



महाराष्ट्र शासन राजपत्र

असाधारण भाग चार-ब

वर्ष ६, अंक ७० (६)]

शनिवार, सप्टेंबर ६, २०१४/भाद्र १५, शके १९३६

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असाधारण क्रमांक २०१

प्राधिकृत प्रकाशन

महाराष्ट्र शासनाने महाराष्ट्र अधिनियमांन्वये तयार केलेले
(भाग एक, एक-अ आणि एक-ल यांमध्ये प्रसिद्ध केलेले नियम व आदेश यांब्यतिरिक्त) नियम व आदेश

HOUSING DEPARTMENT

Madam Cama Marg, Hutatma Rajguru Chowk, Mantralaya, Mumbai 400 032,
Dated 6th September, 2014.

NOTIFICATION

MAHARASHTRA HOUSING (REGULATION AND DEVELOPMENT) ACT, 2012.

No. MHA. 10.14/ C.R. 21/ R & R-2.—The following draft of rules which the Government of Maharashtra proposes to make in exercise of powers conferred by sub-sections (1) and (2) of section 51 of the Maharashtra Housing (Regulation and Development) Act, 2012 (Mah. II of 2014), and of all other powers enabling it in that behalf, is hereby published as required by sub-section (1) of section 51 of the said Act, for information of all the persons likely to be affected thereby; and notice is hereby given that the said draft rules will be taken into consideration by the Government of Maharashtra on or after the 10th October 2014.

2. Any objections or suggestions, which may be received by the Principal Secretary, Housing Department, 4th floor, New Mantralaya, G. T. Hospital Campus, Lokmanya Tilak Road, Mumbai 400 001, from any person with respect to the said draft on or before the aforesaid date, will be considered by the Government.

DRAFT RULES

No. MHA. 10.14/ C. R. 21/ R & R-2.— In exercise of powers conferred by sub-sections (1) and (2) of section 51 and sub-section (2) of section 41 of the Maharashtra Housing (Regulation and Development) Act, 2012 (Mah. II of 2014), and of all other powers enabling it in that behalf, the Government of Maharashtra, after considering the objections and suggestions, pursuant to the Government Notification, Housing Department, No. ***, dated the *** of 2014, published in the *Maharashtra Government Gazette*, Extraordinary, Part IV-B, dated the *** of *** 2014, is hereby pleased to make the rules as follows, namely :—

CHAPTER I

PRELIMINARY

1. *Short Title.*—These rules may be called the Maharashtra Housing (Rule and Development) (Appellate Tribunal) Rules, 2014.

2. *Definitions.*—(1) In these Rules, unless the context otherwise requires,—

(a) “Act” means the Maharashtra Housing (Rule and Development) Act, 2012 (Mah. II of 2014);

(b) “Appeal” means an Appeal made under the Act to the Housing Regulatory Tribunal;

(c) “Deputy Registrar” means the Deputy Registrar of the Tribunal appointed under sub-section (1) of section 39 of the Act, and includes any person who is for the time being discharging the functions of a Deputy Registrar;

(d) “Form” means a form appended to these Rules;

(e) “Lawyer” means an advocate, Barrister-at-Law or Solicitor or any other person entitled to appear and plead in any Court of Law in the State of Maharashtra;

(f) “Member” means a Member of the Tribunal and includes the Chairperson;

(g) “Registrar” means the Registrar of the Tribunal appointed under sub-section (1) of section 39 of the Act and includes any other officer of the Tribunal who is for the time being discharging the functions of the Registrar ;

(h) “Tribunal” means the Maharashtra Housing Appellate Tribunal, established under section 36 of the Act and includes the benches, if any thereof.

(2) Words and expressions used but not defined herein above shall have their respective meanings, as assigned to them in the Act.

CHAPTER II

OFFICES OF TRIBUNAL, SITTING OF MEMBERS AND DISTRIBUTION OF WORK

3. *Office of the Tribunal.*—The office of the Tribunal shall be in Mumbai.

4. *Functions of the Chairperson and the members of the Tribunal.*—(1) It shall be the duty of the Chairperson and the member to supervise the enforcement of these Rules by the staff of the Tribunal, particularly in the matter of, scrutiny and registration of appeal and issuance of notices of such appeal.

(2) Appeal under the Act shall be filed, heard, decided or disposed of by the Tribunal :

Provided that, when the Chairperson is unable to attend the work, the senior most member may hear the cases fixed before the Tribunal on behalf of the Chairperson with the prior consent of the Chairperson :

Provided further that, where it is not practicable to obtain such previous approval, the member may report the matter to the Chairperson after the disposal of cases without the least practicable delay.

