21.5 The Tamil Nadu Panchayats (Procedure for Conducting Public Auction of Leases and Sales in Panchayats) Rules, 2001

(G.O. (Ms) No. 277, Rural Development (C-4) Department, Dated 22nd November, 2001)

In exercise of the powers conferred by clause (xix) of sub-section (2) of Section 242 of the Tamil Nadu Panchayats Act, 1994 (Tamil Nadu Act 21 of 1994) and in supersession of the earlier Rules made in this regard, the Governor of Tamil Nadu hereby makes the following Rules : -

RULES

1. Short title - These Rules may be called the Tamil Nadu Panchayats (Procedure for conducting public auction of leases and sales in the Panchayats) Rules, 2001.

2. Definition - In these Rules, unless the context otherwise requires, **"Act"** means the Tamil Nadu Panchayats Act, 1994 (Tamil Nadu Act 21 of 1994).

3. Properties and rights to be auctioned - (1) The Panchayat sell lease out or sell, in public auction in an open and transparent manner, the right to enjoyment of properties of a Panchayat or right to the collection of fees for the use of public places in the Panchayat for commercial and other purposes, specified in sub - Rule (2). The Panchayat shall also sell in public auction, any unusable or unserviceable article as specified in clause (xi) in sub - rule (2) whose estimated value is more than Rs.100 (Rupees one hundred only)

(2) The list of items that may be leased out are, -

(i) Own lands and other immovable properties of the Panchayat;

(ii) vested or regulated Poramboke lands under the control of the Panchayat;

(iii) buildings consisting of shops, rooms, rest sheds, carriages, market stalls, canteens, hotels, lodging houses, and other permanent buildings for which rent is payable monthly or for a longer period;

(iv) cutting of grass (vizhal for laying roof for huts) grown in irrigation tanks and other places under the control of Panchayats;

(v) usufructs of trees on the Panchayat roads, topes and on roads belonging to the Highways and Rural Works Department. Trees on public Works Department Lands over which the Panchayats has been given control and other Panchayat properties;

(vi) right to collect the fees in the public market, cart- stand, public landing or halting-places, bus -stand, slaughter houses, fish markets or ferry places under the control of the Panchayat;

(vii) Collection of minor forest produce as defined in Section 130- A of the Tamil Nadu Forest Code collected in the unreserved forest of the Panchayat and other Panchayat properties;

(viii) Use of road margins under the control of the Panchayat and street margins for sale of articles;

(ix) Use of public places for erecting advertisement boards, etc;

(x) any other items for which right of enjoyment or collection of fees can be leased out;

(xi) The sale of unusable or unserviceable article are, -

i. wind - fallen and withered trees;

ii. sweepings in the Panchayat properties;

iii. unserviceable and wornout machinery tools, plants and electrical fittings;

v. old newspapers, journals and obsolete records after tearing out them; and

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v. old newspapers, journals and obsolete records after tearing out them; and

vi. any other unserviceable or unusable article which can be sold.

(3) In the case of stalls or bunks or other structures or buildings constructed by the Government from their Funds for rehabilitation of the repatriates from other Countries, if any, handed over to the Village Panchayat or the Panchayat Union Council, as the case may be, for maintenance, they shall be leased out only to such persons according to the instructions of the Government in force at the time of auction.

4. Lease of land and immovable property belonging to a Panchayat – The Panchayat shall have power to lease out its own land or any other immovable property to it as referred to in Rule 3 above :

Provided that no such lease shall be valid in case the period of lease exceeds three years or where the Lessee is permitted to put up any building or structure whether of masonry, brick, wood, mud or of any materials unless the sanction of the Inspector has been obtained therefor.

5. Lease of Government Poramboke vested with the Panchayat - The Panchayat shall have power to lease out any property vested in it but not belonging to it other than road sides and street margins referred to in Rule 3 above:

Provided that no lease shall be granted, -

(a) in contravention of the conditions, subject to which such property became vested in the Panchayat;

(b) for a period exceeding twelve months, without the previous sanction of the Inspector;

Provided further that no such lease shall be valid, if the Lessee is permitted to put up any building or structure whether or masonry, bricks, wood, mud or any other materials unless prior sanction of the Inspector has been obtained.

