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GOVERNMENT OF KERALA

Local Self Government (DD) Department

NOTIFICATION

No.LSGD-DD2/492/2017/LSGD

Dated, Thiruvananthapuram 04/03/2022

Government as per the Gazette Notification No.LSGD-DD2/492/2017/LSGD dated 3rd February, 2021 published the draft of the Kerala Mahatma Gandhi National Rural Employment Guarantee Scheme Payment of Delay Compensation Rules, 2021 for general information in the Kerala Gazette Extra ordinary No.495 dated 3rd February 2021. Before issuing final notification, it was found that sub-clause (iv) and (v) of sub-rule 3 of the draft Rules need to be amended for the purpose of administrative



convenience and consequently sub-rule (5) and (6) of Rules 6 of the draft rules need to be omitted. In these circumstances, the draft notification of the Kerala Mahatma Gandhi National Rural Employment Guarantee Scheme Payment of Delay Compensation Rules, 2021 published vide Gazette Notification No.495 dated 3rd February, 2021 stands revoked and the following draft of Kerala Mahatma Gandhi National Rural Employment Guarantee Scheme Payment of Delay Compensation Rules, 2022 which the Government of Kerala proposes to make in exercise of the powers conferred by sub-section (1) of section 32 of the Mahatma Gandhi National Rural Employment Guarantee Act, 2005 (Central Act 42 of 2005), read with paragraph 29 of the Schedule II thereof, is hereby published for general information.

Notice is hereby given that the draft rules will be taken up for consideration on or after thirty days from the date of publication of this notification in the Official Gazette and that any objections or suggestions, which may be received from any person with respect to the said draft rules before the expiry of the period specified above, will be considered by the Government. The objections or suggestions, if any, shall be addressed to the Additional Chief Secretary to Government, Local Self Government Department, Secretariat Annexe-I, Thiruvananthapuram-695001.

DRAFT RULES

1. *Short title and commencement.*- (1) These rules may be called the Kerala Mahatma Gandhi National Rural Employment Guarantee Scheme Payment of Delay Compensation Rules, 2022.

(2) They shall come in force at once

2. *Definitions.*- (1) In these rules, unless the context otherwise requires-

- (a) "Accountant-cum-IT Assistant" means the personnel posted by the Panchayat assigned with the responsibility to manage the Mahatma Gandhi National Rural Employment Guarantee Act Management Information System (MGNREGA MIS), the accounts of the scheme and other matters related with Mahatma Gandhi National Rural Employment Guarantee Act Management Information System (MGNREGA MIS) developed under the Act;
- (b) "Accredited Bank" means the Reserve Bank or any Bank appointed to transact National Electronic Fund Management System (NeFMS) used in the Mahatma Gandhi National Rural Employment Guarantee Act for unskilled wage payments of Ministry of Rural Development, Government of India;
- (c) "Accredited Engineer" is the technical person appointed by Grama/Block Panchyat on



contract basis.

- (d) "Act" means the Mahatma Gandhi National Rural Employment Guarantee Act, 2005 (Central Act 42 of 2005);
- (e) "Assistant Engineer" means the technical personnel, including the Assistant Engineer of the Local Self Government Department;
- (f) "Assistant Executive Engineer" means the technical personnel posted as Assistant Executive Engineer in the Local Self Government Department;
- (g) "Assistant Secretary" means an officer posted in a Grama Panchayat as Assistant Secretary or Junior Superintendent;
- (h) "Central Rules" means the rules framed by the Government of India under the Act;
- (i) "Chief Engineer" means the Chief Engineer of Local Self Government Department;
- (j) "Deputy Director" means an official posted as Deputy Director of Panchayats at District Level;
- (k) "Digital Signature Certificate" means a Digital Signature Authenticated Electronic Document, in a similar manner as a hand written signature authenticates printed documents;
- (l) "District Programme Coordinator" means the District Collector designated for implementation of the Scheme in the district by Government of Kerala;
- (m) "Executive Engineer" means the technical personnel posted as Executive Engineer in the Local Self Government Department;
- (n) "Musters" means attendance sheet, that is either in printed or electronic mode with names of workers who have demanded employment and are allocated a particular work valid only for a period of seven days with one day holiday;
- (o) "Grama Panchayat" means Panchayat as defined in the Kerala Panchayat Raj Act, 1994 (13 of 1994);
- (p) "Mahatma Gandhi National Rural Employment Guarantee Act Management Information System (MGNREGA MIS)" means the website maintained by the Government of India for the management of Mahatma Gandhi National Rural Employment Guarantee Scheme;
- (q) "MGNREGS Overseer" means the technical personnel appointed by the Grama Panchayat on contract basis;
- (r) "Overseer" means the technical personnel including the Overseer of the Local Self Government Department;