CHAPTER III

PRESENTATION, REGISTRATION AND ADMISSION OF APPEAL

5. *Presentations of Appeal.*—(1) Subject to the provisions of these Rules, all appeals made to the Tribunal shall be presented in person by the appellant or applicant, as the case may be, or by his duly appointed agent or lawyer to the Registrar or sent to him by Registered post. Where appeals are sent by post, they shall not be accepted unless due postage has been prepaid.

(2) Every such appeal shall,—

(a) be printed or type-written or written in ink in a legible hand;

(b) specify the name, age, occupation and address of the appellant or applicant and of the respondent or opponent as the case may be;

(c) specify the provisions of the law under which it is filed;

(d) clearly state the grounds of appeal or application;

- (e) state the relief which the appellant or applicant claims;
- (f) if filed after the expiry of the period of limitation, make separate application for condonation of delay and state reasons for the said delay; and
- (g) contain a statement that no appeal or revision application in respect of the same matter has previously been filed.

(3) Every appeal presented under sub-rule (7) shall be accompanied by-

(a) the decision or order (either in original or a certified copy thereof) in respect of which such appeal is made;

(b) if the decision or order referred to in clause (a) is itself made in appeal against any decision or order, then also such latter decision or order either in original or a certified copy thereof; and

(c) as many copies thereof as there are respondents or opponents;

(d) an address memo;

(e) an application or appeal and its accompaniments shall be paginated;

(f) an index of enclosures with the appeal or application;

(g) fees of rupees five thousand, which shall be paid through NEFT or RTGS System at the time of filling the online application or through a crossed cheque with the appeal memo at the time of its submission at the office of the Housing Appellate Tribunal.

6. *Paper-Book.*—Every appellant or applicant shall furnish alongwith the memorandum of appeal paper-book in triplicate consisting of a copy of the memorandum of appeal or application, as the case may be, and a copy of each of the documents referred to or relied on by the appellant or the applicant.

7. *Registration of appeal and application.*—(1) On receipt of a memorandum of appeal or application, the Registrar shall endorse on it the date of its receipt by him and acknowledge its receipt.

(2) Within three working days, from the date of receipt of the memorandum of appeal by the Registrar, the Registrar shall examine the memorandum of appeal and shall satisfy himself,—

(a) that the person presenting it has authority to do so; and

(b) that it conforms to the provisions of the Act and these Rules.

(3) If it appears to the Registrar that the memorandum of appeal satisfies the conditions specified in above sub-rule (2), he shall cause it to be registered in the appropriate register maintained under rule 8.

(4) Where the Registrar is of the opinion that the memorandum of appeal does not conform to any of the conditions specified in sub-rule (2), he shall cause a notice to be published on the notice board of the office or sub-office, as the case may be, pointing out the defects or office objections:

Provided that, in case the appellant or applicant furnishes self-addressed, duly stamped envelope for intimating him the office objections or defects, the Registrar shall intimate the office objections or defects by registered post acknowledgement due in addition to the publication on the notice board.

(5) The applicant or the appellant or his agent or lawyer is to remove office objections or defects within one month from date of publication on notice board or the date of posting of the intimation, whichever is later.

(6) In case the applicant or the appellant fails to remove office objections or defects within time specified in sub-rule (5), the Registrar shall cause the matter to be placed before Chairperson or Member for necessary orders including rejection of appeal or application.

(7) The applicant or appellant within 60 days from the date of rejection of the appeal or application, may apply for setting aside the order of rejection and after hearing other side, the Tribunal may, if satisfied with just and proper reason, recall the order of rejection and permit the applicant or appellant to remove defects or comply with office objections by a conditional order.

8. *Maintenance of registers.*—The Registrar shall maintain register for appeal in Form A.

9. *Procedure on registering appeal.*—(1) Where an appeal has been registered, the Registrar shall, as soon thereafter as possible, place it before the Tribunal for preliminary hearing of which notice shall be given to the appellant or applicant or to his duly appointed agent or lawyer.

(2) A notice under sub-rule (1) shall state that if the appellant or applicant does not appear before the Tribunal either in person or through an agent or lawyer on the date mentioned in the notice, the appeal or application, as the case may be, shall be heard and decided *ex-parte*.

(3) In case the applicant or the appellant or his agent or Lawyer is present, the Registrar may give intimation of date of fixing matter for admission and shall take acknowledgement of such person on the memorandum of appeal or application.

(4) The Tribunal may, for sufficient reasons, admit or reject the appeal or application, or it may in suitable cases, hear appeal finally at admission stage after notice thereof to all parties or their advocates:

Provided that, no appeals shall be rejected without giving reasons in writing therefor.

(5) For the purpose of making an order under sub-rule (4), the Tribunal may direct the Registrar to call for the record and proceedings relating to the appeal under consideration, or any other papers or documents, from the Collector or any authority concerned.

10. *Stay of execution of award or order.*—(1) Pending a decision of an appeal or an application for revision, the Tribunal may direct the execution of any award or order against which the appeal is made to be stayed on such conditions as may be deemed fit.