6. Lease of roadside and street margins - The Panchayats shall have power to lease out road margins under the control of the Panchayat and street margins subject to the following restrictions and control;

(i) the Panchayat shall require each intending bidder to furnish information as to the use to which the land will be put and the period for which lease is required which shall not exceed one year at a time. If the intending bidder desires to construct any temporary structure, information to the materials to be used for the construction shall be furnished;

(ii) for a lease period not exceeding twelve months, materials like pre-fabricated structures or palmyra or coconut leaves, bamboos, jute or gunny cloth or similar other materials which may be removed easily, shall be permitted for the structures. Necessary fees, if any, leviable for such temporary structure shall also be collected before permitting such construction. Such a temporary structure is liable for removal by the Panchayat, if the Panchayat or the Inspector considers so in public interest during the middle of the lease period and Lessee shall have no right to claim any compensation for the same;

(iii) no lease for a structure made of materials other than those mentioned in items (i) and (ii) above or for a period exceeding twelve months shall be granted without the previous approval of the Inspector, who while granting approval may lay down such conditions as may be considered necessary, subject to which the lease may be granted by the Panchayat. The Panchayat shall embody such conditions in the lease notice and lease deed before granting orders to entry into the property;

(iv) no road margins shall be leased out for cultivation;

(v) every lease under item (ii) or item (iii) shall expressly provide that the lease is liable

to be terminated at any time within the period of the lease without payment of compensation to the Lessee, if in the opinion of the Panchayat or the Inspector, it is necessary in the public interest to remove any structure erected in the land.

7. Collection of ground – rent assessment, peshkash or quitrent and payable to Government - (1) Whenever any vested property of the Panchayat is leased out, the Lessee shall pay to the Government such assessment, of ground – rent, Peshkahs or quit –rent as the Inspector may determine from time to time and the same is subject to revision, from time to time, in accordance with the rules in force at the time of revision except in respect of quit-rent or engranchised inam lands and peshkahs on lands in proprietary Villages acquired by the Panchayat by private negotiation. Such assessment of quit-rent shall be in addition to the lease amount and the Lessee shall be liable to pay the amount in addition to the lease amount.

(2) Nothing contained in this Rule shall affect the right of the Government to recover from the Panchayat the assessment, ground – rent, peshkahs or quit – rent leviable on lands not transferred by sale or exchange or otherwise permanently alienated.

8. Leasing out of public places for erecting advertisement boards and hoardings for advertisement - (1) The Panchayat may set apart places in the lands owned by it or in the premises of its buildings or in the vested porambokes and lease out such places for erecting up advertisement boards or hoardings.

(2) The Panchayat may also erect advertisement boards and hoardings at its own cost and lease out such structures for the exhibition of advertisements.

9. Authority to conduct auction or sale - The Executive Authority or the Commissioner or the Secretary, as the case may be, shall conduct auction of lease or sale of articles belonging to Panchayat.

10. Time to conduct auction - (1) The auction of lease shall be conducted sufficiently in advance of period or date from which the lease period is due to commence, taking into consideration the extra period that may become necessary for conducting re – auction on account of any compelling circumstances, action may be taken to compete well in advance the preliminary steps like preparing auction notices, publication in proper manner, conducting of auction, getting approval of the Panchayat and execution of lease deed.

(2) So far as the sale of article in an outright manner is concerned, such article may be got condemned by the Panchayat well in advance wherever necessary and then sold out in public auction without undue delay thereby avoiding theft, pilferage, natural loss, damage or worning out, rendering their sale difficult or in fructuous. In case, where technical opinion or advice is considered essential or have been prescribed by the Inspector for condemning any article by the Panchayat such as radio, television set, electric motor pumpset, electrical fittings, vehicles, etc., such technical advice or opinion in respect of that material shall also be obtained.

