



RULES SUPPLEMENT TO PART I
EXTRAORDINARY
OF
THE ANDHRA PRADESH GAZETTE

PUBLISHED BY AUTHORITY

No.38 [A]

HYDERABAD, THURSDAY, OCTOBER 14, 1999.

NOTIFICATIONS BY GOVERNMENT

INDUSTRIES & COMMERCE DEPARTMENT
(SSI)

THE ANDHRA PRADESH INDUSTRY FACILITATION COUNCIL
(ARBITRATION) RULES, 1999

[G.O.M.No.307, Industries & Commerce (SSI),
dated 11th October, 1999]

In exercise of the powers conferred by sub-section (3) of Section 7B of the Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Act, 1993 (Act 32 of 1993), the Governor of Andhra Pradesh hereby makes the following rules, namely:-

1. *Title & Extent:-* (1) These rules may be called the Andhra Pradesh Industrial Facilitation Council (Arbitration) Rules, 1999.

(2) They shall apply to all disputes under the Interest on delayed payments to Small Scale and Ancillary Industrial Undertakings Act 1993 (Act 32 of 1993) which may be referred for arbitration and conciliation under sub-section(2) of section 6 of the said Act and to all Industry Facilitation Councils established in the State of Andhra Pradesh by notification under section 7A of the said Act.

2. *Definitions:-* In these rules unless the context otherwise requires

- (a) “Act” means the Interest on delayed payments to Small Scale and Ancillary Industrial Undertakings Act 1993 (Act 32 of 1993) (Central Act 32 of 1993)
- (b) “Arbitration and Conciliation Act” means the Arbitration and Conciliation Act 1996 (Central Act 26 of 1996)

- (c) “Chairperson” means the Chairperson of a Council and includes the sole member of such Council
- (d) “Claimant” means the supplier as defined in the Act.
- (e) “ Council” means any Industry Facilitation Council, established by the State Government under Section 7A of the Act having jurisdiction to arbitrate over the dispute and every such Council shall be an arbitral tribunal for the purpose of the Arbitration and Conciliation Act, 1996.
- (f) “Member” means a member of a Council
- (g) “Respondent” means the buyer as defined in clause © of section 2 of the Act from whom the claimant seeks to recover any amount due under the Act together with the interest thereon as provided for in the Act.
- (h) “Government” means the State government.

3. *Establishment of Councils:* (1) The State Government may, by notification in the Andhra Pradesh Gazette Extraordinary establish the Andhra Pradesh Industry Facilitation Council for arbitration having such jurisdiction for the whole or any part of the State of Andhra Pradesh as may be specified in the notification.

(2) The government may be notification establish one or more other industry facilitation councils for arbitration at such place within the state, with such name and such number of members as may be necessary for the separate identification of each or any of them and with such pecuniary or territorial jurisdiction as may be specified in the notification.

(3) Every council shall be subject to the administrative control of the Government and shall follow such administrative and record keeping procedure as the Government or the Council established under sub-rule (1) may, by order, direct.

(4) The government may, by notification, abolish any Council and vary the jurisdiction of any Council or reconstitute any Council as it may deem fit at any time and provide for the continuation or disposal of any references pending before any such council.

4. *Composition of Councils:-* (1) Every Council established by the Government shall consist of either –

- (a) a sole member, who shall also be the Chairperson thereof, or
- (b) a Chairperson and two other members

as the Government may, by notification, appoint from amongst the following categories of persons namely:-

- (i) Director of industries, by whatever name called, or any other officer not below the rank of such Director, of the state government.
- (ii) Representatives of banks and financial institutions
- (iii) Office bearers or representatives of State Industry Associations and
- (iv) Persons having special knowledge in the field of industry, finance, law, trade and commerce.

Council, as the case may be shall be the Director of Industries, by whatever name called, or any other officer not below the rank of such Director, of the State Government.

(2) The term of office of the members other than the chairperson shall be for a period of two years from the date of appointment.

Provided that a member shall continue as a member of the Council beyond the term of two years in office until another member is appointed in his place:

Provided further that the Government may re-appoint a member for a further term of two years but no member shall be so re-appointed more than once.