(2) An order made under sub-rule (7) may be vacated or modified by the Tribunal provided that the party in whose favour such order has been made is given an opportunity of hearing.

11. *Record to be called for.*—(1) In all cases in which the record and proceedings are not called for under sub-rule (5) of rule 9 the Registrar shall, as soon as may be, after the prescribed process fees are paid and an appeal is admitted, call for the record and proceedings relating to such appeal from the Housing Regulatory Authority or any other Competent Authority concerned.

(2) When any record and proceedings are called for by the Registrar under sub-rule (1) of this rule or under sub-rule (5) of rule 9, the Housing Regulatory Authority or the authority concerned shall send with such record and proceedings a diary in chronological order showing the date when such proceedings were commenced and the dates and pages of the principal orders passed and of important papers or maps or plans filed in such proceedings.

CHAPTER-IV

HEARING, ADJOURNMENT AND ORDER OR DECISION

12. *Persons competent to appear or act before the Tribunal.*—Unless otherwise provided in any enactment for the time being in force, the Tribunal may permit any party to appear or act by lawyer in any appeal made to it.

13. *Notice to parties to appear before Tribunal.*—After an appeal or an application is admitted, a notice shall be served on the parties not present or represented before Tribunal at the time of admission, in accordance with the provisions of rule 44 calling upon them to appear before the Tribunal on the date specified in the notice. The notice shall also state that if the party concerned does not appear before the Tribunal either in person or through an agent or lawyer on the date specified in the notice or on any subsequent date to which the hearing is adjourned, the Tribunal shall hear and decide the appeal *ex-parte*.

14. *Procedure in case of non-appearance of parties.*—(1) If on the date fixed for hearing or any other subsequent day to which the hearing is adjourned, the appellant or applicant does not appear either in person or through his agent or lawyer when the appeal is called for hearing, the Tribunal may dismiss the appeal or may decide it on merits, after hearing the respondent or his agent or lawyer, if present.

(2) If on the date fixed for hearing or on any other subsequent day to which the hearing is adjourned, the respondent or opponent, as the case may be, does not appear in person or through his agent or lawyer when the appeal is called for hearing, the Tribunal may decide the same on merits, after hearing the appellant or applicant or his agent or lawyer, if present.

15. *Restoration of appeal or application.*—If any of the parties was absent on the date of the hearing, either preliminary or final, and the appeal was heard and decided *ex-parte*, or dismissed for default, the party concerned may apply for restoration of the appeal or application, as the case may be, and if the party satisfies the Tribunal that he had no notice of the date of the hearing or that he was prevented by sufficient cause from appearing when the appeal was called for hearing, the Tribunal may set aside *ex-parte* order or order of dismissal, restore the appeal to its file, provided that where the other party had appeared in the appeal or application, such party shall be given a notice and an opportunity of being heard before the order for setting aside earlier order and restoration of the appeal is made.

16. *Period of limitation for restoration application.*—(1) An application for restoration of an appeal made under rule 15 shall be filed within thirty days from the date of the knowledge or receipt of intimation of the order passed *ex-parte* or of order of dismissal of the appeal or application, whichever is earlier, and such application shall be accompanied by,—

- (a) a certified copy of the Tribunal's order;
- (b) a copy of the impugned decision or order in respect of which the appeal is made;
- (c) if the decision or order referred to in clause (b) is itself made in appeal against any decision or order, then also a copy of such latter decision or order; and
- (d) as many copies of the restoration application as there are respondents or opponents.

(2) The Tribunal may for sufficient reasons admit an application setting aside *ex-parte* order or for restoration of appeal to file, notwithstanding that such application is made after the expiry of the period of limitation prescribed under sub-rule (1) above.

17. *Fresh evidence.*—(1) No party to an appeal or an application shall be entitled to adduce fresh evidence, whether oral or documentary, before the Tribunal. The Tribunal may accept documents tendered by a party or call for them, if it is of opinion that they are necessary for deciding the appeal or application, and exigency as contemplated by Order XLI Rule 27 of the Code of Civil Procedure, 1908, is in existence.

(2) A party desiring to produce such documents shall serve a copy thereof on the opposite party.

(3) The Tribunal may direct the Collector or any authority concerned against whose order an appeal or an application is made to make such further investigation or to take additional evidence directly or through any subordinates as it may think necessary.

(4) Where fresh evidence has been adduced under sub-rule (1) or a further investigation is made or additional evidence is taken under sub-rule (3), the parties may, if they so desire, address the Tribunal on points arising out of the fresh or additional evidence or further investigation.

18. *Adjournment.*—(1) The Tribunal, on application giving the grounds for adjournments, may, for sufficient reasons, adjourn at any stage the hearing of any appeal on such terms as it thinks fit:

Provided that, the hearing may also, for sufficient reasons, be adjourned *suo motu* by the Tribunal, on such terms as it may deem fit.