11. Period of lease - The Panchayat shall, in respect of property other than the property vested with it, fix the period of lease of right to enjoy the property and the period of lease of properties as specified in the Table below, subject to conditions prescribed under this Rule:-

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	Nature of Property	Maximum Lease period at a time
1	Own Lands	Three years initially and renewal for a further period of three years.
2	Own buildings used as shops, rooms, carriages, canteen, hotels, lodging houses, rest – sheds.	Three years initially and renewal for a further period of three years.
3	Government Porabmoke land vested with or regulated by the Village Panchayat or the Panchayat Union Council as the case may be, excluding road and street margins.	One Year
4	Right to cut grasses in minor and major irrigation tanks and other water sources	One Year
5	Usufructs of avenue trees in the Village Panchayat or the Panchayat Union Council roads, trees, as the case may be, in Public works Department lands and Highw ays and Rural Works Department roads and trees in topes.	One Year
6	Minor forest products as defined in Section 130- A of the Tamil Nadu Forest Code.	One Year
7	Right to collect fees for the use for public places like markets/ fairs, during festivals, landing and halting places, bus stand, cart – stand, slaughter house, fish market, fishing in water supply sources under the control or vested with the Village Panchayat or the Panchayat Union Council, as the case may be, ferry.	One year
8	Sale on road margins and street margins and public places in the Villages.	One Year
9	Right to enjoy fishery rights in water sources under the control of the Village Panchayat or the Panchayat Union Council, as the case may be. The Tamil Nadu Panchayats (Lease and Licensing of Fishery Right in water sources vested and regulated by the Village Panchayats and the Panchayat Union Councils) Rules, 1999, will apply for the auction procedures.	Five Year

12. Fixing of number and amount of installments - (1) The Panchayat shall fix the number of instalments for the payment of lease amount by the Lessee as follows:-

(a) Where the lease period does not exceed one year, the lease amount may be permitted to be paid in not exceeding two instalments, to be decided by the Panchayat in respect of every lease:

Provided that the last instalment shall be paid before six months of expiry of the period of lease:

Provided further that in case the lease amount does not exceed Rs.5,000 (Rupees five thousand only), it shall be paid in one lumpsum within five days of execution of lease deed:

Provided also that in the case of lease of usufructs of avenue trees, the lease amount shall be paid in one lumpsum before the execution of lease deed;

(b) Where the lease period exceeds one year, the lease amount may be permitted to be paid in not more than two instalments for every year of lease, the last instalment being payable atleast one year before the period of expiry of the lease period of lease or in the beginning of the lease period, whichever is earlier.

(2) The Panchayat shall take action to terminate the lease in case a Lessee fails to remit the instalment within seven days after the expiry of due date besides initiating action to realise the balance as per the lease deed from the Lessee.

(3) The Panchayat shall fix the amount of the security deposit for each item of lease, so that he may not retreat from the lease after the final bid. This amount shall be retained till the expiry of the lease period as a security against the violation of lease condition. In case where the estimated lease amount exceeds Rs.10,000 (Rupees ten thousand only), the bidder shall be required to produce suitable solvency certificate for an amount to be specified in the auction notice.

(4) Every Successful bidder in an auction shall be required to remit, soon after the bidding is over for an item, and before starting the bid for the next item, and initial amount, excluding the recently deposited amount, calculated at not less than ten per cent of the bid amount which, together with early paid amount, would constitute the first installment of the amount in the case of lease not exceeding one year and fifteen per cent of the bid amount in cases where the lease period exceeds more than a year, equal to two installments of amount.

13. Place of auction - Ordinarily, every auction, or sale shall be conducted in the office of the Panchayat. In special cases, the Executive Authority or the Commissioner or the Secretary, as the case may be, shall decide the place of action of the lease or sale depending upon the nature of lease or sale and the place where the properties or articles. lie. However, the auction of usufructs of the trees, wind –fallen and withered trees may be conducted at the site itself. In case of avenue trees, the entire road length may be divided into convenient reaches, i.e., say two hundred or four hundred metres and may be auctioned reach by reach individually.

