sub-rule shall be substituted, namely :—

"(3) A person bringing any notified agricultural produce from outside the market area into the market area, for the purpose of processing by his industrial concern situated within the market area, if any, or for export from such area, shall be subject to levy of market fee unless he furnishes a declaration in respect of the produce and the certificate in Form-IV, to any Officer or servant of the Market Committee specifically authorised by the Committee in that behalf at the time of entry of the said produce in to the market area".

(d) for sub-rule (5), the following sub-rule shall be substituted, namely :—

"(5) Purchase of any agricultural produce in any calendar day not exceeding the quantity or value specified in the bye-laws of the Market Committee, by a buyer for his domestic or household consumption shall be exempted from the payment of any fee".

#### 12. In the said rule, after rule 48, the following rule shall be inserted, namely :—

"48-A—Establishment of check points by the Market Committee—

The Market Committee may, for the purpose of due discharge of its responsibilities, under the Act, rules and bye-laws, establish check points at such locations as may be notified by it from time to time, with the previous approval of the Government."

#### 13. In the said rule, in rule 49, —

- (i) sub-rule (1) shall be deleted;
- (ii) sub-rule (2) shall be read as rule 49.

#### 14. In the said rules, in rule 54,—

- (a) for the words, "market yard" the words "market area" shall be substituted; and
- (b) for the letters and figures " Rs. 50 " the words "rupees five hundred " shall be substituted

#### 15. In the said rules, in rule 55,—

- (a) sub-rules (1) and (2) shall be deleted;
- (b) sub-rules (3) and (4) shall be read as sub-rules (1) and (2) thereof;
- (c) in sub-rule (2), so renumbered for the word "market", the words "market area" shall be substituted.



16. In the said rules, in sub-rule (2) of rule 59, for the letters and figures "Rs. 10" and "Rs. 50" the words "rupees one hundred" and "rupees five hundred" respectively shall be substituted.

17. In the said rules, in rule 60,—

- (a) in sub-rule (1) for the words "market yard" the words "market area" shall be substituted; and
- (b) in sub-rule (7) for the letters and figures, "Rs. 200" and "Rs. 50", the words "rupees five hundred" and "rupees one hundred" shall respectively be substituted.

18. In the said rules, in rule 62, for the words "market yard" wherever they occur, the words "market area" shall be substituted.

19. In the said rules, in rule 82, for the word "market", the words "market area" shall be substituted.

20. In the said rules, for rule 87, the following rule shall be substituted, namely :—

"87—Authority competent to call special meeting of Market Committee—

- (1) The Secretary of the Market Committee, shall convene special meetings of the Market Committee on receipt of a requisition in writing from the Government, Board, Director or at least half of the total number of members of the Market Committee, on such date, time and venue or within such time as may be specified in the requisition to consider any matter of immediate importance to the constitution, functioning or other affairs of the Market Committee including the management, control and development of markets thereunder.
- (2) If a special meeting is not convened in accordance with any such requisition specified in sub-rule (1), the requisitioning authority, shall have the power to convene such meeting and the meeting so convened shall be deemed to be a meeting convened by the Secretary."

21. In the said rules, rule 88 shall be omitted.

22. In the said rules, in rule 89, for the words "in any market area", the word "Committee" shall be substituted.

[ No. 13061-Co-op. ]

By order of the Governor

RAAM BEHRA

Commissioner-cum-Secretary to Government