

HARYANA VIDHAN SABHA
REPORT
OF
THE COMMITTEE
ON
SUBORDINATE LEGISLATION
1981-82
THIRTEENTH REPORT

(As Presented to the Haryana Vidhan Sabha
on the 30th March, 1982)



HARYANA VIDHAN SABHA SECRETARIAT, CHANDIGARH
MARCH, 1982.

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COMPOSITION OF THE COMMITTEE

(1981—1982)

Chairman—

Shri Surender Singh (Tosham) ✓

Members—

Shri Ajit Singh

Shri Hira Nand Arya

** Rao Ram Narain

Shri Ram Lal Wadhwa

** S. Sukhdev Singh

Shri Sumer Chand Bhatt

*** Ch. Birender Singh

*** Ch. Rajinder Singh

Advocate General

@ Special Invitees—

Shri Ran Singh Mann

Shri Jagjit Singh Pohloo

Secretariat

1. Shri Raj Krishan, Secretary.

2. Shri S. S. Sanghi, Under Secretary.

The Committee was originally constituted vide Haryana Vidhan Sabha Secretariat notification No. HVS—LA (Sub-Leg)-1/81-82/32, dated the 23rd April, 1981.

*Rao Ram Narain, resigned from the Membership of the Committee with effect from the 9th December, 1981,—Vide notification No. HVS-LA (Sub-Leg)—1/81-82/71, dated the 13th December, 1981.

****S.** Sukhdev Singh, resigned from the Membership of the Committee with effect from the 4th August, 1981, (Afternoon),—
Vide notification No. HVS-LA (Sub-Leg)—1/81-82/46, dated the 12/13th August, 1981.

*******Chaudhri Birender Singh and Rajinder Singh, M.L.A.'s, were nominated by the Speaker vide notification No. HVS—LA (Sub-Leg)-1/81-82/72, dated the 15th December, 1981, in place of S. Sukhdev Singh and Rao Ram Narain, M.L.A's who resigned from the Membership of the Committee.

@ Sarvshri Ran Singh Mann and Jagjit Singh Pohloo, were nominated by the Speaker as Special Invitees of the Committee on the 12th May, 1981 and 24th September, 1981, vide notifications No. HVS-LA (Sub-Leg)-1/81-82/41, dated the 12th May, 1981 and No. HVS-LA (Sub-Leg)-1/81-82/61, dated the 24th September, 1981, respectively.

INTRODUCTION

1. I, the Chairman of the Committee on Subordinate Legislation having been authorised by the Committee to submit the report on their behalf, present this thirteenth report.

2. The Committee consisting of eight members including the Advocate General was nominated by the Speaker, Haryana Vidhan Sabha under Rule 243 of the Rules of Procedure and Conduct of Business in the Haryana Legislative Assembly on the 21st April, 1982, and was notified vide Notification No. HVS—LA (Sub-Leg)-1/81-82/32, dated the 23rd April, 1982. Two special invitees were also nominated by the Speaker to serve the Committee.

3. A brief record of the proceedings of each meeting of the Committee has been kept on record of the Haryana Vidhan Sabha Secretariat.

4. The Committee place on record their appreciation for the valuable and willing assistance given by the Administrative Secretaries/departmental officers and the representative of Law Department in their deliberations.

5. The Committee also place on record their high appreciations of whole hearted cooperation and assistance given by the Secretary, Haryana Vidhan Sabha and his staff.

CHANDIGARH :

The 9th March, 1982.

SURENDER SINGH,

Chairman.

REPORT

1. The Committee on Subordinate Legislation for the year 1981-82, consisting of eight Members including the Chairman and the Advocate-General, was nominated by the Speaker, Haryana Vidhan Sabha, under rule 243 of the Rules of Procedure and Conduct of Business in the Haryana Legislative Assembly, on the 21st April, 1981, and was notified in the Official Gazette vide notification No. HVS-LA (Sub-Leg)-1/81-82/32, dated the 23rd April, 1981.

2. Shri Surender Singh was appointed as the Chairman of the Committee by the Speaker.

3. The Committee held 71 sittings only during their term. Before scrutinizing the rules and orders framed under certain Acts, the Committee discussed its scope and functions and the procedure for scrutinizing the rules, regulations, orders etc. and also orally examined the various Departments of the State Government at initial stage in regard to the framing of rules under various Acts of the State Government. The Committee also watched the implementations of their previous reports.

SCOPE AND FUNCTIONS OF THE COMMITTEE

The scope and functions of the Committee are set down in rules 242, 250 and 251 of the Rules of Procedure and Conduct of Business in the Haryana Legislative Assembly. Rule 242 enjoins upon the Committee "to scrutinise and report to the House whether powers to make regulations, rules, sub-rules, bye-laws, etc. conferred by the Constitution or delegated by Legislature are being properly exercised within such delegation and consider such matters as may be referred to it by the Speaker". Further, rule 250 of the said rules lays down that while examining any such set of rules, sub-rules, bye-laws, etc. the Committee shall, in particular consider :—

- (i) whether it is in accord with the general objects of the Constitution or the Act pursuant to which it is made ;
- (ii) whether it contains matters which in the opinion of the Committee should more properly be dealt with in an Act of the Legislature ;
- (iii) whether it contains imposition of any tax ;
- (iv) whether it directly or indirectly bars the jurisdiction of the courts ;
- (v) whether it gives retrospective effect to any of the provisions in respect of which the Constitution or the Act does not expressly give any such power ;

- (vi) whether it involves expenditure from the Consolidated Fund of the State or the Public Revenues ;
- (vii) whether it appears to make some unusual or unexpected use of the powers conferred by the Constitution or the Act pursuant to which it is made ;
- (viii) whether there appears to have been unjustifiable delay in the publication or laying it before Legislature ;
- (ix) whether for any reason its form or purport calls for any elucidation.

Rule 251 lays down as follows :—

1. If the Committee is of opinion that any order should be annulled wholly or in part, or should be amended in any respect, it shall report that opinion and the grounds thereof to the House.
2. If the Committee is of opinion that any other matter relating to any orders should be brought to the notice of the House, it may report that opinion and matter to the House.

In short, the functions of the Committee are to see if the rules framed by the Executive are within the scope of the delegation made under the Act and do not go beyond the scope of such delegation. If the Committee find that any rule is beyond the scope of the powers delegated under the Act by the Legislature, the Committee can recommend that the rule be suitably amended or omitted.

There are certain rules which are required by the statute to be laid before the Legislature. But, the Committee is competent to examine all the Rules, Regulations etc. framed by the Government under various Acts irrespective of the fact whether these have been placed on the Table of the House or not.

The Committee has framed the working rules, wherein the detailed procedure has been laid down. Generally, the Committee, from time to time, select certain set of rules framed under the various Acts for their scrutiny and examine them at the first instance at its own level with the assistance of the Law Department and the Vidhan Sabha Secretariat. The Committee then invites the Administrative Secretary concerned for examination to explain the discrepancies found in the various rules. After the rules and the departmental representatives have been examined, the Committee prepares the report and presents it to the House.

Some of the parliamentary conventions established in connection with the scrutiny of rules, regulations, bye-laws, etc. are given below :—

- (1) The Committee would scrutinise only such rules as had already been framed and published in the Gazette and not the draft rules.

- (2) The Committee should see that rules are framed under an Act as early as possible after the commencement of the Act and in no case this period should exceed six months. If the rules are not framed within six months, the Committee may ask the Department about the reasons for the delay in framing the rules. This is only by convention
- (3) Executive should ensure that no rule goes beyond the power delegated by the Legislature. If the rules go beyond the power delegated by the Legislature, the Committee may examine the same and report to the House.
- (4) The Executive should be impressed upon that whenever rules are framed or amendment are made in the existing rules, these should be serially and centrally numbered and should indicate in the margin of each rule, the reference of the section under which the rules are framed.

GENERAL OBSERVATIONS/RECOMMENDATIONS OF THE COMMITTEE

1. Delay in framing the Rules

The Committee observes that the Government framed certain rules, orders etc. long after the relevant Acts have come into force. In this connection a few instances may be quoted :—

1. The Haryana Municipal Act was enacted in the year 1973 whereas the Haryana Municipal Election Rules thereunder were framed in the year 1978.
2. The Haryana Prohibition of Smoking in Cinema and Theatre Halls Act was enacted in the year 1974 whereas the Haryana Prohibition of Smoking in Cinema and Theatre Halls Rules, were framed in the year 1981.
3. The Punjab Gram Panchayat Act was enacted in the year 1952 and the Haryana Gram Panchayat Election Rules were framed in the year 1971.
4. The Haryana Urban (Control of Rent and Eviction) was enacted in the year 1973 and the Haryana Urban (Control of Rent and Eviction) Rules were framed in the year 1976

The Committee observes that in some of the cases there is a great time lag of the enactment of the Act and the framing of the Rules. The Committee observes that it is not understood how in the absence of the rules and orders the provisions of the Act could exactly be carried out and is of the view that the delay in framing the rules actually defeats the very purpose and object of the Act under which they are framed

In this connection the Committee on Subordinate Legislation of the Haryana Vidhan Sabha in its First Report for the year 1968-69 recommended that ordinarily rules should be framed as early as possible after the commencement of the Act and in no case this period should exceed

six months. If no rules are framed within the said period after the commencement of the Act, the Department should bring in each case this fact to the notice of the Committee stating the reasons to the satisfaction of the Committee for not framing the rules within that period.

The Committee reiterated the said recommendations in all of their earlier twelfth reports. In spite of the repeated observations made by the Committee in this behalf in their previous Reports, the delay has still persisted in framing certain rules. The Committee reiterates the recommendations made in their previous reports and observes that ordinarily Rules should be framed as early as possible after the enactment of the Act and in no case this period should exceed six months. If no rules are framed within the said period after the enactment of the Act, the Department concerned should bring in each case this fact to the notice of the Committee stating the reasons to the satisfaction of the Committee for not framing the rules within that period.

2. Reference of Section under which Rules are framed

The main function of the Committee on Subordinate Legislation is to scrutinise and report to the House whether the powers to make regulations, rules etc. conferred by the Constitution or delegated by the Legislature are being properly exercised by the Executive within the delegation. The Committee observes that the Government Department generally supply the copies of rules without the preamble or note above the rules with the result that it becomes rather difficult for the Committee to know under what precise authority the rules have been framed. The Committee further observes that reference of the section under which each rule or order was framed is not indicated generally in the margin of each rule/order of the rules/orders. The Committee is of the view that giving of reference of the section under which a set of rules has been framed and under which each rule has been framed in the margin of each rule is essential to enable the Committee and all concerned to know under what precise authority each rule has been framed.

The Committee reiterates the recommendations made in its earlier Reports that whenever rules are supplied to them the authority or the relevant section under which a particular rule or set of rules has/have been framed should also be mentioned in the margin of each rule.

If in the margin of each set of rules there is no reference of the section(s) under which each rule has been framed, Government Departments may invariably supply a memorandum containing the reference to the relevant section in the Act under which each rule has been framed so that the Committee may be able to understand under what precise authority each rule has been framed and whether in any case the Government has transgressed the powers delegated by the Legislature.

The Committee further recommends that whenever several amendments are made in a set of rules the same may be made republished after making/incorporating all the amendments made from time to time.

3. (i) Supply of printed and up-to-date corrected copies of the Rules.

The Committee observed that certain Departments supplied copies of the rules for scrutiny. During scrutiny of the rules, the Committee came across a large number of typographical/spelling mistakes in those copies, with the result that it was difficult for it to determine whether the errors were typographical or they actually existed in the rules, as originally published in the Gazette. The Committee, therefore, recommended that copies of the rules to be supplied to them by the Department should be in the printed form or in the form of Gazette in which they are published. If, however, it is not possible for the Departments to do so, it should be ensured that the copies of the rules, orders etc are up-to-date, meticulously prepared and duly corrected before supplying them to the Committee to save their valuable time in pointing out such mistakes.

The Committee further recommends that it is the duty of the Department concerned to see that the rules supplied to the Committee are amended up-to-date and ensure that the suggestions/recommendations/observations made by the Committee from time to time and agreed to or implemented by the Government are incorporated in the rules.

(ii) Footnote in the Acts and Rules.

It came into the notice of the Committee that sometimes it is laid down in the Act and Rules that such Act and Rules shall come into force on such date as may be specified in the notification by the State Government. The Committee is of the view that in such circumstances the date of the Act and Rules should invariably be given in the footnote so that the legislators in particular and the public in general may come to know as from which date the Act and Rules had come into force.

The Committee further recommends that whenever any amendment is made in a Act or Rule framed thereunder, it should also invariably be stated in the footnote the reference of the Act or Rules by which the amendment has been made.

4. Publishing the Acts and Rules in Hindi.

The Committee observes that at present Acts and Rules are available in English language only. The Regional Language of the State as well as National Language is Hindi. Under the Haryana Official Language Act, 1969, at present, whenever any Bill is introduced and is under consideration of the State Legislature, its authenticated Hindi translated version is also supplied to the Members. The Committee reiterates its earlier recommendations and recommends that all the Acts and Rules be translated into Hindi at the earliest and made available to the legislators and the public so that everybody may be able to know the law of the land.

5. Laying of Rules on the Table of the House

The Committee has observed that a majority of the Acts contain provisions requiring the Government merely to publish the Rules framed thereunder in the Official Gazette. There is no provision for laying them on the Table of the House, with the result that the House can exercise no direct check over them. The Committee is of the view that there should be uniformity in the provisions of the Acts delegating legislative powers and recommends that in future all the Acts, enacted by the State Legislature whether falling in the State List or Concurrent List of Seventh Schedule of the Constitution of India, contain provisions for making rules should invariably lay down provision for laying of rules on the table of the House as soon as possible and the House should have the power to consider them.

6. Delay in laying Rules on the Table of the House

The Committee recommends that where the rules, orders etc. are required to be laid on the table of the House/before the State Legislature under any statute, the same should be laid on the Table of the House as early as possible immediately following such publication in the Gazette, so that the House may statutorily modify or annul such rules. If such rules are published, while the Assembly is in Session, the rules should be laid on the Table of the House during that Session.

The Committee also recommends that in future each Government Department concerned should invariably forward with each set of "Orders", such as rules, orders, regulation, bye-laws, etc., the following Statement of "Orders" in respect of which there has been delay in framing the orders and laying them on the Table for the information of the Committee.

ANNEXURE

Statement of "Orders" such as rules, orders, regulations, etc. in respect of which there has been delay in framing the "Orders" and laying them on the Table—

Sr. No.	Name of Order	Description of "Order"	Date of Publication in the Gazette	Date of laying on the Table	Approximate delay and reasons of delay, if any	Department concerned.
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7. System for serially and centrally numbering the Statutory Rules, Orders and Notifications etc.

The Committee observes that the system of numbering the notification containing the amendments to the statutory rules, orders and regulations etc., should be strictly adhered to. In the absence of any definite system of numbering the notifications containing the amendments to the statutory rules, orders and regulations, etc., considerable difficulty is experienced by the courts and the public in keeping track of all the amendments and in determining the correct & up-to-date position of the rules etc. The necessity of adopting the system for serially and centrally numbering the statutory rules, orders and notifications etc. was emphasised in the Chief Secretary to Govt. Punjab, U.O. No. 81 (51)-61, dated the 19th September, 1961, (Copy attached as Appendix of Eighth Report).

The Committee, therefore, recommends that all the Administrative Departments, when any rules, orders, regulations and notifications under any Act or ordinance, are framed, should assign a number to such rules, orders, regulations and notifications in accordance with the above said observations in consultation with the Law Department.

8. Implementation of recommendation of the Committee

The Committee for the year 1979-80 in their (Eleventh) Report examined the action taken by the Government on the recommendations/observations made by the previous Committee (s) in their first to Eighth Reports (1968-69 to 1975-76) and made further observations/remarks in respect of the outstanding observations as contained in Appendix II of the said report for the year 1979-80 under the heading "RECOMMENDATIONS OF THE COMMITTEE WHICH HAVE NOT SO FAR BEEN IMPLEMENTED BY THE GOVERNMENT AND COMMITTEE'S REMARKS THEREON."

The Committee observes with great regret that the work regarding the implementation of recommendations/observations including the

outstanding recommendations made by the Committee in its previous reports i.e (Appendix II of the said Reports) Ninth, Tenth and Eleventh and Twelfth reports for the years 1977-78, 1978-79, 1979-80 and 1980-81, respectively, is very slow. The Committee, which works on behalf of the House, felt that the object with which it was constituted would be defeated if its recommendations are either not implemented at all or are implemented after a long time. However, the Committee has received the replies of some of its earlier recommendations from some of the Departments in respect of certain rules, regarding which further observation made by the Committee appear at Annexure A of this report

The Committee further recommends that the action on the outstanding recommendations and observations/recommendations contained in its earlier reports should be given top priority and expedited. The Committee also recommends that when a recommendation is implemented by the Government, the Department concerned should supply a copy of the notification containing the amendment in the rules along with the statement showing the action taken by the Government in the implementation of its recommendations/observations.

1. Scrutiny of the Punjab Co-operative Societies Rules, 1963, framed under the Punjab Cooperative Societies Act, 1961.

1. The Committee, after going through the Punjab Co-operative Societies Act, 1961 and the rules framed thereunder observed that both the Act and rules were framed more than a decade before and had since been amended several times. The Committee is of the view that the Act be enacted afresh so as to suit the present set up of the co-operative system and developing economy in the State and the rules should also be made afresh in the light of the Act, so enacted, and the Act and rules in amended upto-date form be made available to the Committee and the general public

The Cooperation Department in their written reply stated that the draft of Haryana Cooperative Societies Bill, 1981 was prepared and the same was sent to Government vide Memo No. Legal-81/3362, dated 1-9-1981 for processing and early enactment. The work regarding framing of rules under the New Act would be taken up immediately after the enactment of the New Act. The New Act and the rules framed thereunder shall be made available as and when the same are enacted/framed.

2. On being asked by the Committee, the Departmental representatives during the course of examination stated that they had prepared the draft bill on the basis of the amendments suggested by the Committee earlier in their Second Report for the year 1969-70 regarding the said rules and Act, and the rules framed under the Land Mortgage Banks Act, and sent to the Law Department.

The Committee observes that the Cooperation Department has taken very long time in implementation of their earlier recommendations and in getting the Act re-enacted and in making the rules afresh in the light of the observations of the Committee. The Committee, therefore, recommends to the State Government that they should get the proposed draft bill expedited from the Law Department and law enacted and rules thereunder, suiting present set up after covering all the defects as pointed out by the Committee, be framed at the earliest and the Committee be informed accordingly.

While scrutinizing the Haryana State Central Co-operative Banks Staff Services (Common Cadre) Rules, 1975, the Committee, on an enquiry, was informed that one employee of Central Co-operative Bank, Rohtak was given extension probationary till his case of extension was finalised.

The Department in their written reply stated that a Manager, Central Cooperative Bank, Rohtak, was due to retire w.e.f. 31-12-80 on attaining the age of 58 years. Rule 15 (V) of the said Rules, applicable to this employee, provides that the Board with the approval of the Registrar, may give extension beyond 58 years for one year at a time and not exceeding 2 years in aggregate in the interest of work provided the employee is medically fit. This Manager represented to Government on 24-12-1980 for extension of service beyond 58 years. The Government desired that the representation would be examined and the employee be allowed to continue in service till his case is decided. The matter is under consideration of the Government for final decision.

4 The Committee noticed that the Manager had addressed an application to the Managing Director, the Haryana State Cooperative Bank Ltd., Chandigarh, requesting for extension in service beyond 58 years on attaining his age of superannuation on 31-12-1980 and that application was directly put up by said the Manager to the Minister concerned (Cooperation) who passed the stay order on 24-12-1980 that in view of the representation made by him, his case be reviewed and report and till then his retirement be stayed.

5 The Committee during the course of oral examination of the Departmental representative on 14th September, 1981, wanted to know the position of the said stay order according to the said rules and what action had been taken by the Registrar in the matter and whether the said Manager was in service till that day. The Departmental representative stated that the Government had vacated the stay order on 11-9-1981 and the person concerned must have been relieved that day (14-9-1981) morning and practically retired on that day.

6 The Committee takes a very serious view of such a case and recommends that the provisions of rule 15(V) of the Haryana State Cooperative Banks Staff Service (Common Cadre) Rules, 1975, be deleted for with as it give arbitrary powers.

7 3. It came to the notice of the Committee that a Manager, P.L.D.B., who advanced a loan for purchase of tractor to a farmer through the Agency of Escort, was under suspension. The price of tractor was received by the Agency, but the tractor was not delivered to loanee farmers. The amount of loan was recalled from the agency but it informed that they would return the loan in instalment. One instalment was returned by the agency and the said Manager was still under suspension and why he was given such a severe punishment.

The Department in their written reply and during the course of oral examination stated that the instance of the said Manager given by the Committee related to the Complaint made by Shri Kartar Singh R/o Dubal Dhan against, the Manager, P.L.D.B., Jhajjar on which the Government has desired to conduct an enquiry and report. An enquiry into the complaint was conducted by the H.S.L.D.B. It was found that two loans of Rs. 65,000/- were disbursed to an authorised dealer, M/s. Staya Auto Mobile, of Gurgaon for delivering of two tractors to the loanee farmers. The tractors were not delivered to the farmers. The Managing Director, H.S.L.D.B., therefore, directed the P.L.D.B., Jhajjar

to lodge a complaint with police against the Manager, P.L.D.B., Jhajjar and the said firm for non-delivery of tractors. A report was also sent to Government. In the mean time a few officers of P.L.D.B., Jhajjar represented to Government and the Government desired that the following action be taken :—

- (i) The case be registered against the Manager and the firm in accordance with the direction given by the Managing Director, H.S.L.D.B. on 9-2-1981.
- (ii) Manager be placed under suspension with immediate effect.
- (iii) Recovery proceedings against the loanees be stopped with immediate effect.
- (iv) Recovery proceedings be started against the Manager.
- (v) Departmental action be also initiated.

