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GOVERNMENT OF MIZORAM
URBAN DEVELOPMENT & POVERTY ALLEVIATION DEPARTMENT

NOTIFICATION

No. B. 13018/2/2008-UD&PA(SEC), the 13th September, 2011. In exercise of the powers conferred by Clause (2) of Article 243 K and Article 243 ZA of the Constitution of India read with Sub-Section (1) of Section 345 of the Mizoram Municipalities Act, 2007 and the Rules made thereunder, the Governor of Mizoram is pleased to make the following Rules relating to the composition, appointment of the Election Commissioner and staff of the Commission, their tenure of office and conditions of service as follows, namely:

The Mizoram State Election Commission (Conditions of Service) Rules, 2011

PART – I INTRODUCTION

Short title and
Commencement-

1. (1) These rules may be called the Mizoram State Election Commission (Conditions of Service) Rules, 2011.
- (2) They shall come into force from the date of their publication in the Official Gazette.

Definitions-

2. In these rules, unless the context otherwise requires,
 - (i) 'Commission' means the Mizoram State Election Commission;
 - (ii) 'Constitution' means the Constitution of India; (iii) 'Election Commissioner' means the State Election Commissioner of Mizoram;
 - (iv) 'Governor' means the Governor of Mizoram; and

Constitution of State
Election Commission-

v) 'Secretary' means Secretary, State Election Commission in the State Mizoram.

3. (1) The Governor shall constitute a State Election Commission for superintendence, direction and control of the preparation, revision and correction of electoral rolls and for conduct of all elections to the various local bodies in the State.
- (2) The Governor shall, on the recommendation of the State Government, appoint a State Election Commissioner by publication in the Official Gazette;

Provided that a person shall not be qualified for appointment as a State Election Commissioner, unless he holds or has held office in the rank of Secretary to the Government of Mizoram having knowledge and experience in conducting elections.

- (3) The State Election Commissioner may, by writing under his signature addressed to the Governor, resign his office.
- (4) Prohibition as to future employment – On ceasing to hold office, the State Election Commissioner shall be eligible for appointment as Chief Election Commissioner or Election Commissioner under Article 324 of the Constitution of India or as State Election Commissioner in any other State under Article 243K of the Constitution of India, but not for any other employment either under the Government of India or under the State Government.
- (5) A person who has held office of the State Election Commissioner shall be ineligible for reappointment to that office if he has been removed from that office before the expiry of tenure.

PART – II

COMPOSITION, PAY AND TENURE

Composition-

4. The Commission shall consist of a State Election Commissioner to be appointed by the Governor under Article 243K and Article 243 ZA of the Constitution of India, read with section 345 of the Mizoram Municipalities Act, 2007.

Tenure-

5. The State Election Commissioner shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of 65 years, whichever is earlier;

Provided that the State Election Commissioner shall not be removed from his office except in the manner and on the like grounds as a Judge of a High Court and the conditions of service of the State Election Commissioner shall not be varied to his disadvantage after his appointment.

Provided further that where no appointment is made on the expiry of the State Election Commissioner, the incumbent would continue in office for a period of upto six months thereafter or till the new incumbent is appointed whichever is earlier.

Salaries and allowances -

6. (1) There shall be paid to the State Election Commissioner a fixed salary of 80,000 (pre-revised ' 26,000/-) (Rupees Eighty thousand) per month and such other allowances, at such rates as admissible to Chairman Mizoram Public Service Commission from time to time.

Provided that the State Election Commissioner who, on the date of his appointment as such, was in the service of the Government of India or of any State, a local body, or any other body wholly or substantially owned or controlled by the Government shall be deemed to have retired from such service from the date of appointment as State Election Commissioner.

(2) If the State Election Commissioner at the time of his appointment is in receipt of a pension, has received or has become entitled to receive any pension and other retirement benefits in respect of any previous service under the Government of India or a State Government, a local body, or any other body wholly or substantially owned or controlled by the Government, his pay in respect of the service in the Commission shall be reduced by the amount of that pension during the service under the Commission.

Leave admissible-

7. (1) The State Election Commissioner may be granted Earned Leave, Half Pay Leave, Commuted Leave on Medical ground and Extraordinary Leave.(2) The admissibility of leave as specified in sub-rule (1) above shall be regulated as per the provisions of the Central Civil Service (Leave) Rules, 1972 as applicable to the Government of Mizoram.

Power of Governor to grant or refuse leave-

8. The power to grant or refuse leave to the State Election Commissioner and revoke or curtail the leave granted to him shall vest in the Governor.

Leave credit of SEC to lapse-

9. Subject to the provisions of rule 7, leave at the credit of the State Election Commissioner shall lapse on the date on which he shall vacate Office under rule 5.

PART – III

PENSION

Pension-

10. (1) The State Election Commissioner, who, at the date of his appointment, was in the service of the Government of India or of a State, a local body, or any other body wholly or substantially owned or controlled by the Government his services as State Election Commissioner shall not count as qualifying services for the purpose of re-calculating his pension at the expiry of his office as State Election Commissioner.

(2) The State Election Commissioner, who at the date of his appointment was in receipt of Pension from the Government of India or a State Government, a local body, or any other body wholly or substantially owned or controlled by the Government shall draw pay prescribed in Part-II of these Rules and on the expiry of his tenure in the Commission, shall be eligible for pension for the service in the Commission in addition to pension received by him in respect of any previous service under the Government of India or a State Government from time to time.

Provided that no such pension shall be payable during any period for which such State Election Commissioner may, after his retirement as such, hold public office, save as provided under sub-rule (4) of rule 3 of these Rules.