(2) In case the Tribunal comes to a conclusion that a particular party is deliberately not taking steps or has failed to take steps which has led to the unnecessary prolongation of the case, the Tribunal may award reasonable cost payable either to the other side or to the Government.

19. *Procedure in case of death of one of the appellants or applicants or of sole appellant or applicant.*—If an appellant or applicant dies while the appeal is pending and it cannot be proceeded with unless his legal representative is made a party to the appeal or application, the Tribunal shall adjourn further proceedings to enable his legal representative to appear and apply for being

made a party. If the legal representative fails to do so within ninety days from the date on which appellant or applicant dies, the appeal or the application shall abate as regards the deceased, and if he be the sole appellant or applicant, the appeal shall be dismissed. Otherwise it shall be proceeded with as regards the remaining appellants or applicants.

20. *Procedure in case of death of one of several respondents or opponents or of sole respondent or opponent.*—If a respondent or opponent dies while the appeal is pending, and it cannot be proceeded with unless his legal representative is made a party to the appeal or application, the appellant or the applicant shall apply to the Tribunal for making the legal representative of such respondent or opponent a party to the appeal within ninety days from the date on which the respondent or opponent dies. If the appellant or applicant fails to do so, the appeal shall abate as regards the deceased. If the deceased be the sole respondent or opponent, the appeal shall be dismissed. Otherwise, it shall be proceeded with as regards the remaining respondents or opponents.

21. *Appointment of guardian for minor or lunatic respondent or opponent and exemption from inspection fees for such guardian.*—Where a respondent or an opponent in any appeal filed before the Tribunal is a minor or a lunatic and there is no guardian for such minor or lunatic, the Tribunal may, before proceeding with such appeal or application, appoint any officer of the Tribunal or any other person if willing to act as guardian for such minor or lunatic for the purposes of such appeal or application. The officer or person so appointed shall be entitled to inspect, search or obtain copies of any documents in the record of such appeal without payment of fees prescribed therefor by these Rules.

22. *No abatement by reason of death after hearing.*—Notwithstanding anything contained in rule 19 and 20, there shall be no abatement by reason of the death of any party, between the conclusion of the hearing and the passing of the order of the Tribunal, but the order may, in such case, be passed notwithstanding the death, and shall have the same force and effect as if it had been made before the death took place. No legal representative need be made party in such case.

23. *Determination of legal representative.*—If a question arises in any appeal or application, whether a person is or is not the legal representative of a deceased party, such question may be determined by the Tribunal in a summary way after taking evidence, if necessary.

24. *When abatement or dismissal under rule 19 or 20 may be set aside.*—Where an appeal has abated or has been dismissed under rule 19 or 20, the appellant or applicant or a person claiming to be the legal representative of a deceased appellant or applicant, as the case may be, may apply within sixty days from the date of abatement or dismissal of the appeal or application, to have the abatement or dismissal set aside, and if it is proved to the satisfaction of the Tribunal that he was prevented by sufficient cause from applying within time, the abatement or dismissal shall be set aside by the Tribunal and the appeal proceeded with:

Provided that, an application under this rule may be admitted after the aforesaid period of sixty days from the date of abatement or dismissal, where the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period.

25. *Pronouncement of decision.*—(1) When the hearing of an appeal is complete, the Tribunal may pronounce its decision forthwith or may fix a date for the same. The Tribunal may also after pronouncing its decision, fix a date for giving reasons therefor. On the date so fixed, the decision signed by the members of the bench which heard the appeal may be pronounced by any member of the said bench.

(2) Every decision of the Tribunal shall be in writing and pronounced in open Court.

26. *Signing of decisions.*—(1) Where the decision is unanimous, it shall be signed by all the members.

(2) Where the decision is not unanimous, it shall be signed by the members whose decision is to prevail under rule 27. The dissenting member or members shall also write his or their decision and record his or their opinion on the point or points on which he dissents or they dissent and shall sign the decision.

27. *Procedure when members differ.*—Where the members differ, the Chairperson may take a decision and his decision or opinion shall prevail. However, in case Chairperson is of the opinion that the application or appeal involves substantial question of law of general importance, he may take opinion of all the members and in such case the decision of majority shall prevail.

28. *Certain matters to be specified in decision.*—The Tribunal shall state at the end of its decision whether the appeal is dismissed or allowed wholly or in part and mention the relief, if any, granted to the applicant or appellant and also award the costs, if any.

29. *Compensatory costs in case of false or frivolous plea or defence or for protracting case.*—In any appeal or application, in case the Tribunal forms opinion that appeal discloses making out of a false or frivolous plea or defence, to the knowledge of party taking such plea or defence or action / inaction of a party has led to delay in disposal of the case, the Tribunal, while deciding appeal against such person, for reasons to be recorded, award compensatory costs, not exceeding fifty thousand rupees, to other side contesting the matter or to the Government.

