

20.5 The Tamil Nadu Panchayats (Surcharge, Disallowance and Charge) Rules, 2000**(G.O. (Ms) No.32, Rural Development (C-4) Department, Dated 11th February 2000)**

In exercise of the powers conferred by clause (xvii) of sub-section (2) of Section 242 of the Tamil Nadu Panchayats Act, 1994 (Tamil Nadu Act 21 of 1994) and in supersession of the Rules relating to Surcharge and Disallowance on the Manual on Panchayat Administration, the Governor of Tamil Nadu hereby makes the following Rules : -

RULES

1. Short title - These Rules may be called the Tamil Nadu Panchayats (Surcharge, Disallowance and Charge) Rules, 2000.

2. Surcharge and disallowance - (1) Any Auditor, empowered by the Government, shall carefully and personally examine every case of loss or waste or misapplication of money or property of the Village Panchayat or Panchayat Union or District Panchayat and may disallow every item contrary to law and surcharge the same on the person making or authorizing the making of illegal payments and may charge against any person responsible therefore, the amount of any deficiency, loss or unprofitable outlay incurred by the negligence or misconduct of that person or of any sum, which ought to have been, but is not, brought to account by that person and shall, in every such case, certify the amount due from such person.

(2) It shall not be open to an Executive Authority of Village Panchayat or Commissioner of Panchayat Unions or Secretary of District Panchayat whose negligence or misconduct has caused or contributed to any such deficiency or loss, to contend that notwithstanding his negligence or misconduct the deficiency or loss would not have occurred but for the negligence or misconduct of some other person.

3. Power of the Government - (1) The Government prescribe the following Officers to exercise the powers referred to in these Rules in respect of the Funds of every Village Panchayat or Panchayat Union or District Panchayat within his jurisdiction:-

- (a) Assistant Director of Rural Development (Audit) in case of Village Panchayats (General Funds).
- (b) Director of Local Fund Audit in case of District Panchayats, Panchayat Union Councils and Village Panchayats (Scheme Funds).

(2) The Auditor shall state in writing, the reasons for his decision in respect of every disallowance which shall be based on a stated authority in respect of every disallowance, surcharge or charge and furnish by registered post, a copy thereof to the person against whom it is made.

(3) Even if the person to whom a copy of the decision of the Auditor is furnished, refuses to receive it, he shall be deemed to have been duly furnished with a copy of such decision within the meaning of sub-rule (2). The period of thirty days fixed in Rules 5 and 6 shall be calculated from the date of such refusal.

4. Issue of Surcharge Certificate - (1) The Auditor who is empowered to issue a Surcharge Certificate, before issuing a Surcharge Certificate, shall give a show cause notice to the person concerned, calling upon him to state his defence about the proposed notice in writing within a specified time which shall not be less than fifteen days. If such person desires to be heard in person, the opportunity of personal hearing shall be given by the Auditor. In such personal hearing, the Auditor shall record the proceedings of such hearing. The Auditor shall issue Surcharge Certificate after taking into consideration the representation, if any, given by the person concerned and the proceedings by the personal hearing. The show cause notice and the Surcharge Certificate shall be in Tamil version.

(2) Wherever the Collector, the Inspector or other Competent Authority takes execution proceedings on behalf of a Village Panchayat, Panchayat Union Council or District Panchayat in

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respect of which a Surcharge Certificate has been issued by an Auditor, the expenditure for such purpose shall be met from the Government initially and recovered from the Funds of the respective Village Panchayat, Panchayat Union or District Panchayat.

5. Appeal against the surcharge, disallowance or charge—(1) Any person aggrieved by the disallowance, surcharge or charge made, may, within thirty days from the date of the receipt of service of the decision of the Auditor, appeal to the Inspector, or any Officer authorized by the Government in this behalf to set aside such disallowance, surcharge or charge and the Inspector or such officer, after taking such evidence as is necessary, may confirm, modify or remit such disallowance, surcharge or charge:

Provided that the Inspector or any officer authorized by the Government, may admit an appeal after the expiry of the time specified in this sub-rule, but within sixty days if the Appellant satisfies the Inspector or such officer that he has sufficient cause for not preferring the appeal within the specified time:

Provided further that during the pendency of the appeal made under this Rule, the certificate of disallowance, surcharge or charge, as the case may be, shall not be enforced.

(2) Against the order of the Inspector or Officer authorized by Government in this behalf under sub-rule (1), a second appeal shall lie to the Government within thirty days from the date of receipt of such order. The Government may take into account all the facts presented by the Appellant and facts of the case and pass such order as they deem fit and proper. Against the order of the Government, an appeal shall lie to the High Court within thirty days from the date of receipt of such order.

(3) Where an appeal is made to the High Court under sub-rule (2), the Auditor shall be the sole respondent thereto and the applicant shall not be entitled to make either the Inspector or any officer authorized by the Government or any other person or Government as a party to the proceedings.

6. Payment of due—Every sum certified to be due from any person by the Auditor under these Rules shall be paid by such person into the bank or post office in which the Funds of the Village Panchayat, Panchayat Union Council or District Panchayat, as the case may be, are lodged within thirty days from the date of intimation to him of the decision of the Auditor unless within that time, such person has appealed against the decision to the Inspector or any Officer authorized by the Government and such sum, if not paid or such sum as the Inspector or such officer shall declare to be due, shall be recoverable in the same way as an amount decreed by a Court by filing execution petition.

7. Charge of interest on surcharge, disallowance or charge amount—Interest at the rate specified by the Government, from time to time, by general or special order or if no such order is in current at the time of issuing a Surcharge Certificate at a rate not less than fifteen per cent per annum shall be charged on the amount of disallowance, surcharge or charge due with effect from the day following the last date fixed for payment of the said amount of disallowance, surcharge or charge in the certificate. The interest so charged on the amount of disallowance, surcharge or charge, over due shall be specified in the Certificate itself in precise terms as laid down in Section 34 of the Civil Procedure Code, 1908 (Central Act V of 1908).

8. Waiving of amount of disallowance, surcharge or charge— Notwithstanding anything contained in the Rules, the Government may, at any time, direct that the recovery of the whole or any part of the amount of disallowance, surcharge or charge certified to be due from any person by the Auditor under these Rules shall be waived if, in their opinion that such a course is necessary, considering all the circumstances of the case. The reasons for such waiver shall be conveyed in writing to the Village Panchayat or Panchayat Union or District Panchayat, as the case may be.

RAMESH CHARNDRA PANDA
SECRETARY TO GOVERNMENT