14. Issue of auction notice – (1) The notice of auction of lease or sale may be issued not less than ten days and not more than twenty one days prior to the date of auction or sale. The Panchayat shall approve the terms and conditions and for each kind or type of lease, before they are included in the auction notice. If new conditions or terms are to be included or existing conditions or terms to be amended, the prior approval of the Panchayat shall be necessary. The notice may contain, inter alia terms and conditions on the following matters, subject to which the lease shall be granted:-

(i) place of auction or sale, date and time of auction;

(ii) period of lease;

(iii) details of property to be sold or rights to be auctioned. In the case of avenue trees, the details of reach of the road and in other cases, the location of the property may be specified clearly;

(iv) security deposit payable for each item;

(v) number of instalments of lease amount permitted for each item;

(vi) initial amount payable at the time of auction or sale by the successful bidder;

(vii) details of solvency certificate to be produced where it is considered necessary;

(viii) prohibition of defaulters in the payment of past leases from participating in the auction or sale;

(ix) confirmation of auction or sale being subject to the approval of the Panchayat;

(x) rate of interest chargeable for belated payment of instalment;

(xi) need for and mode of execution of lease or sale deed;

(xii) details of payment of assessment, ground-rent, peshkahs or quit - rent fixed by the Inspector, from time to time, which will be in addition to the lease amount;

(xiii) schedule of payment of the lease or sale amount;

(xiv) in case where the rent of own lands, Poramboke lands and own building of the panchayats, proposed to be leased out, the rent, lease amount, may be reckoned in terms of monthly rent for the entire lease period. This information may be specified in the auction notice also for the information of the intending bidders; and

(xv) power of the administration, to reserve any right either to postpone the sale or auction of any lease and also to cancel any lease in public interest with or without showing any reasons therefore, in the middle of the lease period for which the lessee has no right to claim any compensation.

15. Publication of auction notice - (1) The auction notice for the lease of property or right to collect fees or sale of articles shall be published in the manner specified below. Due publicity shall be given by publishing a notice containing full particulars of the property to be transferred or leased or sold and the fees to be collected, -

(i) in the notice board of the concerned Panchayat;

(ii) in the notice board of the Panchayat Union or the District Panchayat in which the Village Panchayat or Panchayat Union Council, as the case may be, is situated;

(iii) in the notice board of the adjacent Panchayat lying within five kilo metres radius of the Village Panchayat or the Panchayat Union Council, as the case may be, in which the property lies;

(iv) in important places in the Panchayat Village area or the Panchayat Union Council, as the case may be, like Chavadi, post Office, fair price shops, temples, etc;

(v) by beat of tom tom in the Panchayat Village or the Panchayat Union Council, as the case may be, where the property or place lies, on the day of auction, three hours before the time fixed for auction;

(vi) a record of publication of auction notice shall be prepared and kept in the relevant file;

(vii) by sending copy of notice to the prospective traders, dealers or agents in the District who are dealing with the property of the nature mentioned in the auction;

(viii) on the property to be leased out or place where the fees are to be collected;

(ix) any other method, the panchayat may consider necessary.

(2) The auction notice shall be caused to be published, -

(i) in the District Gazette at least seven days in advance of the date of auction, in case the lease amount is expected not to exceed Rs.10,000 (Rupees ten thousand only);

(ii) by inserting brief advertisement, in a Tamil daily newspapers having wide daily circulation in the panchayat area, atleast three days ahead of the date of auction, in case the lese is expected to exceed Rs.10,000 (Rupees ten thousand only).

(3) The Executive Authority or the Commissioner or the Secretary, as the case may be, shall estimate and decide whether a lese or sale of article would fetch an amount below or above Rs.2,000 (Rupees two thousand only), as the case may be and record his decision in the relevant file quoting reasons therefore.