(3) Any member of the Council may resign from the Council by one month's notice in writing to the Government.

- (4) The government may remove from office, any member, who has,
 - (a) been adjudged and insolvent, or
 - (b) been convicted of an offence which, in the opinion of the Government, involve moral turpitude, or
 - (c) become physically or mentally incapable of acting as a member, or
 - (d) acquired such financial or other interest as is likely to affect prejudicially his functions as a member, or
 - (e) so abused his position as to render his continuance in office prejudicial to the public interest, or
 - (f) remained absent in three consecutive sittings except for reasons beyond control.

Provided that no member shall be so removed on the grounds mentioned in (d), (e) and (f) except after an inquiry held by the Government in this behalf and finds the member guilty of such ground.

(5) Any vacancy arising in any Council for any reason whatsoever may be filled by the Government by notification.

5. *Remuneration and Allowances of Members:-* The remuneration, honorarium or fees and any allowances that may be paid to the members shall be at such rates as the Government may be order specify.

6. *Reference to be by statement of claim:-* (1) A reference to the Council shall be made by way of a statement of claim in Form 1 accompanied by such documents and facts supporting his claim enclosing the requisite number of copies together with an initial share deposit towards costs of an amount of rupees five hundred by way of a demand draft in the name of the Council.

(2) If any reference contains any claim in respect of the matters other than those referred to in sub-section (1) of section 6 of the Act, the Council shall return the claim to the claimant for deletion of the matters extraneous to that section.

Provide that if the claimant does not comply within thirty days of such return the Council may terminate the proceedings without prejudice to the right of the claimant to make any fresh reference if he is otherwise entitled so to do.

(3) The Council may require any claimant to provide any better statement or particulars of claim or any further documents in support of the claim as it may consider necessary for the purpose of the proceedings and if the claimant fails or omits to do so within thirty days of receipt of any such communication or within such further time as the Council may, for sufficient cause, allow, the council to terminate the proceedings without prejudice to the right of the claimant to make any fresh reference if he is otherwise entitled so to do.

7. *Challenge of member:-* (1) On receipt of a statement of claim, every member shall disclose in writing any circumstances likely to give rise to justifiable doubts as to his independence or impartiality and any such disclosure shall be sent to the parties along with the notices in Form 2 calling for a statement of defence and thereafter, the requirements of sub-section (2) of Section 12 of the Arbitration and Conciliation Act shall apply.

(2) The grounds for challenge of a member and the procedure for challenge shall be in accordance with Sections 12 and 13 of the Arbitration and Conciliation Act.

(3) On a successful challenge, the Council shall cease to proceed with the reference and transfer the case to such other Council having alternate or concurrent jurisdiction over the dispute and such other Council shall thereafter proceed with the reference afresh or as it may deem fit having regard to the stage of proceedings completed in the former Council.

8. *Statement of Defence:-* (1) The Council shall if it is satisfied that, on the facts stated therein, it has jurisdiction to proceed with the reference and that the claim is entitled under the Act to make a reference, cause a copy of the statement of claim to be sent by registered post to the respondent along with the copies of the attached documents and issue notice in Form 2 to the respondent asking him to furnish within thirty days a

statement of defence in Form 3 with such documents and facts in support of his defence or having a bearing on the matter under reference together with his half share of deposit for costs in such manner as may be specified therein and within the time allowed to the respondent for furnishing his statement of defence.

(2) A copy of the notice in Form 2 shall also be sent by registered post to the claimant along with a notice in Form 4 calling upon the claimant to pay a further amount after adjusting the initial deposit made by him towards his half share of deposit for costs in such manner as may be specified therein and within the time allowed to the respondent for furnishing his statement of defence.

(3) The Council may, on an application made by the respondent showing sufficient cause, allow such further time for the statement of defence as it may consider fit, but not exceeding sixty days from the date of receipt by the respondent of the notice under sub-rule (1).

9. *Hearings and written proceedings:-* (1) On receipt of the statement of defence and if the amount of deposits be paid by the parties, the Council shall send a copy of the statement of defence to the claimant and fix a date for appearance and hearing of the parties and issue notice by registered post in Form 5.