30. *Hearing of review applications.*—Where a single member or the members of a bench or one of such members, who decided the case or made the order, a review of which is applied for, continues or continue to be a member or members of the Tribunal at the time when the application for such review is to be heard, such member or a bench consisting of such member or members, as the case may be, shall hear the application and no other member or bench shall hear the same.

31. *Intimation of decisions and return of record and proceeding of lower authorities.*—(1) As soon as may be after a decision is pronounced by the Tribunal, the Registrar shall arrange to give intimation thereof to the parties and also to the authorities against whose orders or decisions the appeal is filed.

(2) Record and proceeding received from authorities be returned to them alongwith copy of final decision one month after decision, unless review application is filed before dispatch of record and proceedings.

CHAPTER V

RECORDS, INSPECTION, SEARCH AND COPIES

32. *Records.*—The records of the Tribunal shall be kept in the custody of the Registrar.

33. *Application for inspection.*—Any person who has a right to inspect a record under the provisions of the Indian Evidence Act, 1872 (I of 1872), or under any other law for the time being in force, or to obtain copies of any records of the Tribunal or extracts there from, shall make an application in writing to the Registrar, for inspection or as the case may be, for certified copies of any such records or extracts therefrom stating therein the purpose for which the said request is made. Such application shall be accompanied by the copying fee or inspection fee, as the case may be, as provided for in rules 36 and 37.

34. *Grant of application for inspection.*—If the Registrar is satisfied that the application is in order and is accompanied by the necessary fee, he shall grant the application.

35. *Procedure after grant of application for inspection.*—(1) When any application under rule 33 is received, the Registrar shall endorse on it the date on which it is received by him and pass an order thereon. If the application is granted, he shall also endorse on it,—

- (a) the date on which inspection of the records was allowed or copies thereof were given ;
- (b) the amount of the fees received from the applicant, and
- (c) the name of the person in whose presence the inspection was allowed.

(2) No inspection of any records of the Tribunal shall be allowed except in the presence of an official of the Tribunal appointed in that behalf by the Registrar.

36. *Fees for inspection.*—The fees for inspection of record shall be rupees 50 per case for every two hours or part thereof during which such inspection was allowed and the fee shall be recovered in the form of court fee stamps.

37. *Fees for certified copies and comparing.*—(1) Subject to the provisions of rule 33, the fees for certified copies and for comparing a document, a copy of which is filed, shall be as follows :—

(a) Copying fees— For parties to the appeal or their legal representatives, rupees 20 (twenty) per page or fraction thereof and double this rate if the original is in a tabular form.

(b) Comparing fees - Half the copying fee chargeable under clause (a).

(c) In case of application for urgent copies on same day, the copying fees would be double the copying fees mentioned in clause (a).

(d) For persons who are not covered by clause (a), fees shall be double the fees mentioned in clauses (a), (b) and (c).

(2) No certified copy shall be sent by post unless the appellant, or applicant or respondent or opponent deposits copying fees and supplies self-addressed duly stamped envelope for sending copy.

38. *Procedure for supply of certified copies.*—(1) As soon as an application for certified copy or copies are presented, the concerned Awal Karkun or Clerk shall register the details of the copying application in the copying Register maintained in Form-B and shall give the serial number at which said copying application is registered to the applicant and also inform him the date on which copy/copies shall be available and the applicant should come to collect it/them. However, in case of ordinary copy such date should not be beyond two weeks and in case of applications for urgent copy, copy be supplied, if possible, on same day and in any case within two working days.

(2) On every application for certified copies, a rubber stamp be put indicating the date on which the applicant shall come to collect the copy and it shall also state that in case applicant does not collect the copies within two weeks after the date given to him for collection of copy, the copying application shall be disposed of and he shall have to make fresh application if he wants copy thereafter. Signature of the applicant with date be taken below the stamp.

(3) In case it is not possible to supply copies within time mentioned in sub-rule (1) above, concerned clerk shall put up a note giving reasons before Member of the Tribunal at Benches and before the Registrar at Principal Seat at Mumbai, who may grant relaxation in appropriate case.

39. *Particulars to be supplied by applicant.*— No Application for inspection or for a copy of any records of the Tribunal or extracts therefrom be entertained unless the applicant distinctly describes the case number, date and nature of the document of which inspection or copy is required.

40. *Fees to be paid in advance.*—The fees prescribed for furnishing a copy of a document shall be calculated in advance and shall also be paid in cash or sent by a money order in advance:

Provided that, if the fees cannot be calculated in advance, a sum of not less than rupees hundred shall be deposited by the applicant as an advance deposit.