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(4) The Panchayat may dispense with the publication of auction notice in the District Gazette or in the newspapers, in the case of reaction, during the middle of the lease period arising out of termination of the lease for non-fulfilment of lease conditions.

16. Auction procedure - (1) In the case of auction conducted by the Panchayat, a Committee comprising of three members for supervising the conduct of auction, of leases or sale may be constituted by the concerned panchayat for ensuring greater transparency. In case of a Village Panchayat such Committee may include besides the Executive Authority, the Vice- President and the members from the ward where the property to be leased or sold lies. The Executive Authority or the Commissioner or the Secretary, as the case may be, shall inform the Committee members in writing atleast three days in advance for making themselves present at the place of auction or sale.

(2) The Executive Authority or the Commissioner or the Secretary, as the case may be, or the person authorised to conduct the auction shall be present sixty minutes ahead of the time fixed for auction at the appointed place. If more number of items are to be auctioned, auction shall be conducted one after another. The highest bid amount shall be either recovered alongwith necessary security deposit or the first instalment of total bid are collected before commencing the next item of auction. The deposit of all un-successful bidders may be refunded to them on the spot or after all the auctions under the question are over with due acknowledgement.

(3) No person shall be eligible to participate in the auction, if he was irregular in paying instalment amounts in respect of any previous auction held in that Panchayat or if he has failed to comply with any of the terms or conditions of a previous auction, resulting in the damage to the lease property.

(4) A suitable upset price may be fixed at the commencement of auction which may be based on the last auction, the prevailing market prices and the prospect at the present auction. If the situation warrants, reasons for which shall be recorded in writing amount may be lowered to be further reasonable level from which the bid be increased by the bidders.

(5) As soon as the auction is over, the security deposit amount and the lease amount released in full or in parts shall be remitted into the concerned Panchayat Fund Account and printed receipts issued to the payees by the Executive Authority or the Commissioner or the Secretary, as the case may be.

17. Procedure for lease cancellation in the middle of lease period - (1) If it is found that a Lessee has violated any of the lease conditions, which is considered by the panchayt as a serious irregularity like failure to remit the instalment of the dues on or before the due date or cause serious damages to the leased prosperity and failed to restore the damages to the original position, the Executive Authority or the Commissioner or the Secretary, as the case may be, shall issue a show cause notice to the Lessee as to why the lease should not be terminated on account of the violation of lease conditions which shall be specified in the show cause notice and require him to submit his reply within seven days. This notice shall be served on him as per the provisions of the Tamil Nadu Panchayats (Manner of Publication of Notification or Notice and Manner of Service of Documents to the Public) Rules, 2000.

(2) After the expiry of the period specified in the show cause notice, the Executive Authority or the Commissioner or the Secretary, as the case may be shall decide on the merit of the case after taking into consideration the explanation of the Lessee, if any, received and after obtaining the resolution of the Panchayat for termination of lease, issue suitable orders to the Lessee. If the lease is terminated, such order shall also be served on the Lessee as per the provisions of the Tamil Nadu Panchayats (Manner of Publication of Notification or Notice and Manner of Service of Documents to the Public) Rules, 2000. The orders of termination shall include the consequences of termination in accordance with the conditions of lease deed, the important among them, being that the Lessee shall be liable to pay any loss to the Panchayat arising out of the termination of lease and re-auctioning or by departmental management of the lease property or right.

18. Circumstance and procedure to conduct re-auction - (1) Re-auction of lease may be conducted in the following circumstances :-

(a) When the lease was cancelled due to violation of lease condition by the Lessee;

(b) When another person comes forward to bid for higher amount by remitting an amount higher, by one and a half times more than the bid amount;

(c) When the Inspector or any other authority empowered by him cancel the auction on account of proven irregularities committed in the auction held already; and

(d) When the Panchayat itself resolves to conduct re-auction on the ground that the bid amount is too low to be considered as a reasonable bid, compared to the last auction or taking into consideration of the prevailing circumstances.