- (s) "Panchayat Raj Act" means the Kerala Panchayat Raj Act, 1994 (13 of 1994);
- (t) "Programme Officer" means an officer not below the rank of Secretary of the Block Panchayat appointed as Block Programme Officer at Block level and where no officer is specifically appointed as Block Programme Officer, the Secretary of the Block Panchayat of the concerned Block will be the Programme Officer for implementing the Scheme;
- (u) "Public Financial Management System" means a web-based online software application developed and implemented by the Office of Controller General of Accounts (CGA) with the objective of tracking funds released under all Plan Schemes of Government of India, and real time reporting of expenditure at all levels of Programme implementation;
- (v) "Secretary" means the Secretary of the Grama Panchayat as defined in the Kerala Panchayat Raj Act, 1994 (13 of 1994);
- (w) "Sponsor Bank" means a bank designated by the State Government to be the account holder of State Employment Guarantee Fund that process the Fund Transfer Orders (FTO) and share the responses with Public Financial Management System (PFMS) in an automated and real time basis;
- (x) "State Cell" means the NREGA Cell constituted under the Mahatma Gandhi National Rural Employment Guarantee Act, 2005 (Central Act 42 of 2005) by the Government of Kerala;
- (y) "State Employment Guarantee Fund (SEGF)" means the fund created under the Kerala State Employment Guarantee Fund Rules, 2009;
- (z) "State Rules" means the rules framed by the State Government under the Act.

(2). The words and expressions used but not defined in these rules and defined in the act shall have the same meaning respectively assigned to them in the act.

3. *Eligibility to receive compensation.*- (1) In case the payment of wages is not made within fifteen days from the date of closure of the muster roll, the wage seekers shall be entitled to receive payment of compensation for the delay, at the rate of 0.05% of the unpaid wages per day of delay beyond the sixteenth day of closure of muster roll.

(2) Any delay in payment of compensation beyond a period of fifteen days from the date it becomes payable, shall be considered in the same manner as the delay in payment of wages.

(3) For the purpose of ensuring accountability in payment of wages and to calculate culpability of various functionaries or agencies, the processes leading to determination and payment of wages into



various stages, stage-wise maximum time limits and the functionary or agency which is responsible for discharging the specific function are determined by the State Government and are to be uploaded in the Mahatma Gandhi National Rural Employment Guarantee Act Management Information System (MGNREGA MIS) as under,-

(i) Denoting 'T' as the date of closure or last date of muster roll, the Accredited Engineer/MGNREGS Overseer/ Overseer empowered under these rules shall collect the musters from the work site and hand over the same to the Accountant-cum-IT Assistant who in turn shall enter the attendance into the Mahatma Gandhi National Rural Employment Guarantee Act Management Information System (MGNREGA MIS) within 'T'+2 days

(ii) The Accredited Engineer/MGNREGS Overseer shall receive the filled muster (after entering the attendance in the MIS by the Accountant-cum-IT Assistant) and visit the worksite for measuring the work done, check-measured by the Accredited Engineer/Assistant Engineer, Local Self Government Department. When the amount for check-measuring exceeds the limits prescribed by the Government of Kerala from time to time, it will be done by Assistant Executive Engineer/Executive Engineer, Local Self Government Department accordingly and entered into the Mahatma Gandhi National Rural Employment Guarantee Act Management Information System (MGNREGA MIS) within 'T' + 5 Days;

(iii) The Accountant-cum-IT Assistant generates the wage list within 'T' + 6 Days;

(iv) The Assistant Secretary of the Grama Panchayat who is the 1st signatory shall generate the Fund Transfer Order (FTO) by using the Digital Signature Certificate and send it to the Grama Panchayat Secretary, the 2nd Signatory within 'T' + 7 Days for approval.