In compliance to the above order and in view of the alleged involvement of the Manager, P.L.D.B. was placed under suspension w.e.f. 4-4-81 and the recovery proceedings from the loanee farmers were kept pending. JR (E) was asked to conduct a detailed enquiry into the matter. The said officer has completed the enquiry and submitted the report to the Registrar on 28-8-81. The said report is under examination in the Cooperative Department. Further action in the matter shall be taken in the department in the light of enquiry report.

The Departmental representatives conceded during discussion that after enquiry the Department has come to the conclusion that no embezzlement case has been made out against the said Manager and he would be reinstated shortly in view of the above findings.

It seems to the Committee that the case of the said Manager is of harassment because he initiated action against the agency when he came to know that the tractor has not been given to the loanee farmers and he informed the Head Office also in this regard. As stated by the Departmental representatives the said Manager has been placed under suspension which according to the Committee this has been done wrongly and without his fault. Therefore, there appears to be no justification for keeping the said Manager under suspension any longer.

4. Similarly, another complaint of embezzlement made by some members of Lohani Society to the Hon'ble Chief Minister against Shri Dharma Pal, the then Director, Cooperative Bank, Bhiwani and Shri Harpal Singh, an authorised official of the Lohani Cooperative Credit and Service Society, came to the notice of the Committee. The Committee was informed that the enquiry was conducted by J. R. (E) and a report was submitted to the Government on 9-10-1979 as a result of which, *inter alia*, that a Mini Bank Manager was placed under suspension on 9-11-79.

The Committee recommends that enquiry in such cases be completed at the earliest and further action taken in such cases, which have been

already delayed, be informed the Committee. The Committee further recommends that the relevant rules be suitably amended so as to plug the loopholes to avoid the recurrence of such irregularities and malpractices, in future. It has come to their notice that whenever any embazzlement or irregularity is done by any employee of the bank or a society, the departmental enquiries through the department and their police officials are initiated/conducted against the defaulting official/officers.

14 The Committee is of the opinion that this procedure is wrong and delays justice in the matter. Therefore, the Committee is of the view that in the case of such embazzlement etc. first F.I.R. should be lodged with the police.

15 5. It has also come to the notice of the Committee that there are some irregularities in the Consumers' Stores where the ad-hoc appointments are oftenly made without any application or calling candidates from the employment exchanges.

16 The Committee, while scrutinising the rules, observed that there is no provision in the rules for making such ad-hoc appointments and these ad-hoc appointments are unwarranted. According to the Committee it does not meet the end of the purpose for which such appointments have been made.

2. THE HARYANA GRAM PANCHAYAT ELECTION RULES, 1971, FRAMED UNDER THE PUNJAB GRAM PANCHAYAT ACT, 1952.

The Committee went through the replies received from the Govt. to the observation made by the Committee in respect of the Haryana Gram Panchayat Election Rules, 1971, framed under the Punjab Gram Panchayat Act, 1952 and examined the Development and Panchayat Department and made the following observations:—

Rule 1—

"1. These rules may be called the Haryana Gram Panchayat Election Rules, 1971."

The Committee was constrained to observe that the Punjab Gram Panchayat Act was enacted in the year 1952 and the Haryana Gram Panchayat Election Rules thereunder were framed in the year 1971. The Committee wanted to know the reasons for delay in framing the rules.

The department in their written reply stated that the Election Rules were first framed in 1953. These rules were repealed by rules of 1960 in composite Punjab and the rules of 1960 were repealed by the present rules in the year 1971. The Committee observes that the Government has taken very long time in framing the rules.

This may be avoided in future and rules should be framed with in six months of the enactment of the Act.

Rule 3—

- “3. (1) The Deputy Commissioner shall frame an election programme specifying the date, time and place for—
- (i) the filling of nomination papers ,
 - (ii) the scrutiny of nomination papers ;
 - (iii) the withdrawal of nomination papers ;
 - (iv) the taking of poll, if necessary.
- (2) The election programme shall be published not less than seven days before the date fixed for filling the nomination papers—
- (a) by affixing a copy at the offices of the Deputy Commissioner the Deputy Director, the Block Development and Panchayat Officer, the Social Education and Panchayat Officer, and at such other conspicuous place (s) in the Sabha area as may be determined by the Deputy Commissioner ; and
 - (b) by beat of drum within the Sabha area.
- (3) The Government or the Deputy Commissioner may by an order in writing amend, vary or modify the election programme at any time :

Provided that, unless the State Government otherwise directs, no such order shall be deemed to invalidate any proceedings taken before the date of the order.

- (4) Every order under sub-rule (3) shall be published in the manner prescribed under sub-rule (2)”. 2

The Committee, after oral examination of the Departmental representative, recommends that the election programme should be published not less than 10 days instead of seven days before the date fixed for filling the nomination papers. The Committee further observed that the time for scrutiny, withdrawal of nomination papers and taking of poll etc. as in the Legislative Assembly Elections be fixed for Elections to Gram Panchayats

The Committee further recommends that sub-rule (3) of rule 3 may be deleted as it is arbitrary. 3

Rule 7—

- “7. (1) Each candidate nominated under the provisions of rule 6 shall, at or before the time of delivery of his nomination paper,

deposit, or cause to be deposited, a sum of Rs. 50 and in the case of a Scheduled Caste candidate a sum of Rs 20 either in the treasury or sub-treasury or with the local Lambardar or the Returning Officer and produce a receipt obtained from the treasury or sub-treasury or from the Lambardar, or the Returning Officer, as the case may be, and no candidate shall be deemed to be duly nominated unless such deposit has been made

- (2) If a candidate by whom or on whose behalf the deposit referred to in sub-rule (1) has been made is not elected and the number of votes polled by him is less than one-half of the voted polled by the candidate who is declared elected with least number of votes, the deposit shall be forfeited to the Government .

Provided that in the case of a candidate for the election of Sarpanch, the deposit shall be forfeited if he fails to secure one-tenth of total number of votes polled for the office of Sarpanch:

Provided further that in the case of a Gram Panchayat where a seat or seats has or have to be filled from amongst members of Scheduled Castes, the number of votes polled by the non-Scheduled Castes/Scheduled Castes candidate who is declared elected with the least number of votes will be taken into consideration for determining if a defected non-Scheduled Caste/Scheduled Caste candidate shall forfeit his deposit or not.

- (3) (a) The deposit in the following cases shall, by an order in writing of the Returning Officer, be returned to the candidate or where he is dead, to his legal representative :—
- (i) where the nomination paper of the candidate has been rejected ; or
 - (ii) where the candidate has withdrawn his nomination paper within the specified time ; or
 - (iii) where the candidate had died before the commencement of the poll.

Notes.—(1) Where the money was deposited with the Lambardar the order shall be addressed to him.

(ii) Where the money was deposited in a treasury or sub-treasury, the challan shall be endorsed by the Returning Officer in favour of the candidate or his legal representative, as the case may be.

(iii) Where the money was deposited with the Returning Officer, the later shall return it to the candidate or his legal representative, as the case may be

(b) The deposit in the following cases will be returned as above after the declaration of the result of election.—

- (i) where the candidate, though not elected, does not forfeit his deposit under sub-rule (2); or
- (ii) where the candidate is elected.
- (4) The deposit shall be returned to the candidate, or, if not made by him to the person by whom it was made or to his legal representatives, as the case may be."

The Committee observes that in sub-rules (2) and (3) of rule 7 for the words "one-half" and "one-tenth" the words "one-third" for forfeiture of the deposit in case of the number of votes polled is less than one-third be substituted for election of Sarpanch and Panch, to which the departmental representative asked to examine thoroughly and to report to the Committee. 4

Rule 8—

- "8. (1) The returning Officer shall examine the nomination papers at the time appointed in this behalf, hear objections, if any, presented by the objectors in person, to the eligibility of any candidate and determine these objections after such enquiry as he may consider necessary. The decision rejecting or accepting a nomination paper and a brief statement of reasons thereof shall be endorsed on the nomination paper and signed by the Returning Officer :

Provided that the Returning Officer may—

- (a) permit any clerical error in the nomination paper in regard to names or numbers to be corrected in order to bring them in conformity with the corresponding entries in the electoral rolls ; and
- (b) where necessary, direct that any clerical or printing error in the said entries shall be overlooked."

(2) XXX XXXXXX XXXX

The Committee recommends that in sub-rule (1) of Rule 8, after the words "and signed by the Returning Officer", the words "and supply a copy of such statement on an application" be inserted. 5

Rule 10—

- "10. The Returning Officer shall, on the expiry of the time fixed for withdrawal of nomination papers, allocate by lot to each validly nominated candidate (hereinafter called contesting candidate) for the offices of Sarpanch and Panches a symbol out of the approved list of symbols."

6 The Committee recommends that the words "by lot" may be deleted so as to empower the Returning Officer to allocate symbol for the election of Sarpanch and Panches.

Rule 11—

"11. The Returning Officer, shall immediately after symbols have been allotted to each contesting candidate, prepare and publish by affixing out side his camp office, two separate lists in alphabetical order of the contesting candidates for the offices of Sarpanch and Panches showing against each candidate the symbol allotted to him."

7 The Committee was of the view that for the words "in alphabetical order", the words "in Hindi alphabetical order" be substituted.

The department in their written reply stated that it would be more appropriate to add the words "in Hindi in devnagri script" after the words "in alphabetical order."

The departmental representative agreed for issuing necessary amendment in the rule.

Rule 13—

"13. If the number of contesting candidates in any Sabha area is greater than the number of members to be elected for such area, a poll shall be taken on the date specified under rule 3, in this behalf for the election".

8 The Committee recommends that in Rule 13, for the word "greater" the word "larger" be substituted.

Rule 14—

"14. If a candidate who has been validly nominated dies and a report of his death is received by the Returning Officer before the commencement of the poll, the Returning Officer shall countermand the poll and report the fact to the Deputy Commissioner and all proceedings with reference to the election shall be commenced afresh in all respects as if for a new election :

Provided that no fresh nomination shall be necessary in the case of a candidate whose name is entered in the list of validly nominated candidates published under rule 11."

9 The Committee recommends that proviso to Rule 14 be deleted.

Rule 16—

"16. The Director may direct that before any ballot-paper is delivered to a voter at a polling station, it shall be marked with such official mark as may be specified by him in this behalf and the official mark so specified shall be kept secret."

The Committee recommends that after the words "in this behalf" the words "and signed by the Presiding Officer on its back before issue" be inserted, so that there may be proper authentication of ballot paper. /o

Rule 23—

"23. Before a ballot-paper is delivered to an elector, his number, name and description as stated in the electoral roll shall be called out and a mark shall be placed in the copy of the electoral roll against the number of the elector to denote that he has received the ballot-paper and also the serial number of the ballot-paper issued to him shall be noted against the entry pertaining to him in the electoral roll."

The Committee recommends that in rule 23 for the words "a mark" the words "a tick mark" be substituted, as the word "mark" is altogether ambiguous. /

Rule 24—

"24. (1) At any time before a ballot-paper is delivered to an elector, the Presiding Officer may of his own accord, if he has reason to doubt the identity of an elector and shall, if so required by a candidate or his agent, put the following question to the elector—

"Are you the person enrolled as follows (reading the whole entry from the roll)."

(2) If the elector answers the question in the affirmative he shall be allowed to vote in the usual manner."

The Committee after oral examination of the Departmental Representative recommends that sub-rule (2) of rule 24 be substituted as under :— /2

"(2) If the elector answers the question in the affirmative and a candidate or his agent objects or proves otherwise and the objections is right, the elector shall not be allowed to vote and his vote shall be cancelled by the Presiding Officer and such person shall be handed over to the police for impersonation."

Rule 26—

"26. If any candidate or polling agent declares and under takes to prove that any person by applying for a ballot-paper has committed the offence of impersonation, the Presiding Officer may require such person to enter in the list of challenged votes his name and address, or if he is unable to write, to affix his thumb-impression thereto and may further require such person to produce evidence of identification. If such person on being questioned in the manner provided in rule 24 answers affirmatively, he shall be allowed to vote. The Presiding Officer shall in every case, whether or not the person challenged is allowed to vote,

make a note of the circumstances in the list of challenged vote in 2 Form IV which shall be prepared separately for the election of Sarpanch and Panches.”.

13 The Committee recommends that in rule 26, after the words “answers affirmatively”, the words “and any of the candidate or his agent does not object”, be inserted.

Rule 28—

“28. If owing to blindness or other infirmity a voter is unable to read the symbol on a ballot-box or is physically incapable of putting the ballot-paper into a ballot-box, the Presiding Officer shall enter the polling compartment with such voter, ascertain from him the candidate in whose favour he desires to vote and shall put the ballot-paper in the ballot box of such candidate in accordance with the wishes of such elector. The Presiding Officer shall have this done with as much secrecy as is feasible in each case and shall keep a brief record of such instance without indicating the manner in which the votes have been cast.”.

14 The Committee wanted to know why the Presiding Officer may be allowed to enter the polling compartment with a blind or infirm voter? The Committee was of the view that a companion be allowed to accompany such a blind or infirm person to help him in casting his vote rather than allowing the Presiding Officer to accompany such a voter like the Assembly elections, which the Departmental representative promised to amend the rule accordingly.

Rule 42—

“42. Whenever a vacancy occurs by the death, resignation or removal of a Sarpanch or due to setting aside of the election of a Sarpanch or Panch under section 13—C, the election to fill such vacancy shall be held within a period of sixty-days of the occurrence of such vacancy in the manner laid down in the rules :

Provided that the limit of sixty days prescribed in this rule may be extended by the Deputy Commissioner, if in his opinion there are sufficient grounds, which should be recorded in writing for such extension.”

15 The Committee recommends that whenever a casual vacancy occurs in the office of Sarpanch or Panch, the elections must take place within 60 days and no discretion, whatsoever, should be given to the Deputy Commissioner for extension of period for filling the casual vacancy.

3. THE HARYANA MUNICIPAL ELECTIONS RULES, 1978, FRAMED UNDER THE HARYANA MUNICIPAL ACT, 1973.

General

The Committee observed that the Haryana Municipal Act was enacted in the year 1973 and the Haryana Municipal Elections Rules

were framed under the said Act during the year 1978. The Committee observes that the Department should not have taken 5 years to frame the said Rules. The standing recommendations of the Committee in this behalf is that the Rules should be framed within a period of six months of the enactment of the relevant Act. The delay in framing the Rules defeats the very purpose of the Act. The Committee observes that in future the work of framing of rules should not unnecessarily be delayed and the same should be framed within the shortest possible time at any rate not later than six months of the enactment of the Act.

Rules 3—

- “3. The rolls of each constituency of a municipality shall be the electoral roll for the Haryana Legislative Assembly in relation to the said constituency operative on the date fixed by the Deputy Commissioner for the submission of nomination papers under rule 29 .

Provided that the State Government may direct that the electoral roll for the Assembly shall not be used in any election and that fresh roll shall be prepared in the manner specified in rules 4 to 14 :

Provided further that nothing in this rule shall prevent the use of the current electoral rolls for the Assembly constituencies as preliminary rolls in the preparation of fresh rolls for the elections under these rules”.

The Committee, during the course of oral examination, observed that the electoral rolls should be prepared to the Municipal elections boothwise as was done in the Assembly elections. This procedure be adopted for the Municipal elections.

The Department agreed with the view of the Committee. The Committee recommends that there should be more booths for Municipal elections and separate voters list for elections to Municipal elections be prepared on the basis of elections conducted for State Legislative Assembly.

Rule 4—

- “4 (1) When a direction is given by the State Government under the first proviso to rule 3, the Deputy Commissioner shall, under the Superintendence of the Director of Elections, cause to be prepared roll for each constituency of the municipality in accordance with these rules.
- (2) The roll shall be prepared in such form and in such language or languages as the State Government or the Director of Election may direct”.

The Committee recommends that in sub-rule (2) of rule 4, between the words ‘in’ and ‘such’ insert the words “Hindi language in devnagri script and in”.

4 The Committee further recommends that the electoral roll for Municipal Elections should be prepared in Hindi Language, which is the State language and as prepared in elections to State Legislative Assembly.

Rule 6—

“6. (1) Subject to the provisions of rule 5, every person who is not less than 21 years of age on the qualifying date and is ordinarily resident in a constituency, shall be entitled to be registered in the roll for the constituency.”.

(2) A person shall not be deemed to be ordinarily resident in a constituency merely on the ground that he owns or is in possession of dwelling-house therein. A person absenting himself temporarily from his ordinary residence shall not by reason thereof cease to be ordinarily resident therein.

(3) No person shall be entitled to be registered in the roll for more than one constituency and no person shall be registered in the roll for or any constituency more than once.

5 The Committee recommends that in sub-rule (2) of rule 6 the words “A person absenting himself temporarily from his ordinary residence shall not by reason thereof cease to be ordinarily resident therein” be deleted, as the same are superfluous.

6 The Committee further recommends that sub-rule (3) of rule 6 be deleted being superfluous.

The Departmental representative agreed to this proposal of the Committee and assured the Committee to look into the matter.

Rule 7—

“7. As soon as the roll of a constituency is ready, the Deputy Commissioner shall publish it as draft-together with a notice intimating the date by objections or claims with regard to the roll may be presented to the Revising Authority specified therein. A copy of the roll of each constituency and the notice shall be posted at the Office of the Deputy Commissioner, at the office of the committee and at such other place (s) as the Deputy Commissioner may determine.”.

7 The Committee observed that fifteen days period be prescribed in Rule 7 for inviting objections with regard to the publication of the electoral rolls.

The Committee, after oral examination of the Departmental representatives, recommends that at least 15 days period be prescribed in the rules for inviting objections to the preliminary/draft rolls and necessary amendment be made in the rule and the Committee be informed accordingly.

Rule 10—

"10. (1) On the date and at the place fixed under rule 9 the Revising Authority shall hear and decide the claims and objections according to their merits after hearing the parties concerned or their authorised agents and, in the case of a Claim any person who objects to be admission of such a claim and after considering such evidence as may be produced or may appear necessary to him. He shall—

(i) reject any claim or objection which does not comply with any of the provisions of these rules or pass such orders as he may deem fit ;

(ii) dismiss any case in which the claimant or objector is not present or is not represented.

(2) Any person aggrieved by any such order may, within three days from the date of the order apply to Deputy Commissioner for revision and the Deputy Commissioner may, as far as practicable within a week, confirm such order, or set it aside or pass such other order with respect to the claim or objection as may deem fit.

(3) No appeal shall lie from the order passed under the provisions of sub-rule (1) or sub-rule (2) and the orders passed thereunder shall be final".

The Committee observes that in sub-rule (2) of rule 10 for the words "within three days" the words "within a week" be substituted. 8

The Committee also observes that sub-rule (3) of rule 10 provides that no appeal shall lie from the order passed under the provisions of sub-rule (1) or sub-rule (2) and the orders passed thereunder shall be final. The Committee was of the view that there was no provision to file an appeal, what could be the remedy for an aggrieved party? 9

The Committee during the course of oral examination came to the conclusion that in sub-rule (1) the period of three days is quite insufficient and it should be seven days for disposal of claims and objections. 10

The Departmental representative agreed to the suggestion of the Committee and assured to give proper consideration to the rule and the Committee be informed accordingly.

The Committee recommends that sub-rule (3) of rule 10 be deleted and necessary provision be made in the rule for filing an appeal by the aggrieved party from the order passed under the provisions of sub-rule (1) or sub-rule (2) *ibid*. 11

Rule 12—

The rule shall—

"12. (1) Unless otherwise directed by the State Government, be revised in the prescribed manner before each general election to

Municipality and for any constituency before a bye-election to fill a casual vacancy in such a constituency:

Provided that if for any reason the electoral roll is not revised the validity or continued operation of the existing electoral roll shall not thereby, be affected.

(2)	***	****	*	****
	***		****	**

(3) The roll for every constituency shall be revised under sub-rule (1) either intensively or summarily or partly intensively and partly summarily as State Government may direct."

(4)	***	***	***
(5)	111	***	***
(6)	***	***	***

12 The Committee recommends that in sub-rule (1) of rule 12, the words "unless otherwise directed by the State Government" be deleted as the same was against the spirit of the Act.

13 The Committee further recommends that in sub-rule (3) of rule 12, the words "either intensively or summarily or partly intensively and partly summarily" be deleted being superfluous.

Rule 13—

"13. If the Deputy Commissioner, on an application made to him or on his own motion, is satisfied after such enquiry as he thinks fit, that any entry in the roll of a constituency—

(a) is erroneous or defective in any particular ;

(b) should be transposed to another place in the roll on the ground that the person concerned has changed his place of ordinary residence; or within the constituencies.

(c)	xxx	xxx	xxx
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the Deputy Commissioner shall subject to such general or specific directions, if any, as may be given by the Director of Elections in this behalf, amend, transpose or delete the entry :

Provided that before taking any action on any ground under clause (a), clause (b) or clause (c), the Deputy Commissioner shall give the person concerned a reasonable opportunity of being heard before taking the proposed action."

14 The Committee observes that part (a) of rule 13 which reads as "is erroneous or defective in any particular" is vague and recommends that it should be suitably amended.

