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HOME (SPECIAL SECTION) DEPARTMENT

NOTIFICATION

The 4th January 2008

No. 82-C — In exercise of the powers conferred by Section 24 of the Orissa Special Courts Act, 2006 (Orissa Act 9 of 2007), the State Government do hereby make the following Rules, namely :—

1. Short title and commencement .

- (1) These Rules may be called the Orissa Special Courts Rules, 2007.
- (2) They shall come into force on the date of their publication in the *Orissa Gazette*.

2. Definitions.

- (1) In these Rules, unless the context otherwise requires :—
 - (a) “Act” means the Orissa Special Courts Act, 2006;
 - (b) “Court” means a Special Court;
 - (c) “Form” means a Form appended to these Rules;
 - (d) “High Court” means the High Court of Orissa;
 - (e) “person holding high public office” includes a public servant falling within the meaning of clause (c) of Section 2 of the Prevention of Corruption Act, 1988 or under Section 21 of the Indian Penal Code, 1860 and belonging to Group-A service of the Central or State Government or officers of equivalent rank in any organisation specified in the explanation below clause (b) of Section 2 of the said Act who was serving under or in connection with the affairs of the State Government;
 - (f) “Person holding high Political office” includes—
 - (i) members of the Council of Ministers and the Chief Minister;
 - (ii) any person falling under the definition of public servant under clause (c) of Section 2 of the Prevention of Corruption Act, 1988 or under Section 21 of the Indian Penal Code, 1860 who has been appointed to discharge the executive functions of the State in any organisation specified in the explanation below clause (b) of Section 2 of the said Act and receiving pay or honorarium or allowances for the services so rendered;

- (iii) any member of a political party or a member of the State Legislative Assembly or Parliament who has been appointed to discharge the executive functions of the State or in connection with the affairs of the State or in any organisation specified in the explanation below clause (b) of Section 2 of the Prevention of Corruption Act, 1988 and receiving pay or honorarium or allowances for the services so rendered; or
 - (iv) any person who had been appointed or nominated as an office bearer of the political party in power;
 - (g) "Section" means a Section of the Act; and
 - (h) "State Government" means the Government of Orissa.
- (2) Words and expressions used herein but not defined shall have the same meaning as respectively assigned to them in the Act.

3. Procedure for nomination.

(1) The State Government shall nominate a serving officer belonging to the Orissa Superior Judicial Service (Senior Branch) with the concurrence of the High Court of Orissa to be the Presiding Judge of the Court. The Presiding Judge must be or must have functioned as a District & Sessions Judge.

(2) Jurisdiction of a Court shall be such as may be decided by State Government from time to time.

(3) The Court shall have its sittings at such place or places as may be decided by the State Government from time to time.

4. Privileges of the Presiding Judge of the Court.

The Presiding Judge shall be assisted by such officers and staff as may be decided upon by the State Government in consultation with him.

5. The tenure of office of the Presiding Judge.

The Presiding Judge shall ordinarily continue in office till the appointment and joining of another Presiding Judge.

6. Cognizance of, and trial by the Court.

The Court shall take cognizance of and try such cases as are instituted before it under sub-section (1) of Section 6 or transferred to it under sub-section (2) thereof or Section 10.

7. Declaration.

(1) The declaration to be made by the State Government under sub-section (1) of Section 5 shall be, in Form I.

- (2) The declaration shall be published in the official Gazette and communicated to —
 - (i) the Court;
 - (ii) the concerned Court of the Special Judge under the Prevention of Corruption Act, 1988 from which the pending proceedings stand transferred;
 - (iii) the investigating agency or agencies;
 - (iv) the person concerned;

- (v) the Government in General Administration (Vigilance) Department; and
- (vi) any other authority as may be considered expedient by the State Government.

8. Appointment of Public Prosecutors and their fees.

(1) One or more Special Public Prosecutors may be appointed by the State Government to institute and conduct cases in the Special Court.

(2) Government may appoint one or more Additional or Associate Public Prosecutors to assist the Special Public Prosecutor. The Special Public Prosecutors and Additional or Associate Public Prosecutors shall be paid such fees and allowances at such rates as may be decided by the State Government from time to time.

9. Authorised Officer.

(1) The State Government, in consultation with the High Court, shall nominate an officer belonging to the cadre of the the Orissa Superior Judicial Service (Senior Branch) to act as the authorised officer for the purposes of the Act.

(2) The office of the authorised officer shall function at such place as the State Government may notify and shall be assisted by such staff as may be decided by the State Government.

(3) The State Government may appoint one or more Special Public Prosecutor on such terms and conditions to make applications to the authorised officer and conduct cases before the said officer for confiscation of the money and other property under the Act.

(4) The authorised officer may take assistance of any person or officer technically qualified or otherwise, in determining or evaluating the value of the property.