(v) The Grama Panchayat Secretary, the 2nd Signatory shall approve the Fund Transfer Order (FTO) generated by the Assistant Secretary by using the Digital Signature Certificate and send it to the Accredited Bank and share the response with the Public Financial Management System (PFMS) within 'T' + 8 Days;

(vi) After approval, the amount shall be credited in the bank account of the worker and response of Public Financial Management System is sent into Mahatma Gandhi National Rural Employment Guarantee Act Management Information System (MGNREGA MIS) for record within 'T' + 15 Days

(4) The processes between the time taken from the date of closure of the muster and wage payment made shall be determined and uploaded in the Mahatma Gandhi National Rural Employment Guarantee Act Management Information System (MGNREGA MIS), for which the computer system shall have a provision to automatically calculate the compensation payable at the rate of 0.05% based



on the date of closure of the muster roll ('T') and the date of deposit of wages in the accounts of the wage seekers ('T' + 15) based on the protocol suggested in the Mahatma Gandhi National Rural Employment Guarantee Act Management Information System (MGNREGA MIS).

4. *Speedy verification of delay compensation.*- (1) The Programme Officer shall, within fifteen days from the date of the delay of compensation becoming due, decide whether the compensation that has been automatically calculated by the Mahatma Gandhi National Rural Employment Guarantee Act Management Information System (MGNREGA MIS) is payable or not.

(2) The Programme Officer shall ensure that the compensation claims are settled within fifteen days.

(3) The District Programme Co-ordinator shall monitor the settlement of claims within fifteen days from the date that the delay of compensation became due and ensure that such claims are not getting accumulated without decision.

(4) The Programme Officer after verification, if found genuine shall accept the claim except under the circumstances mentioned hereunder,-

(i) Compensation not due that is wages have been paid in time but details not entered in Mahatma Gandhi National Rural Employment Guarantee Act Management Information System (MGNREGA MIS);

(ii) in the event of natural calamities

(iii) if funds are not available at the paying Authority level

(5) In case of rejection of a claim, the Programme Officer shall give detailed reasons for rejection in the Management Information System (MGNREGA MIS).

5. *Payment of compensation and the recovery of amount.*- (1) All claims approved for payment of compensation shall be moved for generation of Delay Compensation Slip followed by uploading of Fund Transfer Order in the same manner as the wages are paid.

(2) The delay compensation amount shall be paid by the State Government from the available fund in the State Employment Guarantee Fund (SEGF), maintained and operated by the State Cell, subject to recovery from the responsible functionary/agency concerned.

(3) To account the compensation paid, a separate account within the State Employment Guarantee Fund (SEGF) shall be maintained and reflected in the Mahatma Gandhi National Rural Employment Guarantee Act Management Information System (MGNREGA MIS).

(4) The delay compensation due amount shall be transfer credited concurrently to the separate



bank account operated for the purpose from the State Employment Guarantee Fund (SEGF) account and the payment shall be effected.

(5) The amount recovered from the functionaries/agencies responsible for the delay in the payment of wages shall be credited back to the separate bank account opened for the purpose above.

(6) The fund so recovered from the functionaries/agencies responsible for the delay in the payment of wages and deposited in the separate bank account shall be reimbursed to the State Employment Guarantee Fund, concurrently.

6. Fixing of Responsibility and recovery of compensation amount.- (1) It shall be the duty of the District Programme Co-ordinator to fix the responsibility and recover the compensation amount paid, from the functionaries/agencies responsible for the delay in payment of wages. The compensation already paid before the date of notification of these rules will also be recovered in the manner prescribed in these rules.