41. *Special Government Pleaders and Government Offices exempted from payment of fees under rules 36 and 38.*—The Special Government Pleaders attached to the Tribunal and Government Offices shall be entitled to inspect, search or obtain copies of documents from the records relating to the cases in which they act or appear, without payment of fees prescribed by rules 36 and 38.

42. *Free Copies of decisions.*—A certified copy of the final decision passed by the Tribunal in any appeal shall be supplied free of cost by the Registrar as soon as practicable to the Secretary to the Government of Maharashtra, Housing Department, whenever such decision or order is likely to affect public interest or Government interest.

43. *Documents to be returned to parties.*—The certified copies of documents and original documents filed with the appeal shall ordinarily be returned to the party concerned after final decision on the party supplying Photostat copies of such documents.

CHAPTER-VI

SERVICE OF NOTICE AND PROCESS FEES

44. *Services of notices.*—(1) The notices issued to any party by or under the authority of the Tribunal under these rules shall be served by any of the following methods, namely,—

(i) by personal delivery of a copy of the notice to the addressee or his agent or lawyer,

or

(ii) by registered post.

(2) Where the Tribunal is satisfied that there is reason to believe that notice cannot be served in the manner provided in sub-rule (1), the Tribunal shall order the notice to be served,—

(a) by the applicant or appellant on the person interested;

(b) through the Tahsildar;

(c) by affixing a copy thereof on the notice board in the office, or as the case may be, another copy at the addressee is known to have last resided or carried on business or personally worked for gain, and third copy at some conspicuous part of the house, if any, in which such addressee is known to have last resided or carried on business or personally worked for gain; or

(d) by publishing the notice in a newspaper which has circulation in the locality.

(3) If the Tribunal permits the appellant or applicant to serve the notice upon the interested persons, the notice shall be deemed to have been served if the appellant or applicant produces satisfactory documentary evidence of such service duly attested by the village officer of the village in which the person on whom the notice is served ordinarily resides or is available.

(4) (a) If the Tribunal directs that a notice shall be sent for service to the Tahsildar of a Tahsil within whose jurisdiction the party to be served resides, the Tahsildar shall have the notice or a copy thereof served through the village officer with the least possible delay.

(b) Where the officer serving such notice delivers or tenders the notice or a copy thereof to the addressee or his agent or lawyer, he shall require the signature of the person to whom the said notice or copy is so delivered or tendered to be made thereon as acknowledgement of service, and he shall return such notice or copy to the Tahsildar with an endorsement stating the time when, and the manner in which, such notice or copy was served and the name and address of the person, if any, identifying the person served and witnessing the delivery or tender of the notice. The Tahsildar shall thereupon, with the least possible delay, return the said notice or copy alongwith the said endorsement of the officer concerned to the Registrar.

(5) When the notice is served by affixing copies thereof in accordance with sub-rule (2) (c), the officer serving it shall return the original to the Tahsildar or to the Registrar, with a report endorsed thereon or annexed thereto, stating that he so affixed a copy, the circumstances under which he did so and the name and address of the person by whom the addressee's place of residence or business, present or past, was identified and in whose presence the copy was affixed. In case the notice, alongwith such report, is received by the Tahsildar, such Officer shall, with the least possible delay, return such notice and report to the Registrar.

(6) When a notice is served under this rule,—

(a) the signature purporting to be that of the person served;

(b) any endorsement purporting to have been made by a postal officer such as the refusal to accept or the person concerned not being found or known; or

(c) any endorsement purporting to have been made by a revenue officer regarding service or substituted service, shall, until the contrary is proved, be deemed to be a true signature, or as the case may be, a correct statement of the fact or facts stated in such endorsement.

(7) If it appears to the Registrar that a notice has been served in accordance with this rule, he shall make an endorsement to that effect. If the Tribunal is satisfied, either from the record or by taking such evidence as it deems necessary that the notice has not been properly served, it may direct the issue of a fresh notice.

(8) The provisions of this rule shall apply to the service of any other process issued by or under the authority of the Tribunal.

45. *Process Fee.*—(1) When an appeal is admitted under rule 7 or orders are passed for issuing notices to parties under sub-rule (1) of rule 9, the appellant or applicant, as the case may be, shall pay a process fee as provided in sub-rule (2) in the form of court fee stamps to the Registrar within ten days from the date of admission or order, in respect of each process to be issued.

(2) The process fee payable under sub-rule (1) shall be as follows, namely :—

(a) Where the respondent or opponent is one or where the respondents or opponents are more than one but they are represented by one agent or lawyer, rupees 25 (twenty five).

(b) Where the respondents or opponents are more than one, unless they are represented by same agent or lawyer rupees 25 (twenty five) for every respondent or opponent.

(3) If the Tribunal finds that the notice is not served on account of the incorrect address given by the applicant or appellant or for any other reason whatsoever, an additional process fee not exceeding rupees 25 per respondent or opponent shall be charged and the appellant or applicant, as the case may be, shall pay such fee in the form of court fee stamps to the Registrar within ten days of the date of order of reissuance of process.