Provided further that no such pension shall be payable if the State Election Commissioner is removed from his office before completion of his tenure in like manner and on the like grounds as a Judge of the High Court as provided under article 243K of the Constitution of India.

(3) The pension already drawn by the State Election Commissioner and the Pension under this Rules together shall not exceed the maximum pension fixed by the Govt. of India or the Govt. of Mizoram as the case may be.

- (4) The Chief Controller of Accounts, Accounts and Treasuries, Govt. of Mizoram shall be deemed to have been authorized to settle payment of pensions and other retirement benefits in respect of the State Election Commissioner.

PART – IV

GENERAL PROVIDENT FUND

- Provident Fund-
11. The State Election Commissioner shall be eligible to contribute to General Provident Fund under normal rules at his request, provided that the State Election Commissioner is expected to serve in the Commission for a period exceeding one year.

PART – V

TRAVELLING ALLOWANCE AND OTHER FACILITIES

- Rates of Travelling Allowances-
12. (1) The State Election Commissioner who, at the date of his appointment, was in the service of the Government of India or of a State, a local body, or any other body wholly or substantially owned or controlled by the Government shall for his journey to join his appointment as such, draw traveling allowances as on transfer as per Rules applicable to him in his previous service.
- Motor-Car-
- (2) The State Election Commissioner who, at the date of his first appointment, is not in the service of the Government of India or any State Government, a local body or any other body wholly or substantially owned or controlled by the Government shall be entitled to traveling allowances as on transfer as admissible to officer of the Government of Mizoram drawing the same pay from the station of his normal stay.
- (3) The State Election Commissioner, while traveling on duty or on tour, shall be entitled to traveling and daily allowances at the rate admissible to officer of the Government of Mizoram drawing salary in the same scale of pay.
- (4) The State Election Commissioner on vacating his office, shall be entitled to traveling allowances as on transfer as admissible to officers of the Government of Mizoram drawing salaries in the same scale of pay from the station of his duty to the station of his normal stay/home town.

Provided that no such traveling allowance shall be admissible to the State Election Commissioner if he has been removed from office.

- (5) The State Election Commissioner who has completed one year of service in the Commission shall be eligible for Leave Travel Concession for himself and his family to home town or anywhere in India as per Leave Travel Concession orders on the subject as applicable to the Chairman, Mizoram Public Service Commission and other officers drawing same pay under the Government of Mizoram.

EXPLANATION :

The salary of the State Election Commissioner as specified in rule 6 shall be treated as pay for the purpose of entitlement of Travelling Allowance and Daily Allowance of the State Election Commissioner under sub-rule, (2), (3), and (4) of these rules.

Motor- Car-

13. The State Election Commissioner shall be entitled to a free furnished accommodation of the type commensurate with his pay and status.
14. An advance for the purchase of a Motor Car to a State Election Commissioner will be regulated by the appropriate rules for the time being in force applicable to State Government servants drawing corresponding pay.

PART – VI

STAFF OF THE COMMISSION AND THEIR CONDITIONS

Requirement of officers and staff-

15. The Governor shall, when so requested by the State Election Commission, make available to the State Election Commission such staff as may be necessary for the discharge of the functions conferred on the State Election Commission by clause (1) of Articles 243K and 243 ZA of the Constitution of India.

Staff of the Commission and appointing authority-

16. (1) The Staff of the Commission shall include a Secretary, Deputy Secretary, Under Secretary, Accounts Officer and such other Gazetted or Non-Gazetted staff as may be necessary.

(2) The Secretary, Deputy Secretary, Under Secretary, Accounts Officer and other Gazetted staff shall be appointed by the Commissioner in consultation with the State

Government only. They shall receive such emoluments as admissible to the Government servants of corresponding grade in the Government of Mizoram, or as may be determined by the Commission in consultation with the State Government.

- (3) The Non-Gazetted staff including Group 'D' staff shall be appointed by the Secretary with the approval of the State Election Commissioner and shall receive such emoluments as admissible to the Government servants of corresponding grade in the Government of Mizoram or as may be determined by the Commission in consultation with the State Government.

Disciplinary and
appellate authority-

17. The State Election Commissioner in case of Gazetted staff and the Secretary, in case of the Non-Gazetted staff including Group 'D' employees, shall be the authority who may impose any of the penalties prescribed in the Central Civil Service (Classification, Control and Appeal) Rules, 1965 as adapted by the Government of Mizoram and the Governor, in respect of the Gazetted staff and the State Election Commissioner in respect of the Non-Gazetted staff including the Group 'D' shall be the appellate authority.

Residuary matters-

18. In respect of any matter for which provision is not made by these rules, the conditions of service of a person serving as a State Election Commissioner of the Commission or its staff shall be governed by rules and orders for the time being applicable to such classes of Government servants under the Government of Mizoram.

Authority to settle
payment of pension-

19. The Chief Controller of Accounts, Account & Treasuries Department, Government of Mizoram shall be deemed to have been authorized to settle payment of pension and other retirement benefits in respect of officers and staff of the Mizoram State Election Commission with effect from 3rd October, 2008 i.e. date of establishment of Mizoram State Election Commission.

PART – VII

MISCELLANEOUS

- Interpretations-
20. If any doubt arises about the interpretation of any of these rules, the interpretation of the Governor shall be final.
- Power to relax-
21. Where the Governor is satisfied that the operation of these Rules causes undue hardship in any particular case, he may by order, for reasons to be recorded in writing, dispense with or relax the requirements of that rule to such extent and subject to such exceptions and conditions as he may consider necessary for dealing with the case in a just and equitable manner.

By orders, etc.

R.L. Rinawma,
Commissioner/Secretary to the Govt. of Mizoram,
Urban Development and Poverty Alleviation Department.