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NOTIFICATION

No.H.12018/136/2004-LJD, the 2nd August, 2012. The following Act is hereby published for general information.

The Mizoram Societies Registration (Amendment) Act, 2012 (Act No. 11 of 2012)

{Received the assent of the Governor of Mizoram on the 30th July, 2012}

Zahmingthanga Ralte,

Deputy Secretary to the Govt. of Mizoram.

THE MIZORAM SOCIETIES REGISTRATION (AMENDMENT ACT, 2012 AN ACT

further to amend the Mizoram Societies Registration Act, 2005 (Act No.13 of 2005) (hereinafter referred to as the Principal Act) and to provide for the matters connected therewith or incidental thereto.

It is enacted in the Sixty-third Year of the Republic of India, as follows :-

1. **Short title, extent and commencement-**

- (a) This Act may be called the Mizoram Societies Registration (Amendment) Act 2012.
- (b) It shall extend to the whole of Mizoram.
- (c) It shall come into force from the date of publication in the official Gazette.

2. **Insertion of Section 8A-**

- 1) In the principal Act, after Section 8 new section shall be added as follows:

“8A.-Suspension of Registration:-(1) When, in the opinion of the Registrar, any society to whom a certificate of registration is granted-

- (a) persistently makes default or is negligent in the performance of the duties imposed on it by or under this Act, or under any rules, regulations or byelaws of the society or under any lawful order passed by the State Government or the Registrar, as the case may be, or is un-willing malafide to perform such duties; or
- (b) commits acts which are prejudicial to the interest of the society or its members; or
- (c) is otherwise not functioning properly;

the Registrar may, by order in writing, suspend the certificate of registration of such society for a specified period not exceeding three months in the first instance.

Provided that no such order of suspension shall be issued by the Registrar, unless reasonable opportunities have been given to such society to defend itself or to explain its fault, within such time and in such manner as may be prescribed.

(2) On suspension of its certificate of Registration, the society shall surrender the original Certificate of Registration to the Registrar and the Registrar shall then keep the Certificate of Registration in his official custody till suspension of registration is withdrawn.

(3) On furnishing evidence of lawful management of the society, the suspension may be revoked if, in the opinion of the Registrar the society is qualified to continue with its registration and is likely to function in conformity to the provisions of the Act, and in that case, the Certificate of Registration shall be restored back on an application made by the society.

(4) If the certificate of registration of a society is suspended or if the suspension is withdrawn, the information will be made public through publication in Official Gazette and display of notice to this effect in local Newspapers.”

3. **Insertion of section 23A and 23B-**

In the principal Act, after section 23, new sections shall be added as follows, namely-

“23A. Cancellation of registration-

- (1) Subject to the provisions of this Act and the rules made thereunder, the Registrar may, by an order in writing, cancel the registration of any Society on any of the following grounds:-
 - (a) that the society has willfully contravened any of the provisions of this Act or the rules made thereunder;
 - (b) that the society has not been managing its affairs bonafide or has not been functioning at all for a consecutive period of three years;
 - (c) that the society has not file its annual report and other returns as per section 18 of the Act for three years continuously;
 - (d) that the society has been carrying on any unlawful activity or has allowed any unlawful activity to be carried on within any premises under its control or possession;
 - (e) that the registration or copy of the certificate has been obtained by misrepresentation or fraud;
 - (f) that its activities or proposals have been or are subversive of the very objects of the

- (g) society, or of the national integrity, or opposed to public policy;
- (g) the the society has been dissolved without any knowledge of the Registrar, or contrary to the porvisions of this Act and the rules made thereunder;
- (h) that the number of members has fallen less than seven;
- (i) that the society is unable to pay its debts or meet its liabilities;
- (j) that the society is insolvent or is about to be declared;
- (k) that the siciety has altered or changed its name or objects unilaterally and contrary to the same as registered.

after giving in such manner, as he thinks fit, previous notice in writing to the society specifying briefly the grounds of the proposed cansellation and after giving an opportunity to the society to show cause why the cancellation should not be made, and thereafter communicate the order of cancellation, as soon as it is made, to the society by registered post with acknowledgement due.

Explanation : “Public Policy” referred to in clause (f) of sub-section (1) of Section 23A is not the policy of a particular government. It connotes some matter which concerns the public good and the public interest. The principles governing public policy must be and are capable, on proper occasion, of expansion or modification. If there is no head of public policy which covers a case, then the court must in consonance with public conscience and in keeping with public good and public interest declare such practice to be opposed to public policy. Above all, in deciding any case which may not be covered by authority, courts should be guided by the Preamble to the Constitution and the principles underlying the Fundamental Rights and the Directive Principles.

- (2) An appeal against an order made under sub-section (1) may be preferred to the Secretary, Taxation Department within one month from the date of passing of such order, and in the manner as may be prescribed.