(4) If the appellant or the applicant fails to pay the process fee within the prescribed period, the appeal or the application, as the case may be, shall be liable to be dismissed:

Provided that, where the applicant or appellant is the Government, the provisions of this rule shall not apply.

CHAPTER VII

RECORD-CLASSIFICATION, WEEDING AND DESTRUCTION AND PRESERVATION OF RECORD

46. *Completion of entries.*—(1) After a case is completed i.e. all the matters therein are disposed of, orders for filing the papers may be obtained by the respective branches from the Registrar or Deputy Registrar. In deciding whether a case is disposed of best guidance shall be the answers to the following two questions, namely :—

(a) Is any further action necessary on the paper under consideration?

(b) Whether a reply conveying all the points is sent to the party who initiated the case?

(2) After orders are obtained, entries may be completed in the individual register, to be maintained by the Section Clerk.

(3) The papers may then be passed on to the Record Keeper after proper classification according to A, B, C, D lists.

47. *Filing.*—Filing of the record shall be done in the following manner, namely :—

(a) the Record Keeper shall verify whether orders for filing are given;

(b) the entries shall be completed in the inward Register;

(c) before filling the papers, all flags, slips and pins shall be removed from their places;

(d) if any papers are torn or have come out of the file, it shall be pasted properly and filed;

(e) blank papers shall be removed from the file;

(f) all cases should be filed chronologically.

48. *Classification of Records.*—(a) All recorded files should be classified for the purpose of preservation having regard to their importance and the period for which they are likely to be required for reference or disposal. Files required must be preserved and unwanted files or papers in the files should be destroyed to save space.

(b) Care should be taken to see that files containing important papers, which are likely to be (required in future are not destroyed).

(c) The records of the Maharashtra Housing Appellate Tribunal shall be classified in the following categories, namely :—

‘A’ - to be preserved permanently.

‘B’ - to be preserved for 30 years.

‘C-2’ - to be preserved for 20 years.

‘C-1’ - to be preserved for 10 years.

‘C’ - to be preserved for 5 years.

‘D’ - to be preserved until their purpose is served and in any case not later than the end of the year following that in which they were filed.

(d) The Judicial Section shall follow the procedure mentioned for preserving records,-

(i) all registers maintained under these Rules-A Class ;

(ii) as soon as a case is finally decided by the Tribunal and copies of the decision are sent to the persons concerned, it should be treated as a “Closed” case and should be preserved intact for one year, from the date of communication of the decision;

(iii) After a period of one year such closed cases should be sorted and the papers contained therein should be classified as under :—

- | | |
|--|-------------|
| (1) Appeal Memo / Application filed before the Tribunal | : A Class |
| (2) Decision of the Tribunal | : A Class |
| (3) One copy of paper-book | : C-1 Class |
| (4) If a Writ Petition is filed before the High Court against the decision of the Housing Appellate Tribunal or the matter had gone to the Supreme Court,— | |
| (a) Writs received from High Court and Supreme Court. | : C-2 Class |
| (b) High Court decision | : A Class |
| (c) Supreme Court decision | : A Class |
| (5) Office notes, notices, miscellaneous correspondence, application for certified copies. | : C Class |

49. *List of files.*—(i) All the files of the branches shall be maintained by the clerks concerned.

(ii) They shall prepare two lists of the files one of which should be given to the Assistant of the branch concerned.

50. *Files for Record section.*—(i) Files which would be prepared by a branch for its day-to-day work may be retained in the branch itself.

(ii) All other files may be sent to the Record Section after obtaining orders from the Registrar or Deputy Registrar, as the case may be, with two copies of a list showing in duplicate, a list of all files, obtain the signature of the Record-Keeper on the first copy in token of receipt and hand over the duplicate copy duly signed by the Assistant to the Record-keeper, along with the files mentioned in the list its Serial Number and the subject matter of the file.

(iii) The Record Section shall receive the files and sign the list and return one copy to the branch concerned. One copy may be retained in the concerned Section.

(iv) When any file is required by a branch a request shall be put up in writing through the Assistant mentioning the number and the subject-matter of the file required.

(v) The branches shall maintain records of all files sent to the record section in a separate file.

51. *Function of Record Section.*—(1) The main function of the record section is to carry out the work of preservation and destruction of record. The general nature of the work which is required to be carried out by the members of the Record Section is given below :—

(a) whenever the closed files are received from the different branches of the office, the same should be sorted out according to the year and subjects.

(b) the unwanted files should be listed and orders regarding their destruction should be obtained from the Registrar or Deputy Registrar, as the case may be, before destruction.

(c) the listed files should be arranged in convenient bundles. The files in a bundle should be in chronological order and the height of each bundle should be more than nine inches.