Rule 14—

- "14. (1) Any person whose name is not included in the role of a constituency a finally published under rule 11, may apply in the manner hereinafter provided for the inclusion of his name in that roll.
- (2) An application under sub-rule (1) shall be made to the Deputy Commissioner at any time not later than four days from the date of publication of the Election Programme under rule 19 and shall be accompanied by a fee of one rupee.
- (3) Every such application shall be made in duplicate, in form D.
- (4) The fee specified in sub-rule (2) shall be—
- (a) paid by means of non-judicial stamps ; or
 - (b) deposited in a Government Treasury or the State Bank of India in favour of the Deputy Commissioner concerned ; or
 - (c) paid in cash against proper printed receipt to the Deputy Commissioner concerned or to any officer authorised by him, in this behalf ; and shall not be refundable.
- (5) Where the fee is deposited under clause (b) of sub-rule (4), the applicant shall enclose with the application a Government Treasury receipt and where the fee is paid in cash under clause (c) of sub-rule (4), the applicant shall enclose with the application, the proper printed receipt issued by the Deputy Commissioner or the Officer authorised by him in this behalf to receive the fee in cash, in proof of the fee having been deposited or paid in cash by him.
- (6) The Deputy Commissioner shall, immediately, on receipt of such application, direct that one copy thereof be pasted in some conspicuous place in his office together with a notice inviting objections to such applications within a period of four days from the date of such pasting.
- (7) The Deputy Commissioner shall, after the expiry of the period specified in sub-rule (6), consider the objections, if any, received by him and shall, if satisfied that the applicant is entitled to be registered in the roll, direct his name to be included therein before the last date for making nomination for election to that constituency :
- Provided that if the applicant is registered in the roll of any other constituency, the Deputy Commissioner shall inform the Deputy Commissioner concerned of that other constituency and the latter shall on receipt of such information, strike off the name of the applicant from that roll.
- (8) Where the application is rejected, an appeal shall lie, within a period of seven days from the date of rejection of such application, to the Director of Elections.

(9) Every appeal under sub-rule (8) shall be—

- (a) in the form of memorandum signed by the applicant ;
 - (b) accompanied by a copy of the order appealed against; and
 - (c) accompanied with a fee of five rupees which shall be paid by means of non-judicial stamps or in cash.
- (10) The decision in appeal shall be final.

(11) The Deputy Commissioner shall cause such amendments to be made in the roll as may be necessary to give effect to the decision of the Director of Elections;”.

The Committee was of the view that rule 14 was also not properly worded and required to be amended in a simple manner like provision made in the law relating to the Assembly Elections.

RULE 19-

“19. (1). The Deputy Commissioner shall frame a programme for elections hereinafter referred to as the “election programme” of a Committee.

(2) The election programme shall specify the date or dates, on, by or within which :—

- (i) the nomination papers shall be presented;
- (ii) the list of nomination papers shall be posted;
- (iii) the nomination papers shall be scrutinised;
- (iv) applications for the revision of the orders of the authority scrutinising the nomination papers may be made to the Deputy Commissioner;
- (v) the revision application filed under clause (iv) shall be decided;
- (vi) a candidate may withdraw his candidature;
- (vii) the list of contesting candidates shall be posted;
- (viii) the list of polling stations be posted;
- (ix) the poll shall be held;
- (x) the ballot papers shall be counted here time and place fixed for the purpose shall also be specified); and
- (xi) the result of election shall be declared.

Provided that nothing in this section shall prevent the Deputy Commissioner from designating or nominating the same person to be the Returning Officer for more than one committee.

(5) *+* ***

(7) * I * ***

*** *** ****”

The Committee further recommends that for the words "ten clear days" in sub-rule (6) of rule 19 shall be substituted by the words "fifteen clear days" as there should be sufficient period before which the election programme for municipal elections be published.

"21. (1) No person shall be eligible for election as a member of a Committee, who—

(b) ***

(c) ***

(d) ***

(e) ***

(f) *** ** *

(g) ***

(h) is an undischarged insolvent; or is in arrears of any kind due from him (otherwise than as a trustee) to the Committee when a special demand in this behalf has been served upon him by the committee; or

(1) *** *** ***

(j) *** *** ***

(k) *** *** ***

(1) *** *** ***

(2) xxx xxx xxx xxx

(3) xxx xxx xxx xxx

The Committee recommends that in rule 21 (1)(h) the words "or is in arrears of any kind due from him (otherwise than as a trustee) to the Committee when a special demand in this behalf has been served upon him by the Committee" be deleted as such a ground should not form the basis for disqualification for election or membership of a Municipal Committee.

Rule 27—

"27. (1) XXX XXX XXXXXX

(2) xxx xxxx xxxxxx

(a) *** **

(b) *** **

(c) *** **

(d) *** * * *

(e) ***

(3) XXX XXx XXXX

(4) **xxx** **xxx** **xxxx**

(5) The Returning Officer shall endorse on each nomination paper his decision accepting or rejecting it. In case a nomination paper is rejected, he shall record in writing a brief statement of his reasons for such rejection.

(6) xxx xxx xxx

(7) xxx xxx xxx

(8) xxx xxx xxx

The Committee was of the view that the Returning Officer after examining the each nomination paper and taking his decision of accepting or rejecting it should inform by sending the attested copy about the rejection of the nomination paper so that if the nominee may like to file an application against it

The departmental representative assured the Committee that the view of the Committee has been noted and sub-rule (5) of rule 27 will be amended after thorough examination and the Committee be informed of the same in the due course of time.

Rule 36—

- "36. (1) Every ballot paper shall have a counterfoil attached thereto and the said ballot paper and the counterfoil shall be in such form, and the particulars therein shall be in such language or languages as the Director of Elections may direct.
- (2) The names of the candidates shall be arranged on the ballot paper in the same order in which they appear in the list of contesting candidates.
- (3) If two or more candidates bear the same name, they shall be distinguished by the addition of their occupation or residence or in some other manner.

The Committee was of the view that the word "Hindi languages" be inserted in rule 36, wherever necessary and the amendment made in the rule may be intimated to the Committee.

Rule 41—

- "41. (1) xxx xxx xxx
- (2) The Returning Officer or the Presiding Officer may appoint a women to serve as an attendant at any polling station to assist women electors and also to assist the Presiding Officer generally in taking the poll in respect of women electors, and in particular, to help in searching any women elector in case it becomes necessary.

The Committee was of the view that in rule 41 (2) regarding the appointment of the women to serve as an attendant, it any polling station to assist women elector and also the Presiding Officer. The women so appointed would be a Government Official or from the Department of police

The Committee recommends the department to examine the point and necessary amendment in the Rule be made and the Committee be informed of the decision so taken in the due course of time

Rule 59—

- "59. (1) On the date and time specified under rule 19 and subject to such general or special directions, if any, as may be**

given by the Director of Elections in this behalf, the Presiding Officer in the presence of the Polling Officers and of such candidates or their agents, if any, as may be present shall have the ballot papers taken out of the ballot-boxes used at the polling station, get them mixed together and then arranged in convenient bundles and scrutinised.

(2) The Presiding Officer shall reject a ballot paper :—

(a) if it bears any mark or writing by which the elector can be identified; or

(b) if it bears no mark to indicate the vote or it bears a mark made otherwise than with the instrument supplied for the purpose ; or

(c) if votes are given on it in favour of more than one candidate; or

(d) if the mark indicating the vote thereon is placed in such manner as to make it doubtful to which candidate the vote has been given ; or

(e) if it is a spurious ballot ; or

(f) if it is so damaged or mutilated that its identity as a genuine ballot paper cannot be established ; or

(g) if it bears a serial number, or is of a design, different from the serial numbers, or, as the case may be, design, of the ballot papers authorised for use at the particular polling station ; or

(h) if it does not bear both the distinguishing mark and the signature which it should have borne under the provisions of sub-rule (1) of rule 51 :

Provided that where the Presiding Officer is satisfied that any such as is mentioned in clause (g) or clause (h) has been caused by the mistake or failure on his own part or that of a Polling Officer, the ballot paper shall not be rejected merely on the ground of such defect ;

Provided further that a ballot-paper shall not be rejected merely on the ground that the mark indicating the vote is indistinct or made more than once, if the intention that the vote shall before a particular candidate clearly appears from the way the paper is marked.

(3) Before rejecting any ballot-paper under sub-rule (2) the Presiding Officer shall allow each candidate or his agent present a reasonable opportunity to inspect the ballot paper but shall not allow him to handle it or any other ballot paper.

(4) The Presiding Officer shall endorse on every ballot-paper which he rejects the word "Rejected" and the grounds of rejection in abbreviated form in his own hand and shall initial such endorsement.

(5) All ballot-papers rejected under this rule shall be bundled together.

(6) Every ballot-paper which is not rejected under this rule shall be counted as one valid vote :

Provided that no cover containing tendered ballot papers shall be opened and no such paper shall be counted."

The Committee observed that no mention had been made in the rule regarding the numbers of persons appointed as agent of the candidates who would be present at the time of counting of votes. 22

The Committee therefore observed that necessary amendment be made in the rule. 23

The Departmental representative assured the Committee and agreed with the observations of the Committee for making necessary amendment in the rule.

Rule 75—

"75. (1) An election petition against the return of a candidate to an election or against the return of a President or Vice-President or against an unsuccessful candidate with a view to his disqualification under rule 87 on the ground of a corrupt practice or materials irregularly in the procedure shall be in writing, signed by a person who was a candidate at such election or an elector shall be presented to the Deputy Commissioner or an Assistant Commissioner or Extra Assistant Commissioner appointed by the Deputy Commissioner in this behalf within 14 days after the day on which the result of the election is declared by the Returning Officer :

Provided that the limit of fourteen days may be extended by the Deputy Commissioner if there are in his opinion sufficient grounds for such extension.

(2) xxx xxx xxx "

The Committee observed that there the—
proviso to rule 14 be deleted being superfluous and there should not be any proviso to sub-rule (1) of rule 75 for extension of the limit of fourteen days for filing election petition. 23

The Department during the oral examination stated that in some cases in the interest of justice this period had to be extended. However, the recommendation of the Committee had been noted and necessary amendment in the rules be made and the Committee be informed of the same in due course.

Rule 85—

"85 — (1) Save as hereinafter provided in these rules, if in the opinion of the Commission—

- (a) the election of a returned candidate, has been procured or induced on the result of the election has been materially effected by a corrupt practice, or

- (b) any corrupt practice specified in clauses (1), (2), (5) or (6) of rule 73 has been committed ; or
- (c) there has been any material irregularity; or
- (d) the election has not been a free election by reason of the large number of cases in which the corrupt practices specified in clause (1) or clause (2) of rule 73 have been committed by a candidate or an agent of a Candidate or a person acting with the connivance of a candidate or such agent or any person who is not a candidate or an agent of such candidate or a person acting with the connivance of a candidate or such agent, the Commission shall report that the election of the returned candidate is deemed to be void.

(2) If the Commission reports that an agent of a returned candidate has been guilty of any corrupt practice which does not amount to any form of bribery other than treating as hereinafter explained or to the procuring of abatement of personation, and if the Commission further reports that the candidate has satisfied it that—

- (a) no corrupt practice was committed at such election by the candidate and the corrupt practices mentioned in the report were committed contrary to the orders and without the sanction or connivance of such candidate ;
- (b) such candidate took all reasonable means for preventing the Commission of corrupt practices at such election, and—
- (c) the corrupt practices mentioned in the said report were of a trivial, unimportant and limited character and did not materially affect the result of the election ; and
- (d) in all other respects the election was free from any corrupt practices on the part of such candidate; then the Commission may report that the election of such candidate should not be deemed to be void

Explanation:—For the purpose of this sub-rule “treating” means incurring in whole or in part by any person of the expense of giving or providing any food, drink, entertainment or provision to any person with the object directly or in-directly of inducing him or any other person to vote or refrain from voting, or as a reward for having voted or refrained from voting.”.

The Committee observes that there is no provision in rule 85 as to whom the report of the enquiry Commission be submitted. However, the procedure for the submission of the report by the Commissioner and the passing of order thereon has been laid down in Section 266 to 274 of the Haryana Municipal Act, 1975.

The Committee therefore recommends that necessary provision be made in rule 85 and the Committee be informed of the same in due course of time.

Rule 90—

“90. The State Government may of its own motion direct an enquiry to be held into the conduct of any election if there is reason to suspect that a corrupt practice or material irregularity has been committed and the case shall be dealt with so far as may be in the manner prescribed in these rules.”.

The Committee observed that rule 90 of the rules provides that the State Government may of its own motion direct an enquiry to be held into the conduct of any election if there remains a suspect that a corrupt practice or material irregularity has been committed what are the corrupt practices or material irregularity has not been defined under which an enquiry is to be held by the State Government. This rule is arbitrary.

27 Therefore the Committee recommends that this rule should be suitably amended on the lines of the provision in the Representation of People Act, 1951.

**THE HARYANA MUNICIPAL KHASRA AND TOWN PLAN
RULES, 1976, FRAMED UNDER THE HARYANA
MUNICIPAL ACT, 1973**

GENERAL

The Committee observed that the Haryana Municipal Act was enacted in the year 1973 and the Haryana Municipal Khasra and Town Plan Rules were framed thereunder in the year 1976. The Committee wanted to know the reasons for delay of 3 years in framing the Rules.

The Committee further observed that neither there is any heading to any rule nor the reference of the section under each rule had been framed or given in the margin of each rule to understand under what precise authority each rule had been made.

The departmental representative in their written reply stated that the lengthy process of framing these rules was started in June, 1974 & the final notification was published on 19.3.1976 so it took about 2 years to give a final shape to these rules. The works involved were laborious, lengthy and time consuming nature which require comparison work and discussions were required to be done several time before and after vetting of the draft rules. According to the Committee these are no grounds in delaying in the framing of the rules. The Committee recommends that the rules should be framed within 6 months after the commencement of an Act.

Rule 5—

“5. The Deputy Commissioner shall on receipt of the plans and Khasra from the committee cause the plan and Khasra to be scrutinised and published in each manner as he deems fit together with a notice intimating the date not less than two months from

the date of the notice by which objection from any person with regard to entries on the plan and Khasra may be presented to the Revising Authority appointed under rule 7 and the time and place at which the plan and Khasra may be inspected.”.

The Committee recommends that in rule 5 the mode of publication of plan and Khasra be stated in the rules and should not be left at the discretion of the Deputy Commissioner.

Rules 10—

“10. Any person aggrieved by any order, which the Revising Authority may pass, may within seven days from the date of such order, apply to the Deputy Commissioner for revising the order and the Deputy Commissioner, after giving the notice to the parties concerned and hearing any representation, which he may wish to make, may confirm it or set aside and pass such other orders with respect to the objections which he may deem fit.

Provided that the process of calling for objections and their settlement shall not take more than six months.”

The Committee recommends that in rule 10 for the words “Seven days the words fifteen days” be substituted to give sufficient time to an aggrieved party for the order passed by the revising authority to be revised by the Deputy Commissioner.

Rule 11—

“11. After the objections, if any, have been disposed of, the Deputy Commissioner shall cause the plan to be corrected, if necessary, in accordance with the order passed on the objections and shall then authenticate and have the amended Plan and Khasra or fresh copy of it, published for general information.

The Committee recommends that in rule 11 the mode of publication of plan and Khasra be stated in the rule and should not be left at the discretion of the Deputy Commissioner.

Form—4

The Committee recommends that in form 4, above column 9, after the word father's” insert “Husband's” and delete the word “caste”.

THE PUNJAB PRIMARY EDUCATION RULES, 1961, FRAMED UNDER THE PUNJAB PRIMARY EDUCATION ACT, 1960.

The Committee, after going through the provisions of the Punjab Primary Education Act, 1960 and the Punjab Primary Education Rules, 1961, wanted to know from the department from which date the said Act and the Rules came into force and such date of enforcement of the Act and the Rules be indicated in the foot-note of the Act and the Rules respectively.

The department in their written reply stated that the Punjab Primary Education Rules came into force from the date of Gazette notification i.e. 19-1-1961 and the department has agreed to incorporate in the shape of foot-note as the date of commencement in the rules when republished and also agreed to indicate the date of commencement in the foot-note of the Act.

Rule 2—

- | | | | | | |
|-----|--|---|---|---|---|
| (a) | * | * | * | * | * |
| (b) | * | * | * | * | * |
| (c) | 'Director of Public Instruction' means the Director of Public Instruction for the State of Punjab. | | | | |
| (d) | * | * | * | * | * |
| (e) | * | * | * | * | * |
| (f) | * | * | * | * | * |
| (g) | * | * | * | * | * |
| (h) | * | * | * | * | * |

The Committee observes and recommends that in rule 2(c) and in subsequent rules for the word 'Punjab' wherever occurring substitute 'Haryana'.

Rule 3—

- "3. For the purpose of clause (h) of section 2 primary education shall mean education upto and inclusive of Class V."

The Committee wanted to know from the department the criteria for fixing primary education upto Class V and not the eighth class i.e. upto the Children of the age group of 6-14 years.

The department in their written reply stated that according to the Punjab Primary Education Act, 1960, the Primary Education is defined as under:—

2. (h) "Primary Education" means education upto such class or standard not beyond the eighth Class or standard as may be prescribed."

The Committee was informed that the State Government has defined Primary Education as upto and inclusive of Class V vide rule 3.

The Committee during the course of oral examination suggested the department that necessary provision be made upto the standard of eighth class.

7 The department during the oral examination agreed to convey this suggestion/observation of the committee to the State Government for reconsideration.

Rule 4—

- “4. Whenever the State Government is satisfied that it is desirable to introduce compulsory primary education in any area it may direct the Director of Instruction Punjab to prepare a scheme for the purpose. Such scheme shall be prepared in Form I.”.

8 The Committee observed that there was reference of Form I in rule 4 and similarly there were reference of other Forms II, III and IV in these rules, but the copies of such forms have not been appended with the rules, supplied to the Committee, which should be done by the department.

The department during the course of oral examination stated that the same stands incorporated in the education code, but the Committee observed that the copies of the Code were not made available to them and requested for the supply of the copies of the code thereof.

Rule 10—

“10. (1) * * * *

(2) The notice shall be deemed to have been served on the parent if it is—

(a) sent to him through post.

(b) delivered to him in person; and

(c) affixed to the house where he is known to have last resided”.

9 The Committee was of the view that in rule 10(2) clause (b) be substituted for clause with (a) and clause (a) be substituted for clause (b) respectively

The department in their written reply and during the oral examination agreed to the suggestion of the Committee for making necessary substitution and inform the Committee.

Rule 12—

- “12. For the purposes of clause (a) of section 6 of the Act the prescribed distance shall be two miles for sparsely populated areas and one mile for other areas.”.

The Committee was of the view that in rule 12, for the word "miles", the words "Kilometers" be substituted in accordance with the change of metric system.

The department in their written reply and during the oral examination agreed to the suggestion of the Committee and stated that necessary amendment in the rule would be made.

The Committee observed that in rule 18 the words sub-section (1) of section 13 being a printing mistake and be substituted with the word 'Section 13'.

The Committee after going through the provision of the Act and the rules, wanted to know from the Department the exact number of school going children in the age group of 6-14 actually attending the school together with the number of drop outs district-wise to enable the Committee to see whether the purposes of the Act and Rules were being carried properly.

The department in their written reply explained that the primary education Rules apply to education upto and inclusive of V Class. The number of Children in the age group 6-11 enrolled in primary classes during the year 1980-81 was 12.45 lacs. The district-wise number of children actually attending primary classes is appended as Annexure 'B' to the report. But to give the drop outs on the basis of enrolment of 1980-81, the situation would have to be watched for five years to determine the percentage of drop-outs and furnished the statement of drops outs vide Annexure "C" appended to this Report. According to Annexure 'C' the total enrolment in Class I in the Haryana State in the year 1976-77 was 283346 and drop out 1980-81 to V Class was 19,401 resulting in the percentage of drop out to 32.80%.

The Committee observed that necessary measures be adopted to lesser the number of drop outs particularly in the children of age groups from 6-14 to carry out the purposes of the Act and if necessary, to amend the relevant provisions of the Act/Rules accordingly.

THE PUNJAB LABOUR WELFARE FUND RULES, 1966 FRAMED UNDER THE PUNJAB LABOUR WELFARE FUND ACT, 1965

Rule 3/(1)—

- "3. (1) Every employer shall pay in cash or by money order or by postal order or by demand draft or cheque drawn on the State Bank of India or any Scheduled Bank duly crossed in favour the Welfare Commissioner within thirty days of the commencement of these rules".

The Committee observed that provisions have been made only for fines and unpaid accumulation i.e. section 3(2) (a) to (b) of the Act.

The Department in their written reply stated that it is evident that rule 3(6) (i) amply covers the remaining Sub-Sections of section 3(2) i.e. from (a) to (f) because it provided that cash, draft, cheques received from any other source be deposited in the Scheduled Bank. It also provides for grants and subsidies received from Government. Thus, there is no need to frame any further Rules.

The Committee did not agree with the contention of the Department. The Committee therefore, recommends that rule 3(1) be suitably amended in the light of provisions contained in sections 3(2) including its sub-clauses (c) to (f).

RULE 5—

- "5. The accounts of the Fund shall be prepared and maintained by the Accounts Officer of the Board in such manner as may be prescribed by the Board with the approval of the State Government and shall be audited by the Accountant-General, Haryana once a year. The Welfare Commissioner shall be responsible for the disposal of the Audit Note. A separate Administration Account shall be maintained."

The Committee noted that the accounts of the Fund is/was required to be audited once a year by Accountant General, but it has been observed that the accounts of the fund had never been audited by Accountant General.