(2) In the event of re-auction, the procedure laid down for conducting auction in these Rules shall be observed all over again, starting from the issue of re – auction notice onwards. Before commencing re-auction proceedings, a written order canceling the previous auction, shall be issued by the Executive Authority or the Commissioner or the Secretary, as the case may be based on the resolution of the Panchayat or the orders of the Inspector.

(3) The Executive Authority or the Commissioner or the Secretary, as the case may be, shall be competent to cancel and auction in the event of a situation specified in clause (b) in sub-rule (1) and issue orders before seeking permission of the Panchayat for conducting a re-auction.

(4) When re-auction is ordered, the publication of a notice in the District Gazette and the newspapers may be dispensed with if the Executive Authority or the Commissioner or the Secretary, as the case may be, considers that the bid amount at the re-auction may not be at a level warranting such publication and accordingly notice for shorter duration may be given

19. Confirmation of auction - The Executive Authority or the Commissioner or the Secretary, as the case may be, shall as soon as possible or within a week of conduct of auction, during which period a request for auction for a higher amount is likely to be expected, place before the Panchayat, the records of auction of lease or sale with his remarks in writing on the acceptability or otherwise of one or all the bids. The Panchayat shall decide as to which of the bids shall be accepted and record its reasons where the bid accepted is not the highest or for rejecting a bid or bids higher than the one accepted. In case the Panchayat decides to reject all the bids and resolve to conduct re-auction, it shall record the reasons for ordering such re-auction, If the Executive Authority or the Commissioner or the Secretary, as the case may be, is not satisfied with the decision of the Panchayat, he may bring it to the notice of the Inspector, The decision of the Inspector thereon shall be final.

20. Execution of lease deed – (1) Soon after the approval of the auction of a lease by the Panchayat, the Executive Authority or the Commissioner or the Secretary, as the case may be, shall confirm the auction in writing to the successful bidder. If the lease amount exceeds Rs.10,000 (Rupees ten thousand only), the bidder shall be directed to execute a lease deed within five days of the confirmation of the auction in a stamped paper of suitable value and register it. If the bidder fails to execute the lease deed, the auction shall be cancelled forfeiting the security deposit and the initial amount paid on the day of auction and also the re-auction of lease shall be ordered. The successful bidder shall not enter into the lease property before executing lease deed and obtaining permission for such entry from the Executive Authority or the Commissioner or the Secretary, as the case may be.

(2) The lease deed shall specified the terms and conditions, inter alia, the following matters, in addition to the other conditions specified in the auction notice:-

(a) duration of the lease;

(b) amount of each instalment of the lease amount and the due date before which it is payable;

(c) lease liable for cancellation in case the instalment of the lease amount is not paid within seven days on the expiry of the due date or such larger period or as the Executive Authority or the Commissioner or the Secretary, as the case may be, may fix and not exceeding thirty days from the due date, at any rate;

(d) liability of the Lessee to make good, the loss if any, caused to the Panchayat on re-auction, departmental management of the property or right of re-auction, owning to the default on the part of the Lessee to fulfil the terms of his contract;

(e) the rate of fees leviable by the Lessee in respect of public markets, landing – places, halting places, cart-stands, slaughter houses, fisheries and ferries under the control of the Panchayat;

(f) restrictions and controls to be imposed for preventing damages to the lease property in any way as would affect the revenue yielding capacity of the property and should it happen, the Lessee shall restore the property to its original position or state, failing which the damage shall be restored at his cost which shall be recoverable from him besides cancellation of the lease;

(g) prohibition against indiscriminate cutting of any branch of a tree or palmyrah or coconut leaves for a better yield;

(h) Liability of the Lessee to pay assessment, ground-rent, peshkash or quit-rent at such rate as the Inspector may fix from time to time;

(i) right to enjoy the lease is subject of the satisfactory compliance with all the terms and conditions in the auction notice, as well as that of the lease deed; and

(j) any other conditions or terms which may be found necessary in the case of a different type or particular kind of lease.