23B. Winding-up of society-

- (1) Where the registration of a society is cancelled, the Registrar may appoint a liquidator to wind up the society, if the society has not already wound up, within such period as may be prescribed.
- (2) The liquidator shall have power, subject to the control of the Registrar,:-
 - (a) to institute or defend any action or other legal proceeding on behalf of the society by the name of his office;
 - (b) to determine by what persons and in what proportions the cost of the liquidation are to be born; and
 - (c) to give such directions in regard to the collection and distribution of the assets of the registered society as may appear to him to be necessary for winding-up the affairs of the society.
- (3) An appeal against any order made under sub-section (2) may be preferred to the Secretary, Taxation Department within one month from the date of passing such order, and in the manners as may be prescribed.
- (4) An order made under this section may, on application, be enforced by any civil court having local jurisdiction in the same manner as a decree of such court”.

4. **Amendment of Section 24.-**

In the principal Act, in sub-section (1) of section 24, for the words “move the Court for dissolution of the society” appearing after the words “the Registrar to”, the words “dissolve the society” shall be substituted.

5. **Insertion of Section 24A-**

In the Principal Act, after section 24 new section shall be added as follows:

“24A. Appointment of Administrator-

- (1) (a) Where any society on account of the pendency of litigation or otherwise has not held or is unable to hold the annual general meeting for a period of three consecutive years; or
- (b) Where the term of office of the members of the governing body of a society has expired and a new governing body has not for any reason been constituted within a reasonable time as provided in the Bye-law or the Rules of such society;
- (c) Where on a report made by the Registrar, or otherwise on enquiry, the State Government considers it necessary in public interest to do so;

the State Government may, by order published in the Official Gazette, appoint an Administrator for such society for such period, not exceeding six months, as may be specified in the order, to manage the affairs of the society:

Provided that for reasons to be recorded in writing, the State Government may, by like order, extend either prospectively or retrospectively, the said period by any further periods not exceeding six months at a time, so however subject to the provisions of clause (5) in particular, the aggregate period shall not extend beyond four years.

- (2) The expenditure incurred by the State Government towards salary and allowances of the Administrator shall be recovered by the State Government from the funds of the society.
- (3) On the appointment of the Administrator under clause (1) and during the period of such appointment, the governing body of the society shall cease to exercise any powers or to perform and discharge any functions or duties conferred or imposed on it by this Act, or its memorandum of association or the rules and regulations or any other law applicable to such Society, and subject to any directions which the State Government, may from time to time issue, all such functions or duties shall be performed or discharged by the Administrator.
- (4) The Administrator shall, before the expiry of the period of his appointment, take necessary action to convene the general body meeting of the society and hold elections for the constitution of the governing body.
- (5) If the Administrator is not, for reasons beyond his control, able to convene the general body meeting or in spite of such meeting being convened, the general body fails to elect the governing body, the Administrator shall forthwith send report to the State Government, who may pass such orders as are considered necessary, either extending the period of appointment of the Administrator for a further period, or if satisfied that public interest so requires, by recommending for the dissolution of the society.
- (6) The State Government may, if it thinks fit, appoint an Advisory Council to advise and assist the administrator appointed under sub-section(1) in the exercise of the powers and in due discharge of the duties and functions conferred or imposed on him under this Act. The members of the Advisory Council shall hold office during the pleasure of the State Government.

- (7) Where an order of dissolution is passed under clause (5), the assets of the society shall vest in, and the liabilities shall devolve on the State Government”.

6. **Amendment of Section 25.-**

In the principal Act, in sub-section (6) of section 25, the words “but shall make an application to the court under section 26” appearing after the words “confirming the dissolution of the society” shall be deleted.

7. **Deletion of Section 26-**

Section 26 of the Principal Act shall stand deleted.

8. **Amendment of Section 27.-**

In the principal Act, in sub-section (2) of section 27, for the words “move the court under section 26 for making an order for the dissolution of the society” the words “by an order in writing, dissolve the society” shall be substituted.

9. **Amendment of Section 28-**

In the principal Act, in sub-section (2) of section 28, for the words and figure “in the case of a dissolution under section 26, by the court”, the words and figure “in the case of a dissolution under section 27, by the Registrar” shall be substituted.

10. **Amendment of section 35-**

- (1) In sub-section (1) of section 35 of the Principal Act, after the words

‘he shall’ the following words, namely - ‘on conviction’ shall be deleted and for the word ‘conviction’ appearing after the words ‘after the first’, the word ‘default’ shall be substituted.

- (2) In sub-section (2) of section 35 of the Principal Act, after the words ‘he shall.’ the following words, namely - ‘on conviction’ shall be deleted.

11. **Amendment of Section 37-**

The explanation as it is existing in section 37 of the Principal Act shall stand entirely deleted.

12. **Amendment of Section 40-**

Sub-section (2) of section 40 of the Principal Act shall begin with the following clause, namely-

“Notwithstanding such repeal”

and shall be added to the existing words “any society registered.”