(2) If the respondent fail or omit to send a statement of defence within the time given to him, the council shall proceed to fix a date for the appearance and hearing of the and issue notice by registered post in Form 5.

Provided that if the respondent failed or omitted to pay his share of the deposit the Council shall call upon the claimant to pay that share also within fifteen days of receipt of the notice.

Provided further that if the claimant has not paid the aforesaid share, the Council may suspend or terminate the proceedings.

(3) At the first hearing, the council shall not proceed to enter upon the merits of the subject matter in dispute, till it has decided on any challenge to jurisdiction or any challenge to any of its members.

(4) The Council shall decide whether to hold oral hearings for the presentation of evidence or for argument, or whether proceedings shall be conducted on the basis of documents and other materials.

Provided that the Council shall hold oral hearings at an appropriate stage of the proceedings, on request by a party, unless the parties have agreed that no oral hearing shall be held.

(5) The parties shall be given sufficient advance notice of any hearing and of any meeting of the Council for the purpose of inspection of documents, goods or other property.

(6) All Statements, documents or other information supplied to, or applications made to the council by one party shall be communicated to the other party, and any expert report or evidentiary document on which the Council may rely in making its decision shall be communicated to the parties.

(7) Where without cause:

- (a) the claimants fails to communicate his statement of claim in accordance with these rules and section 23(1) of the Arbitration and Conciliation Act, the Council shall terminate the proceedings.
- (b) The respondent fails to communicate the statement of defence in accordance with these rules and section 23(1) of the Arbitration and Conciliation Act, the Council shall continue the proceedings without treating that failure in itself as an admission of the allegations by the claimant.
- (c) A party fails to appear at an oral hearing or to produce documentary evidence, the council may continue the proceedings and make the arbitral award on the evidence before it.

(8) The Council may, appoint one or more experts in terms of section 26 of the Arbitration and conciliation Act.

(9) The Council, or a party with the approval of the Council, may apply to court under section 27 of the Arbitration and conciliation Act for assistance in taking evidence.

(10) The Council may with the agreement of the parties, at any time during the proceedings, use mediation, conciliation or other procedures to encourage settlement of the dispute under section 30 of the Arbitration and Conciliation Act.

(11) The Council shall conduct its proceedings at such place as the Government may specify in the notification.

(12) The Council, on such terms as it may think fit at any stage for reasonable or sufficient cause, adjourn the hearing from time to time but it shall so conduct the proceedings that the decision is given as far as possible within ninety days of the first date of hearing.

(13) At any stage of the proceedings, if the parties jointly apply to the Council that the proceedings be terminated, the Council shall terminate the proceedings.

10. *Decision by Council:-* (1) Where the Council is composed of three members, any decision of the Council shall be by a majority of all its members.

(2) Notwithstanding any thing contained in sub-rule (1) if authorized by the parties or all the members of the Council, questions of procedure may be decided by the Chairperson.

11. *Deposits:-* (1) In fixing the deposits or supplementary deposits as an advance for costs and in determining the costs and expenses of the arbitration referred to in section 31(8) of the Arbitration and Conciliation Act, the Council shall comply with any scale or scheme of fees and expenses that the government may, by order, specify and all the provisions of Section 38 of the Arbitration and Conciliation Act, shall be complied with.

(2) In any case where the proceedings are terminated before making of an award, the Council shall adjust its costs and expenses from any of the deposits as it may deem fit and proper in the facts and circumstances of the case and refund the balances of deposits, if any, to the respective parties.

12. *Arbitral Award:-* (1) The Council shall make an arbitral award in accordance with section 31 of the Arbitration and Conciliation Act.

(2) The Arbitral award shall be stamped in accordance with the relevant law in force.

13. *Interpretation of Rules:-* Notwithstanding anything contained in these rules, the arbitral proceedings shall be governed by the Arbitration and Conciliation Act and these rules shall be interpreted and applied so as to be consistent with and supplementary to and not in derogation of the Arbitration and Conciliation Act.

**(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA
PRADESH)**

SHEELA BHIDE,
Principal Secretary to Government