10. Authorised Officer to be public servant.

The authorised officer shall be a public servant within the meaning of Section 21 of the Indian Penal Code and any proceeding before him shall be deemed to be a judicial proceeding for the purpose of Section 228 of the Code.

11. Application of Code of Criminal Procedure.

The provisions of the Code of Criminal Procedure, 1973 shall, in so far as they are not inconsistent with the provisions of the Act, apply to the proceedings before the authorised officer.

12. Application of provisions of G. R. & C. O.

The provisions of G. R. & C. O. (Criminal) and (Civil) shall *mutatis mutandis* be applicable to the conduct of business of the Code and the authorised officer in respect of the proceeding before them.

13. Particulars of application made before the authorised officer and Form of notice.

(1) The application to be filed under Section 13 before the authorised officer shall, *inter alia*, contain the following particulars, namely :-

- (a) name of the delinquent;
- (b) official designation and detail addresses of the delinquent;
- (c) the particulars of the known source of income of the delinquent;
- (d) particulars of assets that are maintained by the delinquent and its estimated value;

- (e) how much of these assets are disproportionate to the known sources of income;
 - (f) manner of confiscation prayed for;
 - (g) name and detail address of the persons whose affidavits are furnished in support of the case; and
 - (h) location of the money or property with appropriate value.
- (2) The notice to be issued under Section 14 shall be in Form II.
- (3) The applications filed before the authorised officer shall be in Form III.

14. Application of Indian Evidence Act.

The Indian Evidence Act shall *mutatis mutandis* be applicable to proceedings before the Court and the authorised officer in recording the evidence.

15. Services of Police required by the Court.

The State Government shall make available the services of the Police Officers as may be required by the Court and the authorised officer in implementing and executing the orders passed by them.

16. Maintenance of Registers by the Authorised Officer.

(1) The following Registers may be maintained in the office of the authorised officer, namely:-

- | | | |
|--|---|--|
| (1) Diary in the form in (R) 8 G. R. & C. O. (Civil) Vol.-II | } | As prescribed in the Schedule to the G. R. & C. O. |
| (2) C. C. Register | | As prescribed in Form III |
| (3) Receipt Register | | As prescribed by Government |
| (4) Issue Register | | |
| (5) Despatch Register | | |
| (6) Accounts Register | | |

(2) The authorised officer may also maintain such other Registers as may be considered necessary in the conduct of business of his office.

By order of the Governor
TARUN KANTI MISHRA
Principal Secretary to Government

FORM No. I
(See Rule 7)
DECLARATION

WHEREAS, It was alleged that Shri.....(name and address) while Holding.....Office (indicate high political/Public Office) in the State of Orissa committed an offence under clause (e) of sub-section (1) of Section 13 of the Prevention of Corruption Act, 1988 and that the matter was investigated in Vigilance Case No.....of,

AND WHEREAS, on scrutiny of relevant materials available on record, the State Government is of the opinion that there is *prima facie* case of Commission of the (name of the accused) who has accumulated properties disproportionate to his known sources of income by resorting to corrupt means;

AND WHEREAS, it is felt necessary and expedient by the Government that the said offender should be tried by the Special Court established under sub-section (1) of Section 3 of Special Courts Act, 2006;

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) of Section 5 of Special Courts Act, 2006 (Orissa Act 9 of 2006), the State Government do hereby declare that the said offence shall be dealt with under the Special Courts Act, 2006.

Secretary to Government
Home Department

FORM No. III

[See Rule 13 (3)]

REGISTRATION OF CONFISCATION CASES

1. Date of filing application
2. Sl.No. of application
3. Name of delinquent
4. Address of the delinquent
5. Particular of known sources of income
6. Particular of accumulation of assets estimated value
7. Particulars of properties disproportionate to the known source of income
8. Names of witnesses examined on behalf of State
9. Name of the witnesses examined on behalf of delinquent
10. Particulars of documents proved in the case on behalf of the State
11. Particular of documents proved on behalf of delinquent
12. Date of final order passed by the authorised officer
13. Gist of the order
14. Remarks

By order of the Governor

Secretary to Government

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FORM No. II

[See Rule 13 (2)]

NOTICE OF CONFISCATION

To

Name.....

Designation.....

Place of residence.....

Address.....

Whereas, an application has been filled against you by the Public Prosecutor being authorised by the State (copy of application to be attached) that your assets are disproportionate to your known source of income; you are hereby called upon to report by.....as to your sources of income, earning of assets, out of which or by means of which you have acquired such money/property the evidence on which you intended to rely upon and submit relevant informations and particulars and show cause as to why all or any of such money/property should not be declared to have been acquired by means of offence and confiscated to State Government.

(Authorised Officer with Seal)