(2) The Programme Officer who approved the delay compensation shall verify the compensation amount from the compensation list (pay order) and fix the responsibility on the functionary who is responsible to pay the amount. Thereafter, the Programme Officer shall intimate the matter to proceed with the recovery steps:- i) to the Grama Panchayat Secretary in the case of default of Accredited Engineer/MGNREGS Overseer/Accountant-cum-IT Assistant/Assistant Secretary, ii) to the Local Self Government Department Assistant Engineer in the case of default of Local Self Government Department Overseer, iii) to the Local Self Government Department Assistant Executive Engineer in the case of default of Local Self Government Department Assistant Engineer, iv) to the Block Programme Officer in the case of Accredited Engineer posted at Block level, v) to the Executive Engineer in the case of default of Assistant Executive Engineer, vi) to the Chief Engineer in the case of default of Executive Engineer and vii) to the Deputy Director of Panchayats in the case of default of Secretary, Grama Panchayat.

(3) In the case of Accredited Engineers, MGNREGS Overseers and Accountant-cum-IT Assistants posted in the Grama Panchayat on contract, on receipt of the requisition in writing from the Programme Officer, it shall be the duty of the Grama Panchayat Secretary to make the recoveries in satisfaction of the requisition by giving fifteen days notice of requisition to the responsible officer. The Grama Panchayat Secretary shall disburse only the net amount of the salary after making recoveries. The amount thus recovered shall be credited to the State Employment Guarantee Fund (SEGF) without delay.

(4) Where the officer responsible for delay in payment is an officer other than the



accredited/contract staff who draws his own salary bills, it shall be the duty of the Head of the Office receiving the requisition from the Programme Officer to send the necessary intimation to the Treasury Officer or other disbursing officer concerned after giving fifteen days notice. On receipt of such intimation, the Treasury Officer or other disbursing officer shall make recoveries from the salary of the officer and the amounts thus recovered shall be credited to the State Employment Guarantee Fund without delay,-

(a) recoveries from the Grama Panchayat Secretary shall be entrusted to the Deputy Director of Panchayats of the concerned jurisdiction;

(b) recoveries from the Local Self Government Department Overseers/Assistant Engineers/Assistant Executive Engineers/Executive Engineers shall be done by the immediate superior authority.

(5) In cases where the Government servant/Accredited staff concerned intentionally allows his pay to remain undisbursed or not drawn with a view to evading payment on account of recovery, the Administrative Head of the Department concerned shall draw the pay of the concerned under intimation to him/her, in satisfaction of the requisition received from the Programme Officer and remit the amount to the State Employment Guarantee Fund (SEGF);

(6) The recoveries shall not exceed more than 50% of the gross salary.

(7) All kinds of travelling allowances, conveyance allowances, all allowances granted as compensation for higher cost of living in localities considered by the Government to be expensive localities including hill stations, house rent allowances, stipends and amounts paid by way of reimbursement of medical expenses are exempted from recoveries.

(8) The Grama Panchayats shall enter into an agreement with the Accredited Engineers, MGNREGS Overseers and Accountant-cum-IT Assistants posted in the Grama Panchayat on contract basis, regarding recovery in case of default on amount of delay compensation. Specific clause should be added in the agreement that the employee is liable to clear the entire dues incidental to the delayed compensation, if any, before completion/ termination of the contract and further the Grama Panchayat can initiate recovery proceedings under the Kerala Revenue Recovery Act (15 of 1968) as in the case of recovery of arrears of land revenue in case of any breach in contract.

7. *Appeal*.- (1) An Accredited Engineer/MGNREGS Overseer/Accountant-cum-IT Assistant aggrieved by the decision of the Programme Officer can file an appeal before the District Programme Co-ordinator within fifteen days from the date on which the recovery notice is received from the Secretary.



(2) The District Programme Co-ordinator shall make sufficient enquiry as he deems fit and issue orders within fifteen days from the date of appeal. However, recovery will not be stopped just on the ground that an appeal is filed before the competent authority.

(3) In case of appeals, recovery shall start after 30 days from the date of notice of the requisition to the responsible officers.

By order of the Governor,
DR SHARMILA MARY JOSEPH IAS,
Principal Secretary to Government