(d) on each such bundle a slip showing the particulars regarding the serial numbers of the files, bundle number, year and branch and a copy of the list of the files should be kept and then it should be neatly tied.

(e) the bundles should be arranged chronologically according to class of preservation (viz. A, B, C) and year and kept on the racks according to branches. The bundles should be kept in horizontal position and not in vertical position.

(f) to get a recorded file from the record section, a requisition slip should be handed over by the section to the Record-Keeper, who shall give the file and keep the requisition slip with him after obtaining thereon the signature of the person to whom the file is given. All such requisition slips should be arranged number-wise in a file, which shall make it easy to locate the slips, and to ascertain whether and if so, to whom the file is given.

(g) when a file is to be returned to the record section, the section clerks should hand it over to the Record-Keeper and get the relevant requisition slip cancelled by the latter in his presence.

(h) the Government Resolutions, Circulars, or Circular Memorandum, etc. received for Government Departments, should be arranged according to the Department and year.

(i) the Government Gazettes received from the Director, Government Printing and Stationery, should be arranged according to their parts and pages. Six monthly files of each part of the Gazettes should be prepared.

(j) duties of Daftari,-

(i) To receive files for the Branches of the office.

(ii) To sort them year-wise and series-wise and place them at proper place.

(iii) To receive new files from the Branches and place them at proper place.

(iv) To take care that the files are kept free from rats, paper fish and white ants,

(v) To help the record clerk in general.

(2) In the record room, cleanliness is very essential and accordingly the racks and the floor should be kept clean daily. In addition to this, the files should be dusted with pest control every three months to save the files from white ants and other insects.

(3) The tabulation of various Government Resolutions, Circulars, etc. received by the Departments should be done by the Record Section weekly, for submission to the Registrar or Deputy Registrar.

CHAPTER-VIII

MISCELLANEOUS

52. *Agent and lawyer required to have proper authority to present appeal etc.*—No agent or lawyer shall present a memorandum of appeal or appear or act for any party in any appeal made to the Tribunal unless he has been appointed for the purpose by such party by a document in writing signed by such party or by his recognized agent or by some person duly authorized by or under a power of attorney to make such appointment. Every such document shall bear the necessary court fee stamp and contain full address and Email ID (if any) of the agent or lawyer and shall be produced before the Tribunal.

53. *Functions of Registrar.*—(1) The Registrar shall perform such functions as are assigned to him by these Rules or by the Chairperson.

(2) In absence of Registrar, his functions shall be performed by the Deputy Registrar.

54. *Functions of Deputy Registrar and members of office staff.*—(1) The Deputy Registrar and the officers or members of the office staff shall perform such functions as are assigned to them by the Chairperson, or with the permission of the Chairperson, by the Registrar.

(2) At sub-offices, Deputy Registrar and the officers and members of staff shall perform such functions as are assigned to them by the Chairperson or senior or sole member of the Tribunal stationed at such sub-offices.

55. *Seal of Tribunal.*—(1) The Tribunal shall have an official seal of its own, which shall be kept in the custody of the Registrar. In sub-offices official seal shall be kept in custody of Deputy Registrar.

(2) Every writ, summons, notice or other process or a certified copy of every order or decision or other document shall be signed by the Registrar with the day, month and year of signing and shall be sealed with the official seal of the Tribunal.

56. *Performance of duties during Chairperson's absence from headquarters.*—The Chairperson may empower any of the members to perform any of the duties to be performed by him under these Rules during his absence from the headquarters.

57. *Performance of duties during designated member's absence.*—The Chairperson may authorize a designated member to empower any other member directed to work at a place outside Mumbai to perform any of the duties entrusted to him by the Chairperson during his absence from such place.

58. *Address memos to be provided by parties.*—(1) Every appellant, applicant and respondent and opponent on his or her appearance shall furnish his or her address memo giving his or her current full address including E-Mail I.D. and Fax number, if any.

(2) If during the pendency of appeal or application, there is any change in address, such party, as soon as possible, shall furnish changed address.

(3) Intimations, notices addressed on the addresses given in the address memo or changed address shall be deemed to be duly served if duly sent.

FORM ' A '

(See rule 9)

The Register of Appeals of the Housing Appellate Tribunal, Mumbai.

Register of Appeal Serial No.	Date of filing the appeal	Name and address of appellant	Name and Address of respondent	No. and date of the order under appeal, and the authority passing the same
(1)	(2)	(3)	(4)	(5)

Form ' B '

(See rule 38)

Copying Register for Supply of Certified Copies.

Register of Copies Serial No. (1)	Date of application (2)	Name and address of Applicant (3)	Date of Notice given to the applicant for receiving the certified copies (4)	Date of issue and No. of certified copies (5)

By order and in the name of the Governor of Maharashtra,

DEBASHISH CHAKRABARTY,
Principal Secretary to Government.