The Department at the time of oral examination informed the Committee that the matter was referred to Accountant General, Haryana and Government was advised to get approval of Comptroller and Auditor General, New Delhi for admission of audit by Accountant General, Haryana. Accordingly, the matter has been referred to the Comptroller and Auditor General, New Delhi and in case no satisfactory reply is received from the Comptroller and Auditor General of India in that case the Audit would be got done through a recognised Chartered Accountant. In that contingency the Department assured the Committee to amend the rules accordingly. However, the Committee recommends that the audit of the Fund should be audited at the earliest whether it is done by Accountant General, Haryana or through any other recognised agency/Chartered Accountant.

RULE 8—

- "8. The Board shall consist of twelve members out of which four shall be representatives of employers' four of employees and four independent members including the Chairman."

During the course of oral examination of the representatives of the Labour Department, the Committee observed that before nominating four members of the employees on the Board, the Labour Department shall ensure that the persons who is to be nominated is an employee of a factory or a mill and after ascertaining this fact a employee/worker of a factory or a mill should be nominated a representative of the Board irrespective of the fact that he is holding a higher post.

The representative of the Labour Department assured the Committee to amend the rules accordingly under intimation to them 3

RULE 19—

"19. Every Inspector shall be carrying out the purposes of the Act, and in discharge of his duties as an Inspector shall have the power to require any employer to produce any document for his inspection to supply him a true copy thereof and to give him a statement in writing."

The Committee observed that for the existing rule 19, substitute the following — 4

"19. Every Inspector shall have the power to require any employer to allow inspection of a document and to supply him a copy thereof or to give him a statement".

The representative of the Department informed the Committee that the final draft in respect of the amendment of this rule has been prepared and the amendment will be made shortly under intimation to them.

RULE 20—

"20 Expenditure on the staff and other administrative measures—
The expenses of the staff of the Board and other administrative expenses of the Board shall not exceed 75 per cent of the annual income of the Fund or such percentage of the annual income of the Fund not exceeding 75 percent as may be fixed by the Government from time to time

The Committee observed that the provision for the expenditure of the staff and other Administrative expenses upto the limit not exceeding 75 percent is excessive on the high side, and, if it was allowed to remain, the very meagre amount of 25% is left for the welfare of the employees, which would frustrate the very purpose of the Act and Rules. The Committee decided that the Government should obtain the upper limit of expenditure on the staff and other administrative measures which has been fixed in other states and furnish the same to the Committee for its information and taking final decision. 5

The Department obtained the information from the other states viz. Maharashtra 60%, Gujarat 70% and West Bengal 50%, which was placed before the Committee. The Committee agreed with the view of the Department that the limit of expenditure on administration should not exceed 60 percent.

The Committee, after oral examination of the departmental representative, recommends that 60% of Annual income of the fund should be expended for the staff of the Board and other Administrative expenses and the remaining 40% should be spent on the welfare of the Employees for fully carrying out the purposes of the Act and Rules and Rule 19 6

be amended accordingly at the earliest and the Committee be informed.

RULE 21—

21. "The Board shall within three months of the date of closing of each financial year, submit to the State Government for approval an audited statement of receipts and expenditure together with an annual report giving a detailed account of its activities during the year. After the said statement and report are approved by the State Government the Board shall cause the same to be published in such manner as it may deem fit."

7 The Committee observed that the Audited statement of Receipt and expenditure together with an annual report giving a detail of its activities during the year should be prepared.

The Labour Department in their written reply stated that the Accounts of the Board have not been audited by the Accountant General, Haryana therefore, the Annual Reports alongwith the Audited statement of Receipts and expenditure could not be prepared and submitted. In view of the above no annual Report has been prepared and published.

This is a very sorry state of affairs that no annual Report and the Audited statement of Receipts and expenditure of the Board has so far been made despite the fact that the Punjab Labour Welfare Fund Rules came into force in the year, 1966.

During the course of oral examination of the Departmental representative, the question of labour unrest of T.I.T. Mill Bhiwani came to the notice of the Committee Accordingly, the Committee enquired the strength of labour increased/ decreased since 1975 to 1981 and also the number of workers who resigned or retrenched in the said Mill. The Department supplied the following chart :

Year	Average No. of worker on muster roll.	No. of worker who got employment during the year.	No. of workers who left the Mill.	Increase.	Decrease.
1975	4069	262	79	183	—
1976	4447	365	13	352	—
1977	4698	321	150	171	—
1978	4728	110	82	28	—
1979	4764	307	254	53	—
1980	4628	62	703	—	641
1981	3842	151	802	—	651

The Committee was informed that 1,349 workers voluntary resigned but no worker was retrenched. The lay of compensation was

paid to all workers for the period not exceeding beyond 45 days in accordance with the existing law.

The Committee observed that it often happens that the Mill remain closed for beyond a period of 45 days of the lay off and in the meantime the workers have to seek employment somewhere also and in that contingency the Committee recommends that such workers be paid their arrears before their resignation is accepted if and necessary, the rules be amended accordingly.

7. Scrutiny of the Rules and Acts relating to the Haryana State Seeds Development Corporation Ltd. and the Haryana State Seed Certification Agency Rules, 1976.

The Committee was supplied with the copies of the Haryana State Seed Certification Agency Rules, 1976 for its scrutiny. The Committee, after going through these rules, wanted to know the provisions of the Act under which these rules had been framed by the State Government.

The Departmental Representative during the course of oral examination stated that the Haryana State and Certification Agency had been created under Section 8 of the seeds Act, 1966 (Central Act No. 54 of 1966) which reads as under :—

“The State Government or the Central Government in consultation with the State Government may, by notification with in the Official Gazette, establish a certification agency for the State to carry out the functions entrusted to the certification agency by or under this Act”.

The Committee observed that this provision of the Act empowered the State Government or the Central Government to establish a certification agency for the State, but it did not enable the State Government to frame the rules for the Haryana State Seeds Certification Agency. The Committee further observed that under Section 25(2)(c) of the said Act, it was only the Central Government, which could frame the rules and desired to know under what provisions of the Act these rules had been actually framed.

The Departmental Representative during the course of oral examination stated that the Governor of Haryana, through a notification, firstly established this Agency. On having been established this Agency under Section 8 of the said Act, this Agency was registered after formulating a memorandum of articles of association and rules. Section 2 of the Societies Registration Act, 1860 deals with the memorandum of association, which is as under :—

“The Memorandum of Association shall contain the following things (that is to say):

The name of the society ;
the objects of the society ;

the names, addresses and occupations of the governors, council, directors, committee or other governing body, to whom, by rules of the society, the management of its affairs is entrusted.

A copy of the rules and regulations of the society, certified to be a correct copy by not less than three of the members of the governing body, shall be filed with the memorandum of association."

So when a society is registered under the Societies Registration Act, that society derives its authority to make rules and bye-laws from the memorandum of association, which are necessary to regulate the normal working of the Agency. This is the general provision made under the Societies Registration Act. So these rules are not framed deriving authority out of any State Law as such.

The Committee is not satisfied with the reply furnished by the Department and observes that the State Government has not been given the power to frame the rules. However, the Committee desired the Secretary to Government, Haryana, Agriculture Department to re-examine the matter in details in consultation with the Legal Remembrancer, Haryana and furnish a note to the satisfaction of the Committee as to under what provisions of the State Act these rules have been framed.

2. The Committee then wanted to know the reasons for creation of the Haryana State Seed Certification Agency. The Departmental representative during the course of oral examination stated that earlier the farmers used to raise their own seeds and there was no uniform standard in relation to ensuring purity and germination in the seeds. Now the Seeds Certification Agency is an Agency which undertakes the work of certification of seeds right from the foundation seed stage upto the certification stage. The primary objective of this Agency is that seeds certified by such an Agency should conform to the minimum standards of certification in relation to purity and germination. There should 98% purity and foreign elements should exceed more than 20%. In relation to germination it should be 85 percent. It is there germination lower than 85 percent, that cannot be termed as certified seed. The Certification Agency and their officials conduct field inspections so that roguing of foreign elements could be done even at the field stage; there is no infection and there is no attack of certain pests and the seed does not become disease born. After ensuring this minimum standards at the field level, such a heap is out and harvested separately and brought to the processing unit. At the processing level, such seed are analysed in the laboratories and only when the seeds are confirmed the minimum requirements of purity and germination, the Seeds Certification Agency will provide the necessary tag which indeed a label for indicating that this is a seed certified by the Certification Agency.

The Committee, after oral examination of the Departmental Representative, observes that the farmers face great difficulty in procuring the Certified Seeds; firstly, they do not get the certified seed in time; and secondly, they do not get the requisite quantity of seed; thirdly, the traders give adulterated seed to the farmers resulting in the failure or deterioration of their crops.

On being asked by the Committee, the Departmental Representative stated that the Agency/Corporation at present requires about 16,000 quintal of hybrid bajra and in the year 1981 they required

10,000 quintal of which the Agency/Corporation invited tenders on 14-11-1980 as a result of which initially the Department stated that they had received six tenders and subsequently stated they got twelve tenders. The Committee smacked some bungling in acceptance of tenders and wanted the Department to furnish a note clarifying the whole position. The Committee went through the whole note so furnished by the Department and the position of Hybrid Bajra for Kharif 1981 and 1982 was stated as under : —

KHARIF 1981

The requirement of hybrid bajra seed for Kharif, 1981 was assessed as 10,000 quintals by the field officers and accordingly open tenders were floated following the earlier procedure of giving wide publicity through papers, through the Director of Public Relations, Haryana. The tenders were asked for by 14-11-80 and opened the same day at 3.00 P.M. in the presence of the tenderers/their representatives by the departmental committee of officers appointed by the Director of Agriculture. In all 12 tenders were received. Since the tenders of the following six tenderers were conditional therefore, they were considered as invalid.

1. M/s Sagar Seeds, Ahmedabad.
2. M/s Quality Seed Processors, Ahmedabad.
3. M/s Nandi Seeds Corporation, Ahmedabad.
4. M/s Pacha Seeds P. Ltd., Poona-1.
5. M/s Atul Seeds Co., Amaravati.
6. M/s Anna Purna Seed Farm Industries, Walgaon, Maharashtra.

The condition in the tender was that tender without earnest money and without signed copy of the terms and conditions will not be accepted and similarly telegraphic and conditional tenders will not be entertained. The following six tenders were found valid. The rates and quantity offered is also shown alongwith

Sr. No.	Name of the firm	Rate per quintal	Quantity offered (qtls.)
1.	M/s Vinod Rai T Karia Ahmedabad	699/-	3500
2.	M/s National Seeds & Fert. Ahmedabad	720/-	3500
3.	M/s Gujrat Small Industries Ahmedabad	725/-	3500
4.	M/s Mohan Lal Khimji Bhai Chalala	725/-	3500
5.	M/s Marda Valley Hybrid Seeds Co., Indore	729/-	5000
6.	M/s Davda Seeds Corp. Taluka Nadiad	782/-	10000

The lowest tenderer i.e. M/s Vinod Rai T Karia offered only 3500 quintals and it was asked from the tenderer whether he can offer the entire 10 thousand quintals at this rate. Since he declined, therefore, order for 3500 quintals was placed with them at Rs. 699/- and then other five tenderers were asked if they could supply at Rs. 699/- per quintal. All these tenderers refused and, therefore, the next higher offer of Rs. 720/- was considered. The second offer at 720/- was M/s National Seeds & Fertilizer, Ahmedabad and they had offered 3500 quintals, therefore, they were asked if they could supply all the remaining quantity at this rate. Since they declined, therefore, order was placed with them for 3500 quintals at Rs 720/- and the remaining four tenderers were then offered if they could supply at Rs 720/- per quintal. Out of the remaining excepting M/s Mohan Lal Khimji Bhai all agreed to supply at Rs. 720/- and, therefore, the order was placed with all the three as follow :—

Sr. No.	Name of the Firm	Quantity (In qtls)
1.	M/s Gujrat Small Industries, Ahmedabad	1500
2.	M/s Davda Seed Corporation, Nadiad	1000
3.	M/s Narmda Valley Hybrid Seed, Indore	1000

In fact the balance quantity required was 3000 quintals but seeing the demand it was increased to 3500 quintals. The appointment of quantity was performance of order released of earnest money/security made as per the availability of seed and it was supplied by the firms accordingly. The security was released after the end of season as there was no complaint of performance.

KHARIF 1982

For Kharif, 1982, the requirement of hybrid bajra seed was assessed as 10,000 quintals. Since there was left over quantity of about 1000 quintals with the Haryana Seeds Development Corporation and the Department of Agriculture, therefore, it was decided to invite tenders for 9000 quintals only. These tenders were invited by 4.12.81 at 1.00 P.M. following the earlier procedure of wide publicity through the Director Public Relations, Haryana and was opened the same day by a departmental committee of officers in the presence of tenderers/their representatives. In all 18 tenders were received and five tenders were declared invalid being conditional in nature. Out of the 13 valid tenderers the lowest tender was Rs 573/- per quintal of M/s Davda Seed Corporation and quantity offered was 3000 quintals. Telegrams were issued to M/s Davda Seeds Corporation, M/s Mohan Lal Khimji Bhai and M/s. Gujrat Quality seed, Nadiad as they were the three lowest amongst the 13 valid tenders to intimate as to if they can supply hybrid bajra seed at Rs. 573/- and if so, the quantity they can offer at this rate. After negotiations between the Director of Agriculture, Addl. Director of Agriculture and Joint Director of Agriculture with the firms representative

they offered the following quantities of seed at the lowest rate of Rs. 573/- per quintal :—

- | | |
|------------------------------|------------------|
| 1. M/s Mohan Lal Khimji Bhai | 10,000 quintals. |
| 2. M/s Davda Seeds Company | 6,000 quintals. |
| 3 M/s Gujrat Quality seeds | 3,000 quintals. |

Since M/s Davda Seed Corporation was the lowest in the original tender and, therefore, his offer of 3000 quintals was given to him and out of the remaining 6000 quintals, depending upon the total quantity offered 1000 quintals additional was given to M/s Davda Seed Corporation and 5000 quintals to M/s Mohan Lal Khimji Bhai.

Similar notes regarding the supply of fertilizers and pesticides were furnished by the department.

The Committee, after perusing all these notes furnished by the Agricultural Department regarding the procurement of certified seeds of bajara, Fertilizer, Pesticides and fodder etc came to an irresistible conclusion that the Agency/Corporations is not functioning properly in the absence of the relevant state Act and rules in the matter. 3

The Committee recommends to the State Government to bring forthwith a bill on the subject of seeds before the State Legislature and frame rules to fully achieve the object for which the Agency has been created and to tone up its functioning for the benefit of Peasantry 4

THE HARYANA PROHIBITION OF SMOKING IN CINEMA AND THEATRE HALLS RULES 1981, FRAMED THE HARYANA PROHIBITION OF SMOKING AND CINEMA AND THEATRE HALLS ACT, 1974

GENERAL

The Committee while scrutinizing the Haryana Prohibition of Smoking in cinema and Theatre Halls Rules 1981, framed under the Haryana Prohibition of Smoking in Cinema and Theatre Halls Act, 1974, observed that the Haryana Prohibition of Smoking in Cinema and Theatre Halls Act was enacted in the year 1974, whereas the Haryana Prohibition of Smoking in Cinema and Theatre Halls Rules thereunder were framed as late as in the year 1981.

The Committee wanted to know the reasons of delay of 7 years in framing the said rules.

The Committee observes that it is a sorry state of affairs that the Department has taken seven years in framing the rules despite the repeated recommendations/observations of the Committee made from time to time in their earlier reports that the rules should be framed within a period of six months of the enactment of the Act and hope that in future such a delay would be avoided.

Rule 3—

"3. No person shall enter an auditorium with a burning cigarette or beeri or churat or Hukka or any such article which may emit Smoke during prohibited period."

The Committee recommends that in rule 3, for the words 'during the prohibited period' the words 'in the Cinema Hall' be substituted.

Section 7(2)

The Committee observed that the rules which were framed and notified on the 3rd Feb, 1981, were not laid on the Table of the House during the Budget Session, 1981 and September Session, 1981, i.e. in one or two successive Sessions of the State Legislature, as required under section 7(2) of the Act.

4 The Committee observed that these rules should have been laid on the Table of the State Legislature at the earliest opportunity.

ANNEXURES

ANNEXURE "A"

IMPLEMENTATION OF THE RECOMMENDATIONS IN RESPECT OF THE HARYANA CANAL AND DRAINAGE RULES, 1976, FRAMED UNDER THE HARYANA CANAL AND DRAINAGE ACT, 1974, CONTAINED IN TENTH REPORT

Sr. No.	Reference to Paragraph	Recommendation of the Committee on Subordinate Legislation	Action taken by the Government	Further observation made by the Committee
1	2	3	4	5
1.	Paragraph 1 page 9 of the Report	Framing of rules should not be unnecessarily delayed and this should be framed within a shortest possible time	While rules have already been framed, action on the amendments recommended by the Committee on Subordinate Legislation is being expedited.	The Committee observed that the Department took two years in framing the rules under the Act and secondly, the Deptt. did not implement the recommendations of the Committee during the last two years. The Deptt. agreed to fix the responsibility for this delay and the Committee be informed.
2.	Paragraph 2, page 9 of the Report (Section 5 of the Haryana Canal and Drainage Act, 1974)	Section 5 prohibits installation of private tubewells within the distance of 150 metres from state Tubewells and within the distance of 100 metres from unlined channels. The Committee desired that this prohibition should not apply to farmers whose land is higher than the level of Channels	Status quo should be maintained.	Dropped.
3.	Paragraph 3, page 9 of the Report (section 58 of the Haryana canal and Drainage Act. 1974.	Regarding substitution for the word "constructs" by word "obstructs" in section 58(a) of the Act	This is a misprint. Correction is accepted	This may please be enquired into and an amending Bill be brought before the State Legislature

1	2	3	4	5
4.	Rule 7	The Committee has observed that at the end of rule 7 following may be added. "A copy of the scheme should also be sent to the panchayat and the Patwari concerned for inspection. The Committee desired that (in the margin for figure "20(1) of the rule 9 be substituted to figure 20(3)). The Committee desired that departmental charges should not be levied on the share holders for the work executed in interest of irrigation. They further recommended that the Govt should consider the waiving of levy of such departmental charges on the share holders.	Accepted.	Dropped.
5.	Rule 9		The words "and s 20(3)" be added after 20 s. (1)	Dropped
6.	Rule 12		The departmental charges from part of the total cost of works. These cannot be waived	Dropped.
7.	Rule 13 (1) & (2)	13(1) The Committee observed that provision of 3 k.m. occurring in Sub-rule 13 (1) be deleted. 13 (2) In the sandy areas where the fields cannot be served upto three kilometres through water-courses, application should not be refused merely on the ground that the land lies within three kilometres from the head of the water course to its point of contact with the field.	In Rule 13 (2) the word "within" be substituted by the word "beyond". This will enable fields beyond 3 K.M. of the head also to be served.	Reply of the Government was accepted by the Committee.
8.	Rule 16	The Committee observed that the words "on account of sanitary condition or sanitary grounds" be inserted	The rule need not be amended. It provides for refusal to grant water on the objection of the Municipal	After some discussion, the representatives of the Government agreed to substitute the

at the proper places in sub-rule (1) of Rule 16

9. Rule 17

The Committee desired that after the word "shall" the word "be" be inserted in line 13 of Rule 17 (i) (u). Further more the Committee observed the word "age" occurring in rule 17 (1) (iv) be deleted

10 Rule 18

The Committee has observed that marginal heading of Rule 18 and the section under which it had been framed should be given at the earliest in the rules

11 Rule 20

The Committee observed that the words "Divisional Canal Officer" occurring in line 7 of the rule be substituted by the words "Divisional canal Officer". Further more the Committee has observed that the word "it" occurring in line 9 of the rule be substituted by the word "is".

12 Rule 21

The Committee observed that at the end of rule 21, the following words" and shall remain in force for a period of three days At the time of the order of stoppage of supply of water to any water courses, a notice shall be served on the share-holders to get the necessary repairs effected within a period of three days failing which the Div. Canal Officer shall get the

Committees etc on sanitary or other grounds. Such refusal can however only be given with the approval of the Superintending Canal Officer, who will hear the applicant before passing such an order.

Misprints, corrections proposed are accepted

Dropped

The following entry shall be made in the margin of Rule 18 "supply of water on contracts section 17."

Dropped

These are misprints, corrections are accepted.