(3) The lease deed shall be executed in the prescribed form depending upon the property leased out for enjoyment or right of collecting fees for using public places belonging to or vested with or regulated by the Panchayat.

(4) No person shall be allowed to exercise his right under the lease until he has executed the lease deed.

(5) In case any Lessee fails to pay the instalment of the lease amount, as agreed upon within thirty days of due date of payment, the Executive Authority or the Commissioner or the Secretary, as the case may be, shall forthwith report the matter to the concerned Panchayat which shall have power to terminate the lease and order its management departmentally at the risk of the Lessee till it is leased out in re-auction.

(6) No sale deed is necessary in the case of sale of articles and for which the sale amount has been realised in full, but when confirming the auction for sale, the Executive Authority or the Commissioner or the Secretary, as the case may be, shall specify the date before which the property sold may be removed from the spot or taken possession of. Any balance amount due from the bidder shall be collected with due sales tax and surcharge if any, before permitting the removal of the property from the spot or taking possession of the property.

21. Procedure for sealed tenders – (1) The Panchayat shall have power to invite tenders in an open and transparent manner for the enjoyment of lease of a property or right to collect fees covering the salient formalities and legal aspects of:

(i)if, the Panchayat has reason to believe that due to collusion among the bidder or due to any other reason like, either there was no bid at least on two occasions; or

(ii) the bid was kept at a very low level whereby the interest of the Panchayat was deliberately defeated. The terms and conditions which are normally prescribed in the auction notice for lease may be adopted with such modifications as are necessary when calling for tenders.

(2) When tenders are invited for letting out the lease of a property or right to collect fees, the Panchayat shall have power to accept either the highest tender or tender which is not the highest but the next higher, after recording the reasons for the same in writing.

22. Auction–cum–tender procedure - (1) If the Panchayat considers and decides its advantageous to adopt the auction – cum – tender procedure, it shall have power to adopt such procedure in the sale of property or leasing out the right to enjoy property or to collect fees for the use of public places. if it has reason to believe that due to collusion among the intending bidders or due to threat by habitual participants to the new entrants in the bidding, either there is a low bid or no bid at all, at least on two occasions, it shall record the fact in the minutes of the meeting and opt for adopting auction – cum – tender procedure in respect of lease or sale of any item which it proposes to conduct.

(2) When the Panchayat decides to adopt the auction – cum – tender procedure, the Executive Authority or the Commissioner or the Secretary, as the case may be, shall issue auction – cum – tender notice with appropriate terms and condition covering the salient formalities and legal aspects of each of the system in the same notice fixing, a suitable time for conducting the auction and some other time on the same day following the completion of auction proceedings, for opening the tenders for the same items of leases or sales. Under any circumstances, the time appointed for the receipt of tenders shall not exceed the time appointed for the conduct of auction and any tender, received after the commencement of the auction shall be straightway rejected without opening. Security deposits, shall be specified separately for auction and tender. The time, place and the last day for the receipt of tender and the time, place and last day for the sale of tender documents and payment of tender deposits shall also be specified in the notice. A Tenderer can send his tender by registered post sufficiently in advance so as to reach the office of the Tenderee before the appointed date and time and the official who receives the postal cover upto the time on the last day fixed for the receipt of tenders shall deposit it into the tender box prepared and kept for that purpose.