Dropped

The proposed amendment is accepted

The rule be amended accordingly and Committee be informed

words "Sanitary and other reasons" instead of "Sanitary reasons" in the heading of the rule

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| | | necessary repairs done and recover the cost from the share-holders," be inserted. | | |
| 13. | Rule 24, 25, 26 | <p>The Committee has observed that special charges of 20 times as provided in the rule may be reduced to 5 times. Further more the Committee has desired that reference to Section under which rule 24 has been framed, may be given in the margin of the rule.</p> <p>The Committee also unanimously recommends that it is not proper that the same department which is a complainant should also act as a judge. It therefore, is of the firm view that sections 28 and 29 of the Act be so amended that the powers being enjoyed by the DCO at present be vested in the Civil Courts for disposal summarily and the powers to decide appeals should be given to judicial courts or there should be a Tribunal consisting of DCO Sarpanch of the village where the alleged offence occurs and the Sarpanch of the village falling on the tail of the minor of the distributory.</p> | <p>(i) The special charges should be subject to a maximum of six time the ordinary water rate.</p> <p>(ii) The reference to section under which rule 24 has been framed may be given in the margin of the rule.</p> <p>(iii) Powers under section 30 have already been vested in the Canal Executive Officers. The suggestions to entrust the word to Civil Courts or the Tribunal was not approved</p> | <p>--do--</p> <p>--do--</p> <p>--do--</p> |
| 14. | Rule 28 | The Committee desired that rule 28 be deleted | The recommendation has already been accepted | The rule be amended accordingly and Committee be informed. |
| 15. | Rule 33 | The Committee has desired that provision of the rules should be strictly enforced by issuing the suitable instructions. | The instructions have again been issued. | Dropped |
| 16. | Rule 44 | The Committee observed that rule 44(i) be recast in the light of recommendation made by the Committee. | Accepted. | Dropped |

1	2	3	4	5
17.	Rule 45	The Committee observed that after the words "make local inquiry" the words "in the presence of Panch & one other person of the Patti and the objector, whose lands are situated in the Patti" be inserted.	The following words should be added after "Inquiry" "after giving due notice to the Objector."	The rule be amended accordingly and Committee informed.
18	Rule 50	The Committee observed that in sub-rule (1) of rule 50 for the words "measurement & correct report of irrigation" the words "a measurement, correct report of irrigation and distribution of demand slips etc" be inserted. Further more the Committee has recommended in sub-rule (3) of rule 50 for the word "filed" the word "fixed" be substituted.	Amendment proposed in Rules 50 (1) is accepted. In rule 50 (3) the correction to the misprint is accepted.	Dropped.
19	Rule 51	The committee has observed that the word Sub-rule (3) appearing in rule be omitted	Accepted	Dropped.
20	Rule 55	The Committee observed that the word "canal" has appeared twice in the rule and one of the word "canal" occurring for the second time should be omitted.	Correction to misprint is accepted	Dropped
21	Rule 58	The Committee observed that for the words "more than 5-50 metres width" the words and figures "more than 5-50 metres in width" be substituted.	Accepted	Dropped
22.	Rule 72	The Committee observed that the word "Sunken of" appearing in the 1st line of the rules be substituted the word "Sunken or."	Accepted	Dropped

1	2	3	4	5
23.	Rule 77	The Committee has observed that "Section 36" as given in the margin of this rule be substituted as "Section 27."	It is a misprint, Correction accepted	Dropped
24.	Rule 78	The Committee has recommended that in rule 78 (b) between the words "Thanas" & "etc" insert the word "Panchayat"	The words should be substituted by words accepted "Thanas, Panchayat Ghar, etc.	The Committee accepted the reply of the Government and recommends to amend the rule accordingly
25.	Rule 88	The Committee has observed that the words "fresh demand slips shall be issued by the Zildar or Tehsildar to the assessee to whom the same could not be distributed against acknowledgement" be added	The recommendation of the Committee is accepted.	The rule be amended accordingly and Committee informed
26.	Rule 90	The Committee recommended that with a view to make clear provision in respect of remuneration to Lambardars existing provision of rule 90 be renumbered as 90(1) and the following sub-rule (2) be added there to :—	The remuneration to Lambardar on account of charges on drainage works may have to be determined separately, as and when such charges are recovered from the beneficiaries. The amendment is not accepted	Dropped.
	" (2)	The provision of rule 50 (3) with its proviso and rule 51 shall apply mutatis mutandis to the payment of remuneration for collection of cost of "Drg. works"		
27.	Rule 96	The Committee observed that in the marginal heading of this rule the word "proclamation" be substituted by "proclamations."	These are misprints. Corrections are accepted.	The rule be amended accordingly and Committee informed

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The Committee has also observed as under :—

(ii) In Sub-rule 3 (b) for the words "near the residence" the words "at the residence" be substituted.

(iii) In Sub-rule (9) after the words "registered letter" the words "with acknowledgement due" be substituted.

28. Rule 98 The Committee has observed that the word "delegation" be substituted as "delegation".

Dropped

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29. Rule 105 The Committee has observed that the following proviso be added to rule 105 "Provided that appeal may be filed without certified copy with in reasonable time if the order under appeal is of urgent nature"

The following proviso may be added.

"The appeal should be accompanied by a certified copy of the order appealed against. However, the requirement of submitting a certified copy may be dispensed with by the appellate officer in case of urgency after recording the reason thereof. The certified copy should however, be produced within a fortnight of the submission of the appeal.

The Committee accepted the reply of the Government and recommends to amend the rule accordingly.

30. Rule 120 The Committee observed that the word 'of' be substituted instead of the word 'or' appearing in this rule.

Misprint. Correction is accepted

Dropped

1	2	3	4	5
31	Schedule of water Rates.	The Committee observed that the existing water rates should atleast be reduced by 25 %	The recommendation is not accepted as the rates already in vogue are infact on the low side and the Govt has to subsidise the cost of irrigation	The Committee after through oral examination of the Departmental representative, is not satisfied by the reply of the Government. The committee recommends to the Govt. to reconsider the matter as it affects the peasantry and the Committee be informed
32.	Remission of water Rates due to failure of crops.	The Committee observed that necessary provision in the act and rules be made so that the cultivators may get the legitimate relief on account of failure of crops due to floods, hail-storm, severe duststorm, drought, 'rats' locusts etc. etc	The relief is already being given through executive instructions from time to time. It was necessary to amend the Rules or the Act for this purpose	The Committee desires that the Govt should examine if any change has been made in the standing order annexed as A to the 10th Report of the Committee for the year 1978-79 and Committee be informed at the earliest.

Action taken' by the Government on the recommendations/observations as at pages 27-37 & 71-73 of the Tenth and Eleventh Reports for the years 1978-79 & 1979-80 relating to the Punjab Village Common Lands (Regulation) Rules, 1964 framed under the Punjab Village Common Lands (Regulation) Act, 1961 and further observations by the Committee.

Sr. No.	Rule	Recommendations/observations	Action taken by the Government	Further observation made by the Committee
1	2	3	4	5

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|---|---------|--|---|--|
| 1 | General | <p>The Committee observes that the Punjab Village Common Lands (Regulation) Act was enacted in the year 1961 and whereas the Punjab Village Common Lands (Regulation) Rules were framed in the year 1964, i.e. after a lapse of about three years. The Committee is of the view that generally such a long delay caused in framing the rules results in great hardship to the general public and to the agency in carrying out the purpose of the Act. Such a long delay in the framing rules is reprehensible and should not be allowed to occur in future.</p> | Noted | Dropped. |
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| | | <p>2. The Committee would like to point out that drastic changes were made in the rules when these rules were republished. Therefore, the Committee observes that these rules should be republished again after bringing the same up-to-date to avoid the confusion caused.</p> | <p>Necessary action to re-print these rules will be taken after the coming session of Haryana Vidhan Sabha.</p> | <p>The Committee could not understand the significance that the necessary action to re-print these rules after the coming session of the Haryana Vidhan Sabha.</p> <p>The Committee reiterates its earlier recommendation that these rules should be republished after bringing the same upto date i.e. incorporating all the amendments suggested by the Committee at the earliest.</p> |

2. Rule 3.

The Committee observes that in sub-rule (1) of rule 3, after the words and sign "under the Act", the words "It shall be the duty of the Block Development and Panchayat Officer, (B.D.P.O.) to assist the Gram Panchayat concerned in the preparation of the said plan", be inserted.

The Committee observes that in part (x) of sub-rule (2) of rule 3, after the words and sign "Brick Kiln", the words "and sign 'Pottery'", be inserted.

The Committee also observes that in part (xiv) of sub-rule (2) of rule 3, after the word "Pathways", the words and sign "streets and lanes", be inserted.

The Committee further observes that in part (xxivA) of sub-rule of rule 3 for the words "Thrasher Floor" the words "Thrashing ground" be substituted.

The Committee also observes that after part (xxiv-A) of sub-rule (2) of rule 3, part "(xxiv-B)" "Kohlu", be inserted.

3(i). Rule 4.

The Committee, after examining rule 4 and sub-section (6) of Section 5 of the Act, has come to the conclusion that this rule 4 runs counter to the provisions contained in sub-section (6) of section 5 of the Act. It is intended in the Act that a House etc. shall not fall in the definition of the Shamlat. In this situation a House or any other structure which does not fall in the

The Development and Panchayat Department vide their Memo. No LAI-82/2516, dated the 14th Jan. 1982, agreed that rule 4 of the Punjab Village Common Lands (Regulation) Rules which has become redundant in view of amendment of clause (vi) of sec-

Action completed as the amendments in these rules have already been carried out vide notification No G.S.R 129/P A.18/61/S 15/Amd (1)/79, dated 29th November, 1979 which was published in the Haryana Govt Gazette, Legislative supplement, dated the 4th December, 1979 as already informed to the Secretary Haryana Vidhan Sabha vide this office letter No LAI-80/20184, dated 11-1-80. A copy of this notification was also enclosed with this letter.

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definition of shamlat, cannot be subject to the Control of Gram Panchayat as is provided in rule 4.

During the course of oral examination the Departmental representatives stated that the Government was considering the amendment in sub-clause (vi) of section 2 (g) to meet the observation of the Committee

The Committee observes that the decision of the Government in the matter be intimated to the Committee and the rule be amended accordingly.

3(u).

The Committee thought that in view of proviso (VI) to clause (g) of section 2 of the Punjab Village Common lands (Regulation) Act, 1961, the house, which lies outside the Abadi deh, has been exempted from the definition of shamlat Deh. It does not, therefore, vest in the Panchayat and the Panchayat has got no rights to sell or lease out the site of the house. The Committee was, therefore, of the view that rule 4 was ultra vires of the provisions of the Act and may be deleted.

The Departmental representatives stated that the Legal Remembrancer would be consulted on the point and further action would be taken on the basis of his advice and the Committee informed accordingly.

tion 2 (g) of the Act, is being omitted.

The Committee observes that it may be informed when the rule is omitted and notification issued in this behalf

The amendment be carried in the rules when re-published.

1	2	3	4	5	6
4. Rule 6.	<p>The Committee observes that in proviso (a) of sub-rule (1) of rule 6 after the words and sign "Scheduled Castes", the words "and Backward Classes", be inserted</p> <p>During the course of oral examination the Departmental representative stated that the matter was under consideration of the Government.</p> <p>The Committee recommends that the case to amend the said rules be expedited and the decision taken thereon be intimated to the Committee.</p> <p>After going through the written reply sent by the Development and Panchayat Department the Committee recommends that sub-rule (5) of rule 6 be omitted</p>	<p>Action completed as the amendments in these rules have already been carried out vide Notification No G S R 129/ P.A. 18/61/S 15/Amd. (1) 79, dated 29th November, 1979 which was in the Haryana Govt Gazette, Legislative supplement, dated the 4th December, 1979 as already informed to the secretary Haryana Vidhan Sabha vide this office letter No LAI-80/20184, dated 11-1-80 A copy of this Notification was also enclosed with this letter.</p>		Noted	
5. Rule 6(3).	<p>The Committee noted that the term "Abadi Deh" used in sub-rule (3) of rule 6 has neither been defined in the Punjab Village Common Lands (Regulation) Act, 1961 nor in the rules Therefore, the Committee is of the view that this term ought to be defined either in Act or in the rules framed thereunder. The Departmental representative assured the Committee that the matter would be examined.</p>	<p>The Committee shall be taken after reconsideration by the Committee and its observations/ recommendations, if any, after the oral examination of the Departmental representative at Page 72 of the Eleventh Report.</p>	<p>The Development and Panchayat Deptt. vide their Memo No. LAI-82/2516, dated the 14th Jan 1982, agreed and stated regarding rule 6(3) a reference has been made to the Revenue Department to intimate whether the term 'abadi deh' has been defined anywhere in the Acts administered by the Revenue Department, Department's</p>		<p>The Development and Panchayat Deptt. vide their Memo No. LAI-82/2516, dated the 14th Jan 1982, agreed and stated regarding rule 6(3) a reference has been made to the Revenue Department to intimate whether the term 'abadi deh' has been defined anywhere in the (Regulation) Rules 1964, the Revenue Department's</p>

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				and if not, does the term require any statutory definition Their reply is awaited The definition of shamlat finction Further stated desd as given in the Act is very elaborate The the department dur- simplification of the defini- ing the oral exami- nation may create prob- nation on 7-9-81	views that the term "Abadi Deh" being commonly understood doesnot require de- thatthe stand taken by the department dur- ing the oral exami- nation on 7-9-81 be accepted.

The Committee recommends that the term "Shamlat Deh" should be made more simpler so that every body may be able to understand the true purport of the term as defined in the Act. The Development and panchayat Department vide their Memo No LA 1-82/2516, dated the 14th Jan., 1982, stated that regarding rule 6(4) the Director Agriculture has been consulted and he has agreed with the view expressed by the Committee Action to amend the rule has been initiated

The Committee observed that the rule be amended in the light of the obser- vation already made by it and agreed by the Development and pan- chayat Department and the Director of Agricul- ture, at the earliest.

6 Rule 6(4) The Committee are of the view that the ponds for the Shingharas should be auctioned in the month of July, because crop ripes in the month of September any, after the oral examination of the and there is no use in auctioning the land Departmental representative at Page in the month of September as mentioned 73 of the Eleventh Report in sub rule (4) of rule 6. Therefore, the Committee feel that in the sub-rule for "September" substitute "July".

6 Rule 6(4)

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	The Departmental representative assured the Committee that the matter would be examined				
8	Rule 15	<p>1 The Committee recommends that in sub-rule (1) of rule 15 in line 4, for the word "determination" the word "determination" be substituted</p> <p>2 The Committee further recommends that for the word "Collector" wherever occurring this rule the words "Assistant Collector" be substituted</p> <p>3 The Committee also recommends that after the word "Village" occurring for the first time in sub-rule (4) (b) of rule 15, the words or "neighbouring Village" be inserted</p>	<p>Observation No 1 has already been accepted alongwith other observations No 2 and 3 action shall, however, be taken for correction of the spelling of the word "determination" at the time of word re-printing of the rules.</p> <p>Action regarding observations No 2 and 3 has been completed, as amendments vide notification No G S R 129/P A 18/61/S 15 /Amc (1)/79, dated 29 th Nov 1979, which was published in the Haryana Govt Gazette Legislative Supplement, dated the 4th December, 1979 is already informed to the Secretary Haryana Vidhan Sabha vide this office letter No LAI-80/20184, dated 1-11-80. A copy of this notification was also enclosed with this letter</p>	<p>Dropped</p> <p>—do—</p>	
9	Rule 17	The Committee recommends that in part (ii) of sub-rule (1) of rule 17 in first line after the word "formulate" the words "with the help of concerned Block Development and Panchayat Officer" be inserted	<p>Action completed as the amendments to these rules have already been carried out in vide notification No G S R 129/P A 18/61/S 15/Amc (1)/79, dated 29th November 1979 which was published in the Haryana</p> <p>Govt Gazette, Legislative, supplement dated the 4th December, 1979 as already informed to the Secy Hr Vidhan Sabha vide this office letter No LAI-80/20184 dated 11-1-80</p>	<p>Dropped</p> <p>Dropped</p>	

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10. Rule 18.	The Committee observes that in sub-rule (1) of rule 18, in line 5, for words "to" occurring after the words "to be ejected" the word "or" be substituted.		Observation No. 1 has already been accepted alongwith other observations. Action shall, however, be taken for correction of the spelling of the word "or" at the time of re-printing of the rules	The amendment be carried in the rule when re-published.	
11. Rule 19.	The committee observes that in rule 19, line 2, for the word "unauthorised" the word "unauthorised" be substituted		Observation has already been accepted, action shall, however, be taken for correction of the spellings of the word "unauthorised" at the time of re-printing of the rules	The amendment be carried in the rule when re-published.	
	The Committee also observes that in part (a) of rule 19, in line 3, after the word "in pursuance" the word "of" be inserted.		Action completed as the amendments in these rules have already been carried out vide notification No G S R 129/ P A 18/61/S 15/Amd.(1)/79, dated 29th November, 1979 which was published in the Haryana Govt. Gazette, legislative supplement, dated the 4th December, 1979 as already informed to the Secretary Haryana Vidhan Sabha vide this office letter No. LAI-80/20184, dated 11-1-80. A copy of this Notification was also enclosed with this letter.	The amendment be carried in the rule when re-published	
	The Committee further observes that in part (b) of rule 19, in lines 1 & 2 for the words "le-see" and "cancellation" the words "lessee" and "cancellation" be substituted, respectively		Observation has already been accepted, action shall, however, be taken for correction of the spelling of the words "lessee" and "cancellation" at the time of re-printing of the rules	The amendment be carried in the rule when re-published	
12. Rule. 20	The Committee observes that in sub-rule (1) of rule 20 in line 4, for the word "iss-ed" the word "issue" be substituted		Observation has already been accepted, action shall, however, be taken for correction of the spelling of the word "issue" at the time of re-printing of the rules.	The amendment be carried in the rule when re-published.	

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The Committee further observes that at the end of sub-rule (4) of rule 20, after the word "Registered post" the words "with acknowledgement due" be inserted

Action completed as the amendments in these rules have already been carried out vide notification No G S R 129/ P A 18/61/S 15/Amd (1)/79, dated 29th November, 1979 which was published in the Haryana Govt Gazette, Legislative supplement, dated the 4th December, 1979 as already informed to the Secretary, Haryana Vidhan Sabha vide this office letter No LA-80/ 20184, dated 11-1-80. A copy of this this Notification was also enclosed with this letter

The amendment be carried in the rule when re-published.

14 Rule 23

The Committee observes that at the end of the rule for the sign ":", the sign ":", be substituted

The Committee further observes that in proviso to rule 23 in the second line for the word "he" the word "so" be substituted.

Action completed as the amendments in these rules have already been carried out vide notification No G S R 129/ P A 18/61/S 15/Amd (1)/79, dated 29th November, 1979 which was published in the Haryana Govt Gazette, Legislative supplement, dated the 4th December, 1979 as already informed to the Secretary, Haryana Vidhan Sabha vide this office letter No LAI-80/20184, dated 11-1-80. A copy of this notification was also enclosed with this letter.

The amendment be carried in the rules when re-published after carrying out all the corrections.

Implementation of observations made by the Committee on Subordinate Legislation in respect of the Haryana Ceiling on Land Holdings Act, 1972, the Haryana Ceiling on Land Holdings Rules, 1973 and the Haryana Utilisation of Surplus and other Areas Schemes, 1976 in its 12th report for the year 1980-81.

Sr No.	Observations of the Committee	Action taken by the Government	Further observation of the Committee	Remarks
1	2	3	4	5

- 1 The Committee observed that in sub-rules (ii) and (iii) of Rule 2 of Rules, 1973 for the words 'an year' wherever occur, the words, 'a year' be substituted

After knowing that the above is a printing mistake, the Committee further recommended that an errata to the rules in this behalf be issued

2. While defining 'C' category land, in item (v) of Rule 2, land under orchard has been included in 'C' category of land but when the Committee referred to the definition of orchard under section 3(j) it was or noticed that the land under grape garden or vine yard banana or guava trees was excluded from the definition of "orchard". The Committee wanted to know why the land under these trees had been excluded from the definition of orchard

The Committee did not agree to this point of view of the revenue Department as the climate/soil and the circumstances existing in the State of Haryana differ from U P. and Other States. The Committee recommended that the land exclusively used for banana or guava trees be excluded from the definition of orchard and be exempted from the ceiling under the Act and rules, and the matter be examined threadbare at the earliest and the Committee informed of the final decision of the Government in the matter.

- 3 The Committee recommends that the said work be completed by the 31st March, 1981 and the Committee be informed thereafter accordingly

It has been decided by Govt. that no change should be made at this stage in the definition of "Orchard" to include grape, banana and guava plantations. In fact the feeling was that a number of big landowners had taken advantage of the provision for retention of larger area by planting other fruit trees

Dropped

Agreed

- 3 The Committee observes that It is stated that upto 30-9-1981, 25736 hectares of surplus land was available or the remaining work be completed at the earliest and the Committee informed. or allotment, out of which 24910 hectares was allotted to 22047 beneficia-

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ries Physical possession was delivered to 16946 persons in respect of 17808 hectares of allotted land. The physical possession in respect of 7102 hectares is yet to be delivered to 5101 allottees. On 1,10,81,826 hectares of land was yet to be allotted. Further out of 23797 declarations received under the Act, 22972 declarations have been decided leaving a balance of 825 declarations which are yet to be decided. The declaration of surplus area and its allotment is a continuous process, because the surplus area continue to become available for allotment as a result of vacation of stay orders of various courts, decisions of appeals/writ petitions etc., and finalization of declaration forms of the landowners. Instructions have been issued from time to time to the D Cs/S D Os (C) in the State that they should move the appropriate courts/authorities for early hearing of the cases in which stay orders have been given. In a recent meeting held on 22-10-81, the D Cs/S D Os(C) have been asked to complete the work regarding delivery of physical possession of the allotted surplus land by 30-11-1981. They have also been asked to direct the D As/A D As to defend surplus area cases in revenue as well as Civil Courts and get the stay orders vacated.

The rule be suitably amended and Committee informed

The appointment of Special Collector under this provision is usually made by issuing notification in the Govt Gazette. However, necessary action for carrying out the amendment as proposed in under process.

4. The Committee proposed that at the end of the Sub-Rule (viii) of rule 2 the words, "by notification" may be added, so that special collector may be appointed by the State Govt. by notification

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5 Rule. 3 The Committee recommended that in rule 3 (iv) after the word "empowered", amendment in the Rules in this regard the sign and word, "by notification" be is under process. inserted. The existing rule 3 (iv) is as under :—

3 Unless otherwise provided in these rules the prescribed authority shall be—

(i) XXXXXXXXXXXX

(ii) XXXXXXXXXXXX

(iii) XXXXXXXXXXXX

(iv) "Any officer not below the rank of an Assistant Collector, of the first grade empowered in this behalf by the State Govt in respect of any particular area"

The Committee recommends that in item (iv), of rule 3, after the word "empowered" the sign and words, "by notification", be inserted.

6 Rule. 4

"The following relations of the landlord shall not fall under the definition of a tenant, namely :—

- (i) children ;
- (ii) father/mother ;
- (iii) sisters of the father/mother and their husbands ;
- (iv) brothers of father/mother and their wives ;
- (v) brothers, their wives and their children ;
- (vi) sisters, their husbands and their children ;
- (vii) wife, her parents, her brothers and their wives, her sisters and their husbands.

It has been decided by Govt that no change should be made at this stage in the definition of 'family' as suggested by the Committee on Subordinate Legislation, to include the married minor daughter within the scope of family. Such a change would cause numerous complications It is also unlikely to be accepted by the Government of India and the assent of the President to such a measure is unlikely.

The Committee, after oral examination of the Departmental representative, did not agree with the views of the Government. The Committee reiterates its earlier recommendation that the married minor daughter who has been excluded from the definition of family must have share in her father's property till she goes permanently into her father-in-Laws house.

1	2	3	4	5
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The Committee is of the view that explanation-I, to section 3 (f) which provides that a married minor daughter shall not be treated as a child of the family for determining the permissible area, should be deleted so as to treat the married minor daughter as a child, as in most of the cases the daughters, who are married are given no benefits in both the families either in her father's property or in the property of her in-laws and she can get the share in her father-in-law's property only after the death of her father-in-law and her husband.

In case the aforesaid suggestion is not agreed to by the State Govt. the rule 4 may be amended so as not to exclude the married minor daughter for becoming a tenant of the land-lord. She does not remain the member of her father's family after her marriage and she becomes the member of her father-in-laws family.

The final view of the Committee was that such minor married daughter, who has been excluded from the definition of "family", must have share in her father's property till she goes (permanently) into her father-in-law's house.

8. Rule. 13(1). The memorandum of appeal shall be in the form of narrative and it shall set forth, concisely and under distinct heads, the grounds of objections to the order appealed from and also the relief claimed.
- This suggestion of the Committee has been accepted by the Department. Necessary action to amend this rule is under process.
- The Committee is of the view that this rule be amended at the earliest.

- (2) XXXXX
 (3) XXXXXX
 (4) XXXXXXXXXXXXXXXX

The Committee recommends that in sub-rule (1) of rule 13, for the words, "shall be in the form of narrative", the words "shall be in the narrative form" be substituted, and necessary amendment in the rule be made as agreed to by the Department

9 "Rule 17

Do

The Pepsu Tenancy and Agricultural Lands Rules, 1958, the Punjab Security of Land Tenures Rules, 1953 and the Punjab Security of Land Tenures Rules, 1956 as amended from time to time are hereby repealed in so far as they relate to the matters dealt in these rules and are inconsistent with these rules:

This suggestion of the Committee has been accepted Necessary action to amend this rule is under process

Provided that notwithstanding the repeal of the said rules, anything done or any action taken in the exercise of any power conferred by or under the said rules shall be deemed to have been done or taken in exercise of the powers conferred by or under those rules, as if these rules were in force on the day, on which such thing was done or action was taken."

The Committee recommends that in rule 17, for the words "matters dealt in these rules", the words "matters dealt with in these rules", be substituted and necessary amendment be made in the rule, as agreed to by the Department.

1	2	3	4	5	6
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THE HARYANA UTILIZATION OF SURPLUS AND OTHER AREAS SCHEME, 1976

Para 7--The allotment authority shall make allotment first of all the surplus area and the tenants' permissible area deemed to have vested in the State Government under sub-section (3) of section 12 and thereafter the surplus area acquired from time to time under sub-section (1) of section 12, in each village in favour of eligible persons after observing the following principles and procedure namely :—

- (i) inter-se priority amongst the eligible Categories shall be in the same order in which these have been listed in paragraph 4, that is Category A will take precedence over Category B and Category B will take precedence over Category C and so on ,

The Committee observed that in paragraph 7 (i) for the words "Category B will take Precedence over Category C and so on", substitute the words "Category B will take precedence over Category BB and Category BB will take precedence over Category C and so on"

The Committee recommends that this rule/Scheme be amended accordingly and the Committee be informed at the earliest.

The proposed amendment has been accepted *The matter is being processed* The Committee is of the view that this rule be amended accordingly,

✓

Action taken on the recommendations of the Committee on Subordinate Legislation in their 5th report (1972-73) in regard to the Punjab Warehouses Rules, 1958 and further observations made by the Committee.

Sr No.	Rule	Recommendation of the Committee	Action taken	Further observation made by the Committee	Remarks
1	2	3	4	5	6
1.	Rule 2(c)	The Committee recommend that the words "Non-Negotiable receipt" wherever occurring in Rule 2(c) and in the subsequent rules be substituted by the words "Negotiable receipt."	As per recommendation of the Committee, necessary amendment has been notified by way of previous publication as required under sub-section (3) of section 34 of the Punjab Warehouses Act, 1957 vide No G S R 72/P A 2/58/ S 34/81, dated 26-5-81 (copy enclosed)	The Committee observes that the Department has taken very long time in implementation of their recommendations and publication of draft rules and consulting the Law Dept	
2.	Rule 2 (e).	The Committee recommend that the definition of the "Year" be as follows :- "Year means a financial year commencing from the first day of April", and recommended that it may be amended accordingly."	The matter regarding final publication of the amendment is pending for consultation with the Law Department. The proposed amendment is likely to be notified shortly	The Committee now observes that the necessary amendment be made in the rules and final notification issued under intimation to the Committee.	
3.	Rule 5 (1)	The Committee desired that the word "for" occurring in line 4 of the said sub-rule of the written reply be substituted by the word "per" and the word "assets" in line 7 be corrected as "assets."	The position was checked with the rules published in the relevant Gazette. It was found that these are printing errors only and as such no amendment is required to be made.		Dropped.
4.	Rule 5(ii).	The Committee felt that the word "incompetent" used in this sub-rule did not give correct intension. Therefore, this word should be substituted by a proper word.	As noted against serial No 1 above		Dropped.

1	2	3	4	5	6
	The Department stated in their written reply that this may be substituted by the words "incapable of conducting".				
5	Rule 7 (2)	The Committee recommend that in line 3, for the word "was" substitute the word "has" and the following proviso be added at the end of this sub-rule — "Provided that Warehouseman shall be given an opportunity of being heard before his security is forfeited"	The position was checked and it was found that as regards the word "was" to be substituted with word "has". There is a printing error and therefore, no amendment is required to be made. However, other amendment suggested by the Committee has been notified as at serial No 1 above	Dropped	
6	Rule 8 & 9	The Committee recommend that for the words "Punjab Govt Gazette" occurring in these rules be substituted by the words "Haryana Govt Gazette"	As noted against serial No 1 above	The Committee observes that necessary amendments in the rules be made and notification issued under intimation to the Committee	
7	Rule 15	The Committee recommend that for the words "Local Newspaper" occurring in lines 2-3 substitute "Daily Hindi New-Paper" having wide circulation in that locality"	Do—	—Do—	
8	Rule 18	The Committee were of the view that some form should be prescribed for making compliance of this rule and suggest a form for this purpose	Do—	—Do—	
9	Rule 21	The Department agreed to this suggestion with the proviso that warehousing Corporation set up as a result of the Parliamentary enactment called "Warehousing Act, 1962" are exempted	Do—	—Do—	
		The Committee were of the view that a provision should be added in this rule that Warehouseman shall maintain a fire extinguisher at his own cost.	Do—	—Do—	

1	2	3	4	5	6
10	Rule 23(1)	The Committee was of the opinion that for the words "a company which is on the list of Companies approved for this purpose by the Registrar" be substituted by the words "a scheduled Insurance Company".	The matter was considered in consultation with the Law Department and it was considered that it was not necessary to make any amendment in the rule as recommended by the Committee.	Dropped	
11.	Rule 23(3)	The Committee recommend that this sub-rule may be deleted.	As at against serial No 3 above	Dropped	
12.	Rule 25	The Committee recommend that in line 4 for the word "and" the word "of" be substituted	—do—	—do—	
13.	Rule 30	The Committee recommend that in line 6, for the words "bulk" and "Asserted" substitute the words "bulk" and "asserted"	As regards the word "bulk" there was a printing error. For other amendment action has been taken as at serial No 1 above.	—do—	
14.	Rule 39	The Committee recommend that in this rule for the words and figures "The Punjab Agricultural Produce Markets Act, 1939" substitute "The Punjab Agricultural Produce Markets Act, 1961", because the Act of 1939 was repealed in the year 1961.	As at serial No 1 above.	The Committee observes that necessary amendments in the rules be made and notification issued under intimation to the Committee	
15.	Rule 44(4)	The Committee observed that reference of the title and the year of "The Indian Arbitration Act, 1940, seem to be incorrect which the Committee desired to be corrected.	As at Serial No. 3 above	Dropped	
16.	Rule 46	The Committee recommend that after the word "Registered Post" insert "With acknowledgement due".	As at Serial No 1 above.	The Committee observes that necessary amendments in the rules be made and notification issued under intimation to the Committee.	

1	2	3	4	5	6
17.	Rule 47.	The Committee was of the view that this rule should be worded as follows .—			
		“In case a licence is held by a partnership firm and the Registrar or the prescribed authority received intimation from any of the partner that the firm has been dissolved, he shall issue a notice inviting objection from the other partners of the firm before passing final orders.”	The recommendation was considered in consultation with the Law Deptt., and the amendment has been notified with slight modification as at serial No 1 above	The Committee observes that it has been supplied with draft notification with draft notification	
18.	Rule 51(1)(b).	The Committee observed that in this sub-rule it is provided that appeal from the order of the Registrar will lie to the Govt. The Committee would like to know who is the Govt. i.e. Secretary to Govt., Cooperative Deptt or the Minister or the Chief Secretary to Govt Haryana”. The term may be classified and defined.	The recommendation was considered in consultation with the Law Department and the word “Govt” has been defined in the notification dated 26-5-81 as at serial no 1 above.	The Committee observes that in the draft rules the deptt has defined “Government” means the Haryana Government in the Co-operation Department”	Dropped
19	Rule 51(2).	The Committee noted that the words “a copy of the orders” have been used in this rule whereas there is no provision in the rules where a copy of the order could be obtained by a person concerned. Therefore, the Committee was of the view that a provision should be made to this effect. The Committee recommend that this rule should be amended in the light of the said observation.	The Law Department did not advise for such an amendment. The Committee reiterates its earlier recommendation	The Committee does not agree to it and recommends that the matter be re-examined in the light of earlier recommendation of the Committee.	

Action taken on the Haryana Vidhan Sabha Report of the Committee Subordinate Legislation, 1978-79 Tenth Report in respect of.

THE HARYANA HOMOEOPATHIC PRACTITIONERS (GENERAL) RULES, 1975, FRAMED UNDER THE PUNJAB HOMOEOPATHIC PRACTITIONERS ACT, 1965

Sr. No	Reference to Paragraph Number of the Report	Rules of the Haryana Homoeopathic Practitioners, (General) Rules, 1975	Summary of Recommendation.	Action taken or proposed to taken by the Government.	Further observation by the-Committee
1	2	3	4	5	6
1	--	--	<p>The Committee observes that the Punjab Homoeopathic Practitioners Act was enacted in the year 1965, whereas the Haryana Homoeopathic Practitioners (General) Rules were finalised and published on the 8th January 1975. The Rules were not framed for such a long period despite the recommendations made by the committee that the rules should be framed within six months of the enactment of the Act and the Committee could not understand how in the absence of the rules the purposes of the Act were carried out whereas section 53(1) of the Act provides that the State Government may, after previous publications and by notification make rules to carry out all or any of the purpose of the Act</p>	<p>The directions of con- The Committee ob- servation of the Council of serves that the Homoeopathic System of Government has Medicine in Haryana were taken very long time received from the Govt of in framing the rules India in the end of March, and constituting the 1969 On the basis of the Homoeopathic same Haryana State Homo Council since the oeopathic Council Haryana Deptt, has regretted was constituted on 31-3-70 that there had been The Council after prolonged considerable delay deliberations made draft in finalization of the State Govt. for app- mittee observes that roval The State Govt such delay be after inviting objections referred the matter to the Council for reconsideration The Council after recon- sideration of the objections referred the matter to State Govt which was able to finalise the Rule on 8th January, 1975. The Homoeopathic Council was constituted for the first time and as such considerable time was</p>	

1	2	3	4	5	6
				taken in considering various aspect of Rules It is requested that there had been considerable delay in the finalisation of the Rules.	avoided in future and rules should be framed within six months of the enactment of the Act
2	Rule. 7(Proviso)	Provided that no orders rejecting any application shall be passed without giving the applicant an opportunity of being heard.	The Committee observes that there are number of spelling/puncting mistakes in the body of the Rules, viz Proviso of sub-rule (2) of Rule 7 etc Therefore, such mistakes may be rectified and the Rules be got republished after carrying out all the corrections and amendments suggested by the Committee	These Rules will be republished after all the amendments under consideration of Govt are finalised At that time spelling <i>mistakes will be corrected</i>	The Committee recommends that the rules be got republished after carrying out all the corrections and amendments suggested by it at the earliest
3			The Committee recommends that Draft Rules under section 53 (2) (a) of the said Act for conducting the election of practitioners entitled to be members of the Council etc be framed at the earliest and the committee be informed accordingly	Draft election Rules were framed and put up in the Council's meeting held on 28-12-81 The Council unanimously approved election Rules after some changes and it was decided by the Council to send the same to the Government for further necessary action. These rules are now being processed by the Government.	
			The Committee observes that regulations under section 54 of the Act be made by the Council with the previous sanction of the State Govt for the purpose of carrying out the objects of the regulations and other provisions of the regulations and unanimously approved the regulations	Draft regulations were framed and put up in the Council meeting held on 28-12-81. The Council considered the draft of regulations and unanimously approved the regulations	

1	2	3	4	5	6
				after some deletions and amendments. These regulations are now being processed by the Government	
6	Rule 2 (j)	"Practitioner" means a person who practises the Homoeopathic system.	The Committee recommends that in rule 2 (j) in the definition of "Practitioner" after the words "Homoeopathic System" the words " <i>of Medicine</i> " be inserted	Recommendation of the Committee was put up in the Council meeting held on 28-12-81. The Council agreed to the observations made by the Committee on subordinate legislation Necessary action to amend the rule in being taken.	Do
7.	Rule 2 (k).	"Prescribed" means prescribed by rules or regulations made under the Act.	The Committee further recommends that in Rule 2 (k) in the definition of "Prescribed" after the "or regulations" the words "or forms" be inserted.	This does not seem to be necessary	The Committee observes that in rule 2(k) after the words "or regulations" the word "or forms" be inserted, as the forms are also to form part of the rules
8	Rule 3 (1).	The Registrar shall be a Law Graduate having minimum experience of two years as Registrar in Homoeopathic Council with sufficient knowledge of Hindi Preference will be given to a qualified Homoeopath. He shall be a whole time salaried officer in the grade of Rs. 350-25-500/30-650 and he shall receive such allowances as may be admissible to Govt servant of similar scale under the Government.	The Committee observes that the qualifications "Law graduate" laid down in sub-rule (1) prescribed for the appointment of Registrar in the Medical profession is unnecessary. A qualified Homoeopath be selected for the post and the Committee be informed accordingly	The Council agreed to the observation made by the Committee on Subordinate legislation Necessary action in this regard is being taken	The Committee observes that the Deptt and Council have agreed to the observation of the Committee that a Homoeopathic would be appointed as a Registrar, as a law qualification for the post is unnecessary.

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The Committee recommends that a Registrar, in the Medical profession/qualified Homeopathic and existing grade for the post be revised to attract a qualified person for the post and the existing rule be amended accordingly

9 Rule 4 (3). The Registrar may, after examining the application, require the applicant to furnish such other information or documents and within such time as he may specify

The Committee recommends that in sub-rule (3), lines 3, for the words "within such time as he may specify" the words "within such a reasonable time in which such information or documents can be obtained and filed" be substituted

The rule be amended accordingly and Committee informed

10 Rule 4 (4). If the Registrar, on receipt of the application under sub-rule (1) or on receipt of further information or documents required from the applicant under sub-rule (3) and after making such further enquiry as he may deemed proper, is satisfied that the applicant is entitled to get his name entered in Part A or Part B of the Register as the case may be, he may issue to the applicant a registration certificate in Form C. If he is not so satisfied, he shall reject the application

The Committee further recommends that in sub-rule(4), line 7, after the words "Form C" the word "immediately" be inserted

Recommendation of the Committee was put up in the Council meeting held on 28-12-81. The Council agreed to the observations made by the Committee on subordinate legislation Necessary action in this regard is being taken.

Necessary amendment in the rules be made

11. Rule 4 (4).

If the Registrar, on receipt of the application under sub-rule (1) or on receipt of further information or documents required from the applicant under sub-rule (3) and after making such further enquiry as he may deem proper, is satisfied that the applicant is entitled to get his name entered in part-A or Part-B of the Register as the case may be, he may issue to the applicant a registration certificate in Form-C, if he is not so satisfied, he shall reject the application.

The Committee also recommends that in sub-rule (4) line 7, after the words "he shall" insert "after recording reasons in writing".

Recommendations of the Committee was put up in the Council meeting held on 28-12-81. The Council agreed to the observations made by the Committee on subordinate legislation. Necessary action in this regard is being taken.

The Committee observes that necessary amendment in the rules be made

12. Rule 4(5).

Every registered practitioner shall get his registration renewed every year within thirty days after the due date by paying a fee of Rs. 10/- only.
(6) Where a renewal fee is not paid in time the Registrar shall remove the name of the defaulter from the Register :-

The committee is of the view that sub-rule (5) and (6) of rule 4 be deleted as they cause unnecessary harassment to the larger number of Homeopathic Practitioners. Moreover, there is no provision in the Act empowering council to levy such renewal fee.

Recommendations of the Committee was put up in the Council meeting held on 28-12-81.

Provided that a name so removed may be restored to the Register on payment of a fee of Rs. 15 within a period of two months after the due date.

This aspect be examined by the Govt. and the Committee be informed accordingly.

It has been decided by the State Govt to charge agreed with the views of the Deptt, and Homeopathic Practitioners recommends that this rule be amended years instead of yearly accordingly

payment in order to mitigate the hardship of the Practitioner. Necessary amendment in this respect is being made in the Rules. The Practitioners who do not want to deposit five year renewal fee. They will be required to deposit renewal fee under sub-rule (6) of the Maryana Homeopathic

1	2	3	4	5	6
				Practitioner (General) Rules 1975. Necessary action in this regard is being taken	
13	Rule 5(2)	The Council may, however, recognise more institution from time to time and also derecognise any one or more institutions at any time	The Committee recommends that for sub-rule (2) the following be substituted "(2). The Council may however recognise or derecognise any institution after sufficient reasons in writing "	The Council agreed to the suggestion of the Committee on subordinate legislation <i>The Council will however be guided by the recommendation of the Central Council of Homeopathy</i> Necessary action in this regard is being taken	The Committee observes that necessary amendment in the rule be made after Consultation with the Central Council of Homeopathy
14	Rule 9(1)	Whenever information is received by the Registrar that any registered Practitioner has been convicted of a cognizable offence or has been found guilty of conduct which, prima facie, constitutes infamous conduct in professional respect, the Registrar shall make an abstract of such information he may have subsequently obtained (2) The detailed procedure in this respect is given below :- (a) Where the information in question is in the nature of a complaint by a person or body	The Committee, after going through rule 9 has come to the conclusion that the entire scheme of this rule is very confusing. The Committee recommends that this rule be substituted as under. - "9(1) on receipt of a complaint against a registered Practitioner the Registrar shall put up the complaint before the Charimen, who after satisfying himself of the genuineness of the complaint order the Registrar to call for the explanation of the respective practitioner. If the chairman after perusing the explanation is satisfied that further enquiry should be conducted, shall place the matter before the Council. The	Recommendation of the Committee was put up in the Council meeting held on 28-12-81. <i>The Council did not agree to the observations made by the Committee on subordinate legislation</i> It was unanimously decided that existing rule is correct as it describes the procedure in details.	The Committee is not satisfied with the reply of the Government and, therefore, it reiterates its earlier recommendation, as the existing rule is lengthy and unwieldy

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charging the registered Practitioner with infamous conduct in any professional respect, such complaint shall be made in writing to the Registrar and shall state the grounds of complaints and shall be accompanied by one or more declarations as to the facts of the case

(b) Every declaration must state the description and true place of abode of the declarant and where the facts stated in declaration are not within the personal knowledge of the declarant, the source of the information and grounds for the belief of the declarant in its truth, shall be accurately and fully stated. Declarations or parts of declarations which are made in contravention of this rule shall not be accepted as evidence.

Council shall then summon both the parties and conduct the enquiry by following the principles as laid down in the Criminal Procedure Code, 1973 pertaining to the complaints.

(2) When after disposing the complaint, the Council has come to the conclusion that the medical Practitioners is guilty of Professional misconduct or infamous conduct or has been convicted by a Court of law on the foresaid grounds, shall order the removal of his name from the Register

(c) The complaint, and all other documents bearing on the case shall be submitted by the Registrar to the Chairman who shall when he thinks fit direct the Registrar to ask the registered practitioner by means of a registered letter or for any explanation he may have to offer. The relevant papers including any explanation sent by the Registered Practitioner to the Registrar shall then be put up before the Chairman who shall consider the same and shall cause further investigation to be made and further evidence to be

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taken and if the Chairman is of the opinion that a prima facie case is not made out the case shall not be proceeded with further. Such decision shall be communicated by the Registrar to the complainant. If the Chairman is of the opinion that the circumstances warrant that an enquiry ought to be held in the cause, the Chairman shall direct the Registrar to take steps for the institution of an enquiry and for having the case heard and determined by the Council.

(d) An enquiry directed under the foregoing rules shall be instituted by the issue of notice in writing on behalf of the Council by the Registrar addressed to the registered Practitioner. Such notice shall specify the nature and particulars of the charge and inform him of the day on which the Council intends to deal with the case and shall call upon the registered practitioner to answer the charges in writing and to attend before the Council on such day. The notice shall be issued in Form-G with such variations as circumstances may require, at least three weeks before the date of enquiry. The Registrar shall also inform the complainant of the date so appointed where a complainant has been lodged.

(e) All material and documents which are to be laid before the Council as evidence in the case shall be printed or typed and a copy thereof shall be fur-

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nished to each member of the Council before the hearing of the case.

(f) At the hearing of the case by the Council the registered practitioner and, where a complaint has been lodged also the complainant will be entitled to be heard

(3) Where the Complainant appears, the following shall be the order of procedure :—

(a) The Registrar shall read to the Council the notice of the enquiry addressed to the Registered practitioner.

(b) The complainant shall then be invited to state his case and to produce evidence in support of it.

(c) The registered practitioner will then be invited to state his case and to produce evidence in support of it. He may address the Council after the conclusion of his evidence or at any other stage with the permission of the Council.

(d) At the conclusion of the registered Practitioner's case the Council shall, if the practitioner has produced evidence, hear the complainant in reply on the case generally, but will allow no further evidence except in any special case in which the Council may think fit to allow such further evidence. If the registered practitioner produces no

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evidence in defence, the complainant shall not be heard in reply except by special leave of the Council.

(e) Where a witness is produced by a party before the Council, he shall first be examined by party producing him and then cross-examined by the adverse party and then re-examined if allowed by the Council, by the party producing him. The Council may decline to admit in evidence any declaration where the declarant in not present or declines to submit to cross-examination.

(f) The Chairman of the Council may put questions to any witness.

(4) Where there is no complainant or no complainant appears, the following shall be order of procedure :—

(a) The Registrar shall read to the Council the notice of enquiry addressed to the registered practitioner and shall state the facts of the case and produce before the Council the evidence by which it is supported.

(b) The registered practitioner shall then be invited to state his case and to produce his evidence in support of it. He may address the Council at the conclusion of the evidence or at any other time with the permission of the Council.

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(5) The Council may, if it thinks fit, adjourn the hearing of a case from time to time, and shall inform the registered practitioner and the complainant accordingly. If they are not present or when the date which the hearing is adjourned is not fixed forthwith, the Registrar shall intimate to them the date by registered letter at least 15 days before the date so fixed.

(6) (e) Upon the conclusion of the hearing, the Council shall deliberate in camera, and at the conclusion of the deliberation, the Chairman shall call upon the members of the Council present to cast their votes on the following questions according to the nature of the charge, namely :—

(i) Whether the registered practitioner has been provided to have been convicted of a cognizable offence.

(ii) If so, whether the offence discloses such defect of character as in their opinion is sufficient to make him unfit to practise his profession.

(iii) Whether the registered practitioner has been guilty of an infamous conduct in a professional respect.

(b) If the majority of members present including the Chairman who shall have a casting vote in case of equality of the votes vote in the negative, the registered practitioner shall be discharged.

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(c) If the majority of the members present (including the Chairman who shall have a casting vote in case of equality of the Votes, vote in the affirmative the Council shall order the removal of the name of the practitioner

(7) The Registrar shall, open the removal of name from the Register pursuant to the provision of the preceding rules forthwith, send notice such removal to the Registered practitioner. Such notice shall be sent by registered letter addressed to the last known address or to the registered address of practitioner. The Registrar shall also send forthwith intimation of any such removal to the Dean or Secretary of other corresponding officer of the institution from which the practitioner has received the qualification (s).

14 Rule 11(3).

The statements in the application shall be verified by certificates in writing to be given by two respectable persons who reside in the neighbourhood of the place where the applicant has been residing since the removal of his name who were and are well acquainted with him before and the removal of his name. They shall testify to his present good character

15. Rule 11(4).

Before the application is considered by the Council the Registrar shall notify the same to the licensing bodies whose qualifications were held by the applicant at the time his name was removed and

The Committee recommends that in sub-rule (3) after the words "before" the word "after" be inserted

Recommendation of the Committee was put up in the Council meeting held on 28-12-81. The Council agreed by the Deptt agreed with the observation made by the Committee on subordinate Legislation Necessary action in this regard a being taken

The Committee further recommends

Recommendation of the

Do

shall further by letter addressed to the person or body (if any) on whose complaint the applicant's name has been removed, give notice of the application and of the time when the Council intends to consider the same.

that in sub-rule (4) line 4, after "addressed" the words "with acknowledgement due" be inserted.

Committee was put up in the Council meeting held on 28-12-81. The Council agreed with the observation made by the Committee on subordinate legislation. Necessary action in this regard is being taken.

16. Rule 11 (5).

The Council shall consider the applicant and may, if it thinks fit, adjourn the consideration thereof to a further date of require further evidence or explanation from the applicant

The Committee also recommends that in sub-rule (5), line 1, after "may" the Sign" be inserted and sign" be occurring after the word "thinks" be deleted.

Recommendation of the Committee was put up in the Council meeting held on 28-12-81. The Council agreed with the observation made by the Committee on subordinate legislation. Necessary action in this regard is being taken.

Do

18. Rule 14(2).

Every appeal shall be deemed to have been duly presented if the same is sent by registered post or is delivered personally through an agent authorised in writing by the appellant in the office of the Council.

The Committee recommends that in sub-rule (2) line 2, after "registered Post" the words "with acknowledgement due" be inserted

Recommendation of the Committee was put up in the Council meeting held on 28-12-81. The Council agreed to the suggestion made by the Committee. Necessary action in this regard is being taken.

Do

19. Rule 14(3).

Every appeal shall be accompanied by a certified copy of order appealed against and shall contain the following particulars :—
(a) the date of the order against which the appeal is preferred.
(b) the grounds of the appeal briefly but clearly set out.

The Committee also recommends that at the end of sub-rule (3) the following proviso be added :
"Provided that appeal may be filed without certified copy within a reasonable time if the order under appeal is of urgent nature."

Recommendation of the Committee was put up in the Council meeting held on 28-2-81. The Council agreed to the observation made by the Committee on subordinate Legislation. Necessary action in this regard is being taken.

Do

- | | 1 | 2 | 3 | 4 | 5 | 6 |
|------------------|---|--|---|---|---|----|
| 20. Rule 20 | Non-official other than M L A's M P's at one 1st Class Railway fare plus incidental allowance and road mileage words "shall draw travelling allowance as well as daily allowances as admissible at the rate "of" be substituted to a 1st Grade Government employee drawing a pay of Rs 1,000/- The other conditions laid down in the Punjab T.A. Rules for Government employees will also apply to journeys performed by non-official members except where otherwise provided | The Committee recommends that in rule 20, line 1, for the word "at" the words "shall draw travelling allowance | | | Recommendation of the Committee was put up in the Council meeting held on 28-12-81. The Council agreed to the observation made by the Committee on subordinate legislation Necessary action in this regard is being taken | Do |
| 21. Rule 23. | Provided that the Registrar may keep with him an amount not exceeding two hundred rupees as imprest money | The Committee recommends that in proviso to rule 23, for the words "two Hundred" the words "five hundred" be substituted | | | Recommendation of the Committee was put up in the Council meeting held on 28-12-81. The Council agreed to the observation made by the Committee on subordinate Legislation Necessary action in this regard is being taken | Do |
| 22 Rule 26 (1). | The Registrar shall in the month of October each year or on such days the Chairman may fix, cause to be prepared estimates of the Income and Expenditure of the Council for the year commencing on the 1st of April of the next ensuing year and shall submit the same to the the Council | The Committee recommends in sub-rule (1), line 4, after "1st" the word "day" be inserted | | | Recommendation of the Committee was put up in the Council meeting held on 28-12-81. The Council agreed to the observation made by the Committee on subordinate Legislation Necessary action in this regard is being taken | Do |
| 24 Form B 11(a). | The prescribed fee of Rs 45 for entry in the Register Rs 3/- for issuing the Registration Certificate and Rs.2/- as postage expenditure, i.e. total Rs 50/- have been sent through Money order. | The Committee recommends that Form B, item II(i) after "Money order" be the words "or Postal Order" be inserted. | | | Recommendation of the Committee was put up in the Council meeting held on 28-12-81. The Council agreed to the observation | Do |

1	2	3	4	5	6
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made by the Committee on subordinate legislation. Necessary action in this regard is being taken

25. Form G. Do
- On behalf of the Council of Homoeopathic System of Medicines, Haryana, I give you notice that information and evidence has been laid before the Council by which the complaints make the following charge against you namely : -
- The Committee recommends that in Form 'G' line 6 for the word "Complainers" the word "Complainants" be substituted.
- Recommendation of the Committee was put up in the Council meeting held on 28-12-81. The Council agreed to the observation made by the Committee on subordinate legislation. Necessary action in this regard is being taken.

Scrutiny of the Haryana Land Holdings Tax Rules, 1973, by the Committee on Subordinate Legislation in its 10th Report (1978-79)
Action taken by the Government in respect of the observation of the committee.

Sr. No.	Rule	Existing Provisions	Observations of the Committee on Subordinate Legislation	Action taken by Government	Further observations of Committee
1	2	3	4	5	6
1.	Rule 4.	—	<p>The Committee observed that the following new sub-rule (2 A) be added to rule 4 —</p> <p>“(2 A) In addition to the procedure mentioned in sub-rule (2), the Assessing Authority shall cause the details of tax and particulars of the land got-served on the affected landowners personally’</p>	<p>In the written reply the Revenue Deptt stated that it would involve considerable labour and expense to effect personal Service on lakhs of assesses come to know how During the Course of much amount he oral examination the de- has to pay and by partmental representative what time, how he agreed to follow it in will be able to pay principle, but did not agree the amount to the to incorporate the same in Assessing Authority. Therefore, the Dep- artmental representa- tive during the course of oral examination agreed to reconsider the matter The Commit- tee recommends that this matter be re-examined by the concerned Deptt at the earliest and it be informed.</p>	
2.	Rule 4(2).	<p>The Assessing Authority shall, after satisfying himself as to correctness of the particulars given in the list, cause the same to be displayed in the offices of the Tehsildar and Gram Panchayat, if any. The fact of the list having been</p>	<p>The Committee has recommended that where the tax leviable has to be changed on account of inheritance etc., the affected persons should be informed personally, so that they are to file objections, if any, to the contemplated</p>	<p>The matter was examined in the light of the recommendations of the Committee in detail, and necessary amendment in rule 5 (instead of in</p>	<p>It came to the notice of the Com- mittee that this amendment is not being implemented in letter and spirit</p>

displayed shall also be got announced by the beat of drum in the village and certified by the attestation of a Lambardar and two other non-official witnesses in form II, and the Patwari shall make an entry in this regard in the daily diary.

change.

rule 4) was made, as under —
“2. in the Haryana Land Holdings Tax Rules, to again circulate the 1973 (hereinafter referred amendment to the to as the said rules). for concerned authorities rule 5, the following rule in the field shall be substituted namely—

“5. Whenever any variance in the amount of Tax leviable on a particular holding becomes due on account of inheritance, transfer or otherwise, the Assessing Authority shall cause the details of tax and particulars of land served on the affected land-owners by post (under postal certificate) and a statement in form-V shall be prepared in accordance with the procedure herein-before mentioned in rule 4 and the entries in-corporating the variance shall be authenticated by him.

3. Rule 4 (4).

The Committee were of the view that in rule 4 (4), for the word “seven” the word “twenty-one” be substituted, as the period of seven days for giving notice in form III was quite inadequate

In the written reply the Revenue Department stated that this minimum period of seven days was considered

On being asked the Departmental representative promised to examine this rule afresh and inform the Committee about the decision to reduce the period from 21 days to 14 days.

The Committee recommends that this matter be re-examined and the opinion of the Government be informed to it.

1	2	3	4	5	6
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adequate. During the course of oral examination of the departmental representative the Committee were not satisfied with the written reply of the Department and was of the opinion that the period of seven days notice should be extended to at least fifteen days

4. Rule 6 (3). The memorandum of appeal shall be presented to the appellate authority either sub-rule 3 of rule 6 for the words "and by the appellant or his duly authorised agent and it shall be signed and verified in the manner in which plants are signed and verified.
- The recommendation of the Committee examined but it was not accepted by the Government in view of the facts that all pleadings are required to be verified by the party or by one of the parties in accordance with the provisions of the Code of Civil Procedure, the appeal should continue to be verified, as at present no change should be made.
- The Committee decided not to pursue this matter further

- Rule 8 (v). Save as otherwise provided in these rules, the notices or order under the Act shall be served on the parties concerned in one or more of the following manners, namely :
- (i) by personal service ;
 - (ii) by registered post ;
 - (iii) by pasting it outside the house of the party or at a conspicuous place near the land in dispute in the village in whose revenue estate the land is situated ;
 - (iv) by announcing its contents by a beat of drum in the abadi of the revenue estate or at a place near the land in question ; and
 - (v) by publication in newspaper.

The Committee recommended that notices required to be published in newspapers, should also include the vernacular newspaper. It was, therefore, desired that words "including vernacular newspapers" may be added after rule 8 (v).

The recommendation of the Committee was examined and necessary amendment was made in rule 8 (v) as under

"(v) by the publication in one or more newspapers, at least one of which shall be in the vernacular".

The Committee observes that notice should be published at least one of the Hindi newspaper.

Implementation of the observations recommendations made by the Committee on Subordinate Legislation of the Haryana Vidhan Sabha when scrutinising the Haryana General Sales Tax Rules, 1975, as contained at pages 26-30 of the Report (Twelfth Report)

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Sr. No.	Observations	Comments of the Government	Further observation made by the Committee	Remarks
1	2	3	4	5
1.	The Committee recommends that these Rules (Haryana General Sales Tax Rules, 1975) should (officially) be republished after incorporating all the amendments made from time to time.	The Haryana General Sales Tax Rules, 1975 (as amended upto 31-12-1980) have been got reprinted copy of the same has been delivered to all the officials/officers concerned of the department for their official use 25 copies of the above said rules are enclosed for the perusal of the Committee	Reply of the Government was accepted by the Committee.	
2	The Committee recommends that all the forms appended to the Rules which are of daily use, be got printed/cyclostyled and authenticated copies thereof made available for sale at reasonable price to the public in general at tehsil sub-division and district head quarters	<p>The forms prescribed under the Haryana General Sales Tax Rules, 1975 are of two types Certificates in form S T. 1.3, S T. 14 and declaration in form S T. 15 are priced forms and these have been got printed in abundance and are easily available at the counters in each district offices against prior payment or cash payment. Provisions are already there that when such forms are not available with the assessing authorities, the assessee with the prior permission of the officer-in-charge of the distt can get them printed themselves in the prescribed form and put them into use after getting them authenticated from the appropriate assessing authorities Government has also provided alternatives to these forms in the form of carbon copy of cash memo or sale bill or the list of sales duly authenticated by purchasing registered dealers, with the prescribed declarations duly appended thereon As such no difficulty is being faced in relation to these kinds of forms.</p> <p>Various other forms prescribed under the rules ibid are not of use by the general public only the dealers or assesses who are registered under the Sales Tax Law of the State are obliged to put them into use Such forms, which are not priced one, are got printed from the Controller of Printing and Stationery, Haryana according to the indent placed by the district offices and</p>	<p>The Committee again recommend that all forms appended to the rules should be published/printed and made available for sale at reasonable price to the general public at tehsil, sub-division and district headquarters all the year round In the case of cyclostyled copies of form, the same should be authenticated by the Govt Agency of Excise and Taxation Dept</p>	

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are supplied to the dealers/assessee, free of cost in the district offices/sub-offices of the department. A demand for printing of these forms for the year 1980-81 as per indents received from the district offices was placed with the Controller, Printing and Stationery. Some of these forms have been printed and supplied by him when have further been delivered in the district offices according to their requirements. The Controller of Printing and Stationery had also been requested for early printing of the remaining forms. It is also worthwhile to point out that whenever a district office intimates about shortage of particular forms, these are replenished from surplus district. In this respect no complaint or report about the shortage of forms has been received from either the business Community or the District offices.

3 The Committee recommends that suitable amendment in rule 9 be made to restrict the discretion of the Tribunal to amend the costs of appeals within the period of three months and the Committee be informed accordingly.

Reply by Govt. accepted

Suitable amendment in rule 9 of the Haryana General Sales Tax Rules, 1975, in pursuance of the Observation of the Committee has since been made vide Haryana General Sales Tax (Amendment) Rules, 1981, with effect from 4-5-1981. Vide Notification No. E. S.R.-62/H.A. 2074/B 64/Amd (2)/81 published in Haryana Govt. Gazette (Extra) May, 4 of 1981 25 copies of the same were enclosed for the purpose of the Committee.

4 The Committee after orally examining the departmental representatives, recommends that the Department should re-examine the matter thoroughly so as to provide that where a dealer has several Branches, he is to declare the head office at the place within the State, where the factory is situated in the interest of the State.

According to rule 16 of the Haryana General Sales Tax Rules, if a dealer has more than one branches of his business, he has the discretion to declare any one of such branches as his head office. The issue has been re-examined in pursuance of the recommendation of the Committee. It is felt that it would be more advantageous if rule 16 is amended to the effect that the head office should be in the district where the factory or work of the dealer are situated, and in case there are several works/factories of a dealer then it should be provided that the head office should be situated in the district where the main factory/works is situated. Matter is being processed accordingly.

The Committee recommends that rule 16 be amended according to the reply now furnished by the Deptt and it be informed.

[Implementation of the recommendations/observations made by the Committee in its Twelfth Report in respect of the Haryana Home Guards Rules, 1980, framed under the Haryana Home Guards Act, 1974]

1	2	3	4	5
<i>Observation of the Committee</i>	<i>Reply of the Government</i>	<i>Further observation by the committee</i>	<i>Remarks</i>	

Page 31-34 of Twelfth Report 1980-81.

As regards Sub-rule (2) of rule 1, the Committee wanted to know whether any rules had been framed for whole time/regular employees of the Home Guards. The Committee was supplied the Copies of Home Guards and Civil Defence Services (State Service Group A and B) and stated that the Service rules of Group C employees of the Home Guards were under preparation. The Committee recommends that the Service Rules of Group C employees (non-gazetted) of the Home Guards be prepared and finalized/published at the earliest possible.

Regarding the Rules for Group 'C' employees of Home Guards, the same have been sent to the Subordinate Services Selection Board for their approval.

The Rules for Group 'C' employees be finalized/published without any further delay and Committee be informed.

Rule 7

"7 (1). * * * *

- (2) No person shall be enlisted as a member, unless he produces a certificate of character from the principal academic officer of his university, college, school or institution last attended, if any, and similar certificates from two other responsible persons, not being his relatives who are well acquainted with him in his private life and are unconnected with his university, college, school or institution".

1	2	3	4	5
	The Committee recommends that in line 4 of sub-rule 2 of Rule 7, after the word "certificates", the following words shall be inserted:—	Modification in the rules in being made.		The Copy of the final notification in incorporating the amendment in the rules be supplied to the Committee.
	"from the Head of the Department/Institution in which he is whole time employed".			
	Rule 14			
	"14. The pay, allowances and amenities, if any, admissible to the members, including Gazetted and Non-Gazetted officers shall be such as may be determined by the Government, from time to time"			
	The Committee wanted to know the exact constitution/structure of Home Guards Force and the distinction between Honorary Gazetted Officers, including Gazetted and Non-gazetted Officers	Accepted		The Committee recommends that rule 14 be deleted and notification to that effect be issued forthwith
	The Departmental representative during the course of oral examination stated that in view of the observation of the Committee amendment to delete this rule was being taken			
	The Committee recommends that this rule should be deleted from the rules as it is unnecessary.			
	Rule 27			
	"27 (1) The members shall be eligible for cash awards individually or collectively for conspicuous good work or for a work of outstanding nature in saving life, pro-	The modifications in the Rules suggested by the Committee have been directed as amendments and have been got vetted by the L. R. after securing the approval of the Finance Department for amend-		The Committee recommends that these amendments be notified at the earliest and Committee be informed.

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tection of property, assistance in maintenance of law and order, devotion to duty and for any other purpose which furthers the aims and objects of the Home Guards.

(2) The Commandant General is authorised to grant awards upto a monetary limit of two hundred and fifty rupees in any one case or on any one occasion.

(3) The complete citation indicating the reason for which the award is granted shall be written and duly published".

The Committee suggested that in sub-rule (2) of rule 27, for the words "two hundred and fifty" the words "five hundred" be substituted. The Departmental representative during the course of oral examination stated that the Department would give due weight of this proposal of the Committee in consultation with the State Finance Department as it involved financial implication, to which the Committee agreed.

The Committee recommends that all these recommendations of the Committee be incorporated in the rules and the rules be republished after carrying out all the amendments/proposals suggested by the Committee and the Committee be informed accordingly.

ment of Rule 27. Now these amendments will be notified shortly.

Statement showing the outstanding recommendations/observations made by the Committee in respect of the Punjab Cooperative Societies Rules, 1963, framed under the Punjab Cooperative Societies Act, 1961

Observations of the Committee	Reply of the Govt	Further observations of the Committee		
1	2	3	4	5
<p>2. The Committee observes that generally the public faces great difficulty in the registration of a Society and then in getting the loans for that society. In order to obviate this difficulty the Committee suggests that the maximum number of Cooperative Societies be allowed to be registered with least objections for the development of cooperation movement.</p>	<p>There is no bar in the registration of a Cooperative Society provided the projects are viable and the sponsoring members intend to form a genuine Co-operative Society.</p>	<p>Section 8 of the Act provides that an application for registration shall be disposed of by the Registrar within a period of two months from the date of receipt thereof by him. No change is proposed to be made in this behalf though some times it becomes difficult to process and finalise the case within a period of two months. The short term loans are advanced by the Primary Cooperative Credit and Service Societies and the medium and long term loans are advanced by Primary Land Development Banks, the advancing of loan are regulated by instructions issued by the Registrar/Reserve Bank of India and Agricultural Refinance and Development Corporation etc. A cash credit system of loaning has been introduced for members of Primary Credit Societies whereby a member is entitled to get loan from the branch of the bank at any time by presenting a cheque provided he is not a defaulter. The Primary Land Development Banks have been instructed to dispose of all loan applications within a period of 30 days. Sometimes, such applications are collected, processed and loans disbursed on campaign basis to complete a particular project.</p>		
<p>The Committee found that no exemption from attachment and sale of immovable property of an agriculturist had been given in the Punjab Co-</p>	<p>The Punjab Cooperative Societies Rules, 1963 are silent regarding exemption from attachment and sale of immovable property of an agriculturist.</p>	<p>The Committee recommends that this exemption from attachment and sale of immovable property,</p>		
			Dropped	

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operative Societies Rules, 1963. Clause (b) of Section 60 of C.P.C, 1908 provides.

"houses and other buildings (with the materials and the sites thereof and the land immediately appurtenant thereto and necessary for their enjoyment) belonging to an agriculturist and occupied by him".

The Committee felt that this clause (c) should be incorporated in the shape of rules under these rules also so as to grant exemption to an immovable property and the land of an agriculturist, in accordance with section 60 *ibid*.

During the course of oral examination the Departmental representative stated that the Government was going to set up a Committee which would examine these valuable observations/recommendation made or others to be made by the Committee and amend the Act and Rules accordingly

It is presumed that exemptions given in section 60 of the Code of Civil Procedure (Act V of 1908) also applies to the execution proceedings under section 63 of the Punjab Cooperative Societies Act, 1961 read with Rule 72 of the Punjab Cooperative Societies Rules, 1963. However, in order to clarify the position, the necessary amendments in the rules is being proposed separately.

in addition to an agriculturist should also apply to a small and marginal artisan and Punjab Cooperative Societies Rules, 1963 be amended in the light of said observations of the Committee.

Rule 5

"5 Procedure on receipt of application. (1) Before passing final orders under section 8, the Registrar may call for such further information from the applicants or make such independent enquiries as he may deem necessary

(2) After the Registrar is satisfied with regard to the matter stated in sub-section (1) of section 8 he may register the cooperative Society and its byelaws. A copy of the registered byelaws shall be returned by him to the cooperative society".

In order to provide an opportunity to be heard in person before rejecting the application for registration and refusing to register an amendment in the byelaws, necessary amendments are being proposed separately.

The Committee observes that rules 5, 7 and 13 be amended accordingly

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Rule 7

"7 Appeal against refusal of registration-Where an application for registration of a cooperative society is rejected by the Registrar the Appeal, if made, shall be signed by the persons joining in the application for registration."

Rule 13

"13. Appeal against refusal to register amendments to byelaws. Where an application for registration for an amendments in byelaws. Where an application for registration of an amendments/in byelaws of a cooperative society is rejected by the Registrar under sub-section (4) of section 10, the appeal, if any, shall be made only after a meeting of the general body has considered the matter and has decided to prefer an appeal and shall be signed by an officer of the cooperative society duly authorised in this behalf by a general meeting."

The Committee observes that where an application for registration of a cooperative society under rule 5 is rejected, the applicant may be provided a reasonable opportunity of being heard in person or through his duly authorised representatives.

Similarly, in the case of an appeal filed against the order of rejection under Rule 7 the appellant may also be afforded an opportunity to be heard in person.

The Committee further desired to know when an appeal against refusal to register amendment to byelaws is made, whether any opportunity is given to an appellant to be heard personally.

As regards the affording of reasonable opportunity to be heard to the applicant before rejecting his

application for registration, the Departmental representative stated that it would become difficult for the Registrar to dispose of the application within the stipulated period of two months, as stated in section 8(3) of Act and promised to make such a provision to be heard to an appellant in the case of appeal

The Committee recommends that suitable provisions in the rules may be made so that an opportunity be afforded at least to an appellant to be heard personally

Rule 14

"14. Disqualification for membership : (1) No person shall be eligible for admission as a member of a Cooperative Society, if he :—

- (a) has applied to be adjudicated an insolvent or is an undischarged insolvent; or
- (b) he has been sentenced for offence other than an offence of a political character or an offences not involving moral turpitude, and a period of five years has not elapsed from the date of the sentence

(2) If members become subject to any of the disqualification specified in sub-rule (1), he shall be deemed to have ceased to be member from the date when the disqualification was incurred.

The Committee was of the view that the offences involving "political character" and "moral turpitude" as disqualification for being eligible for admission as a member of a cooperative Society, should be defined.

The necessary amendment in the rule be made and Committee informed.

Agreed. The necessary amendment is being proposed separately.

1 2 3 4 5

The Departmental representative stated during the course of oral examination that the terms "political Character" and "involving moral turpitude" could not be conclusively defined and made exhaustive and as such the Department felt that the proposed amendment, if made, might not serve the desired purpose.

The Committee is of the view that if it is not possible to define the term "moral turpitude", it would be better to delete the offences involving "Political Character", which are superfluous.

Rule 15—

15. Prohibition of membership in two Cooperative Credit and Service Societies. (1) No individual being a member of a primary cooperative society having one of the operation of the funds to be lent to its members shall be a member of any other such cooperative society without the general or special permission of the Registrar, and when an individual has become a member of two such cooperative societies either or both of the cooperative societies shall be bound to remove him from the membership upon a written requisition from the Registrar to that effect

Necessary amendment in rule 15 is being proposed separately.

(2) No individual who is an officer of any cooperative society shall without the general or special permission of the Registrar, be a member of any other cooperative society whose objects are similar to the objects of the society of which he is an officer and where such an individual has become a member of another society with similar objects either or both of the cooperative societies shall be bound to remove him from membership upon written requisition from the Registrar to

this effect. If any question arises as to whether or not two societies have similar objects the decision of the Registrar on the point shall be final

The Committee was of the view that rule 15 (1) envisaged that an individual could not remain a member of two primary societies with similar objects unless he had obtained general or special permission of the Registrar. It is generally observed that an individual remained member of two or more cooperative societies with similar objects without even seeking general or special permission of the Registrar. If the Registrar failed to take action in such cases or his subordinate did not bring to his notice such cases what would be the legal position of that member in respect of these societies so far his membership was concerned. Under those circumstances he could be removed from the membership of the society, and from which society?

The department was of the view that the rule should be amended providing for a declaration to be obtained from all persons seeking membership in the cooperative societies to the effect that the person concerned was not a member of any other cooperative society of a similar purpose. Such a provision would enable the department to launch suitable prosecution. The delinquent members shall be removed from the membership of the former society whenever such a fact comes to the notice of the Registrar. A provision shall also be made in the rules at the time of amendment that such a delinquent member should also be suspended from the membership of all such societies till the final decision.

The Committee agrees with the said view of the department and recommends that rule 15 be amended accordingly.

The necessary amendment in rule 15 be made and Committee informed

1	2	3	4	5
Rule 20—				

"20 Maintenance of register of members — Every Cooperative society maintain a register of members showing —

- (a) the name, address and occupation of each member, and a statement of shares held by him ;
- (b) the date on which the member's name was entered in the register ;
- (c) the date on which any person ceased to be a member ;
- (d) the nominee appointed by a member"

The Committee was of the view that sub-section (2) (xvi) of section 85 of Act provided for the formation and maintenance of register of members, and where the liability of the Members is limited by shares, of a register of shares, but, actually rule 20 of these rules stipulates the maintenance of a register of members only

The Committee therefore, desired the Department to clarify the position in this regard

The department in its written reply stated that the proposed amendment for the formation and maintenance of register of members and where the liability of the member is limited by shares, of register of shares, would be made

The Committee recommends that rule 20 should be amended accordingly
Rule 22—

"22 Powers of general meeting —Without prejudice to the provisions of section 24, the general meeting up considerably and it has become difficult to call and Committee informed. gone Rule 22 be amended accordingly

Necessary amendment in rule 20 is being proposed separately

1	2	3	4	5
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alone shall have the power to transact the following business :

- (a) fixing the maximum credit limit of the cooperative society (having 1000 or less members) subject to the approval of Registrar, provided that no approval of the Registrar shall be necessary in case of Primary Agricultural Service Society ;

(b) 11 11 ** **

(c) ** **

(c) expulsion of the members

The Committee observed that according to old sub-rule 22 (a) the General Meeting alone had the power to the maximum credit limit of the cooperative society subject to the approval of the Registrar in accordance with the newly substituted sub-rule 22 (a) the General meeting has the power to fix the a mumum credit limit of cooperative society having 1000 or less members, subject to the approval of the Registrar. The Committee, therefore, desired to know the reasons from the Department for amending the sub-rule.

The Departmental representative stated that it was superfluous and be omitted. The committee recommends that rule 22 be amended accoringly

general meeting for fixing the maximum Credit Limit of a society. The fixing of maximum credit limit need not therefore be within the purview of general body Section 24 of the Act has already been amended. Rule 22 is proposed to be amended accordingly

1	2	3	4	5
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Rule 25—

"25. Disqualification for membership of committee :—
No person shall be eligible for election as a member
of the Committee if :—

The amendment is being proposed accordingly

Rule 25 be amended accordingly
and Committee be informed by
supplying a copy of notifica-
tion.

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|-----|----|----|----|
| (a) | ** | ** | ** |
| (b) | ** | ** | ** |
| (c) | ** | ** | ** |
| (d) | ** | ** | ** |
| (e) | ** | ** | ** |

(f) he has during a period of 12 months preceeding
the date of filing of nomination papers, re-
mained inactive as member or has been carrying
on, through agencies other than the Cooperative
Society of which he is a member the same busi-
ness as is being carried on by the Cooperative
Society.

- | | | | |
|------|----|----|----|
| (g) | ** | ** | ** |
| (gg) | ** | ** | ** |

After discussion and having been agreed to by
the Departmental representative, the Committee
observes that in clause (f), for the words "remained
inactive as member", the words "made no transac-
tion with society as a member in accordance with
its objects and as stated in the Byelaws of the Society"
be substituted.

During the course of oral examination the Depart-
ment agreed that for words "remain inactive as members",

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the words" "made no transaction with the society as a member in accordance with its objects and as stated in the byelaws of the society" would be substituted

The Committee recommends that the rule 25 be amended accordingly

Rule 26

"26 Cessation of membership of Committee :- A member of committee shall cease to hold his office as such if he :-

The amendment is being proposed accordingly.

Necessary amendments be made in the rules and Committee be informed

(a) Continues to be in default is respect of any sum due from him to the Cooperative Society for such period as may be laid down in the byelaws.

(b) ceases to be a member ,

(c) is declared insolvent ;

(d) becomes of unsound mind ;

(e) is convicted of an offence involving dishonesty or moral turpitude ; or

(f) becomes subject to any disqualification which would have prevented from seeking election, had he incurred that disqualification before election".

After going through the provisions of rule 25 and 26, the Committee was doubtful if there is any provision in the rules or the Act itself to remove a person, who escaped from being disqualified on the date of his election to the Committee due to one reason or the other, from the membership of the Committee.

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The Departmental representative during the course of oral examination stated that a new sub-rule 26 (g) may be added as follows —

"26(g) was subject to any disqualification which have prevented him from seeking election if that disqualification had come to the notice before he was elected".

The Committee therefore, recommends that necessary amendments in the rules be made as early as possible

Rule. 28—

"28 Employees of Cooperative Societies . (1)— No Cooperative Society shall appoint any person as its employee unless he possesses such qualifications and furnishes such security as may be specified by the Registrar from time to time

(2) The Registrar may in case, for special reasons relax the provisions of this rule to such extent as he may consider proper "

The Committee notes that under section 85 (2) (xxxvii). The Govt is required to prescribe qualifications of the members of the Committee in addition to that of the employees of the society. Under Rule 28 (1) the Registrar has been empowered only to prescribe qualifications and the amount of security required from the employees of the society. The Committee desired to know the reasons for not prescribing the qualifications of the members of the Committee of the society

The Departmental representative stated that instead of prescribing these qualifications in the

The power to prescribe qualification and quantum of security for employees of Cooperative Societies lies with the Registrar. Any relaxation for a Class of Society or category of persons would only mean relaxing the qualifications. Relaxation if any would be for an individual. This power is being used judiciously by the Registrar. No amendment in this rule therefore, is desirable

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byelaws, these should be prescribed in the rules to enable a person to become a member of the Committee of the society

The Departmental representative further stated that a Govt servant may be debarred from seeking election to the managing committee of the Co-operative Society, by suitably amending the rules.

The Committee further noted that in sub-rule (2) of the rule 28 the Registrar had been given the powers to relax the provisions contained in sub-rule (1) of rule 28 for special reasons. In the view of the Committee, these powers appears to be arbitrary and in a number of cases, the High Court had struck down such rules. The High Court was repeated to have observed that relaxation can be only for a class or category of persons and not for any individual. The Committee, therefore desired that the Department should clarify this position.

The Department representative noted this observation of the Committee and promised to re-examine it.

Rule. 55

"55 Hearing of dispute.—The Registrar or the Arbitrator as the case may be, shall hear the parties and witnesses who attend. On the basis of such evidence and after consideration of any documentary evidence that may be produced by either party, he shall give a decision or award, as the case may, be in accordance with justice, equity and good conscience. The decision or award shall be reduced to writing, announced to the parties and filed in the office of the Registrar. In the

The necessary amendment is being proposed accordingly

Necessary amendment be made in the rule and Committee be informed

absence of any party summoned to attend the dispute may be decided ex-parte"

The Committee observed that under C.P.C. if the proceeding was decided ex-parte there was provision for setting aside the ex-parte order or decree on sufficient grounds. Similar provision, in view of the Committee was required to be made in rule 55

The Department felt that after the adding of proposed provision in the rule, new difficulties and problems would crop up resulting in unnecessary delay in the disposal of cases. In view of the fact that remedy was open to the aggrieved party by way of appeal, the Department was of the view that the existing provision be allowed to continue

The Committee, after perusal of the reply of the department regarding observation made in regard to rule 55, observes that a provision should be made in the rule to set aside the ex-parte proceedings as laid down in the C.P.C.

Rule. 58—

"58. Procedure to be followed by liquidators .
(1) The liquidator shall as soon as the order of winding up of the cooperative society taken effect publish by such means as may think proper, a notice requiring all claims against the cooperative society, the winding up of which has been ordered to be submitted to him within one month of the publication of the notice. All liabilities recorded in the account books of a cooperative society shall be deemed if so fact to have been duly submitted to him under this sub-rule.

(2) * * *

(3) * * *

Some of the societies such as Handicraft societies etc. have meagre resources. Such societies may not be able to bear the cost of publication in daily news paper. Publication of a notice is also not of much importance in such cases. The Registrar appoints the liquidator. It would be desirable for the Registrar to prescribe mode of publication of notice in each case. The rule is being amended accordingly.

The necessary amendment in the rule be made and Committee be Supplied with a copy of the Notification

The Committee reiterates its earlier observations that the mode of publication of the notice under rule 58 should necessarily be prescribed in the rules.

The Committee further observes that in line 5 of Rule 58, for the word "taken" the word "take" be substituted.

Rule. 67—

"67. Removal of liquidators :—A liquidator may at any time, be removed by the Registrar and he shall on such removal hand over all the property and documents relating to the society under liquidation to such persons as the Registrar may direct"

The Committee recommends that in Rule 67, after the words "by the Registrar" the words "after reasons to be recorded "be added, to which the Department agreed to amend the rule accordingly

The proposed amendment is being made accordingly Do

Rule. 72—

- "72. (1) * * *
- (2) * * *
- (3) * * *
- (4) * * *

The amendment is being made accordingly Do

(5) In the seizure and sale of movable property, the following procedure shall be observed .—

(a) The sale officer shall after giving previous notice to the decree holder, proceed to the village or locality where the defaulter resides of the property to be distrained is situated and serve a demand

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notice to the defaulter if he is present. If the amount due together with expenses is not at once paid, the Sale Officer shall make the distress and shall immediately deliver to the defaulter a list or inventory of the property distrained and an intimation of the place and day and hour at which the distrained property will be brought to sale. If the amounts due are not previous discharged, If the defaulter is absent, the Sale Officer shall serve the demand notice on some adult member of his family or on his authorised agent or when such service cannot be effected, shall affix a copy of the demand notice on some conspicuous part of residence. He shall then proceed to make the distress and shall fix the list of property attached on the usual place of residence of the defaulter endorsing thereon the place where the property attached on the usual place of residence of the defaulter endorsing thereon the place where the property may be lodged or kept and an intimation of the place, day and hours of sale.

- (b) * * *
- (c) * * *
- (d) * * *
- (e) * * *
- (f) * * *

(h) Where the Sale Officer may have reason to suppose that the property of a defaulter is lodged within a dwelling house the outdoor of which may be shut or within any apartments appro-

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riated to women, by custom or usage are considered private, the sale officer shall represent the facts to the Officer Incharge of the nearest Police Station. On such representation, the officer incharge of the said station shall send a police officer to the spot in the presence of whom the Sale Officer may force open the other door of such dwelling house in like manner as he may break open the door of any room within the house except the *Zanana*. The Sale Officer may also in the presence of the police officer, after due notice is given for the removal of women within a *Zanana* and after furnishing means for their removal in a suitable manner if they be women of rank, who according to the custom or usage cannot appear in public, enter the *Zanana* apartments for the purpose of distraining the defaulters' property if any deposited there in, but such property, if found, shall be immediately removed from such apartment, after which they shall left free to the formers occupants".

The Committee recommends that in sub-rule 5 (a), after the words "Part of residence" the words" in the presence of two persons of the locality" be inserted.

The Committee further recommends that in sub-rule 5 (h), line 2, for the word "suppose" the word "believe" be substituted In sub-rule 5 (h), the word "other" be deleted.

Rule. 75—

"75. Appeals for the purposes of the section 68, on appeal shall be entertained unless it is accompanied by a copy of the order appealed against"

The Committee recommends that in Rule 75 for the word "on" the word "no" be substituted.

It is a printing error which will be corrected.
No amendment is required.

Dropped

APPENDIX 'B'

The Committee recommends that in Appendix "B" para 8 after the word "cooperative" the word "society" be inserted.

The Committee further recommends that in Appendix "B" para 9 after the words "signatories of the requisition", and before the word "summon" for the word "may" the word "shall" be substituted.

The Punjab Cooperative Land Mortgage Banks Rules 1959 as amended by the Punjab Cooperative Land Mortgage (Haryana Amendment) Rules, 1973 framed under the Punjab Cooperative Land Mortgage Bank Act, 1957, as amended by the Punjab Cooperative Land Mortgage Banks (Haryana Amendment) Act, 1973 and the Punjab Cooperative Land Development Banks (Haryana Amendment) Act, 1980

It is printing error. No amendment is needed.

Do

The word "may" shall be substituted by word "shall" in 9th line

The necessary amendment be made and Committee be informed

At present two State Acts namely the Punjab Cooperative Societies Act, 1961 and the Punjab Cooperative Agri Development Banks Act, 1957 applies to the Cooperative Agricultural Development Banks in the State. It is proposed to merge the provisions of the Agricultural Development Banks Act with the main Act, as similar provisions are also required in Housing Societies. The Punjab Cooperative Land Mortgage Bank Rules, 1973 were amended in the year 1980. The name of the title is still required to be changed as the Punjab Cooperative Agricultural Development Banks Rules, 1959. A proposal in this behalf is being submitted separately.

The Committee observes that the Punjab Cooperative Agricultural Development Banks Rules, 1959 should be amended suiting the modern society and developing Cooperative movement and 25 copies of the rules so framed/ revised under the Punjab Agricultural Development Banks Act be supplied to the Committee for its scrutiny afresh.

ANNEXURE B

Enrolment in Classes I—V District-wise 1980-81

Sr. No.	District.	Boys	Girls	Total
1.	Ambala	79446	52435	131881
2.	Bhiwani	66267	29437	95704
3.	Faridabad	63180	28139	91319
4.	Gurgaon	57233	25267	82500
5.	Hissar	84618	36120	120738
6.	Jind	57813	20539	78352
7.	Karnal	80814	43355	124169
8.	Kurukshetra	71898	40391	112289
9.	Mahendergarh	72778	36367	109145
10.	Rohtak	90704	55141	145845
11.	Sisra	38503	21342	59845
12.	Sonepat	59389	34314	93700
	Haryana	822640	422847	1245487

ANNEXURE "C"

	1976-77 Ist class	1980-81 Vth class	Drop-out Percentage
Ambala	31704	24099	23.99
Bhiwani	21912	14372	34.41
Faridabad & Gurgaon	33567	25274	24.71
Hissar	31791	17514	44.91
Jind	20374	11514	43.49
Karnal	28715	17474	39.15
Kurukshetra	22936	16398	28.51
Mohindergharh	22246	17859	19.72
Rohtak	34951	23593	32.50
Sirsa	14353	8130	43.36
Sonepat	20797	14174	31.85
Haryana	283346	190401	32.80