(3) On the day and time fixed for the conduct of auction, strictly observing all the formalities and subject to the terms and conditions mentioned to take action under current notice, the Executive Authority or the Commissioner or the Secretary, as the case may be, shall commence the auction proceedings, conduct and complete the auction or sale of each item one by one and simultaneously completing the records of auction or sale and obtain necessary initial amount from the successful bidders at the time appointed for the opening of the tenders. The tenders received upto the prescribed time and date shall be opened and the amount quoted therein in respect of each item shall be read openly at the meeting of bidders and Tenderers. The tender details may be entered in the register of tenders maintained for that purpose. After completing all the formalities, the executive Authority or the Commissioner or the Secretary, as the case may be, shall place before the concerned panchayat, the records of auction and of tenders for approval. The Panchayat shall have power either to decide the higher bid in an auction or quoted in tender or any suitable bid or tender amount which is next to the highest amount. In case, it accepts a lower amount than the highest tender or the auction amount, the reasons for the same shall be specifically recorded in the minutes of the meeting.

23. Renewal of lease - (1) The Panchayat shall have power to renew the lease of right of enjoyment of shops, rooms, garages, public markets, canteen, hotels or lodging houses belonging to it and for which rent is payable on a monthly basis or for a longer period in favor of the existing Lessee, if the Lessee agrees to the renewal of the lessee for a higher amount to be decided by the Panchayat, supported by not less than one half of the members than holding office which shall not be less than fifteen per cent for every year on the previous years lease or of rent fixed:

Provided that such extension of renewal of lease shall be done only upto a maximum of three years.

(2) The existing Lessee, if he desires to continue the lease for a further period, he may apply to the Executive Authority or the Commissioner or the Secretary, as the case may be, requesting the renewal of the lease in his favour atleast three months before the expiry of the

lease period. On receipt of such a request, the Executive Authority or the Commissioner or the Secretary, as the case may be, shall place the matter before the respective Panchayats to fix provisionally a sum at which the lease can be renewed, taking into consideration the following factors :-

(a) the increase in the market value of the building subsequent to the letting out of the present lease;

(b) the appreciation in the increase of rental value of the building and other similar buildings in the locality;

(c) consideration of growth and business of the locality in which the building is situated;

(d) other factors such as the location of the property in close proximity to railway station, bus stand, business area and other factors which may have effect in the promotion of business.

(3) The Executive Authority or the Commissioner or the Secretary, as the case may be, may fix the lease amount at fifteen per cent, if the annual rise in prices leass than fifteen percent, over the existing lease amount for the fourth year of lease and this rate of increase may be fixed at more than fifteen per cent for the fifth year and sixth year of the lease period as may be decided by the Panchayat.

(4) The Executive Authority or the Commissioner or the Secretary, as the case may be, shall place before the Panchayat within two weeks of the receipt of the request from the Lessee, the request for renewal together with his recommendation regarding the probable amount of lease or rent to be fixed for ensuring lease period.

(5) The Panchayat shall be at liberty to accept the offer of the Lessee and fix up the rent for each of the next three years at a progressive rate of increase so as to derive not less than forty – five per cent of the total amount for the next term of three years, over the previous term of lease. If the Panchayat decides not to accept the request of the Lessee, the Executive Authority or the Commissioner or the Secretary, as the case may be, shall take further action to conduct auction of the lease for that particular item of lease in the usual manner, by observing the procedures prescribed under these Rules.

(6) In case, the Panchayat decides to accept the offer at a meeting where not less than fifty per cent of members than on the Panchayat is present, it shall fix lease rent for each year for the next three years period and the Executive Authority or the Commissioner or the Secretary, as the case may be, shall intimate the Lessee, the decision of the Panchayat before six weeks to the expiry of the lease period with the condition to indicate his willingness to accept the offer within a week of the date or receipt of intimation from the Executive Authority or the Commissioner or the Secretary, as the case may be, the Lessee may express his willingness to accept the offer consisting of graded increase of lease amount any year of the renewal at an amount indicated by the Panchayat or unwillingness to accept the offer. In which case the Executive Authority or the Commissioner or the Secretary, the case may be, shall take action to conduct the auction of the lease before the expiry of the period of the lease after getting the approval of the Panchayat. In case, the Lessee expresses his willingness in writing to the Executive Authority or the Commissioner or the Secretary, as the case may be, to accept the offer of the Panchayat, the executive Authority or the Commissioner or the Secretary, as the case may be, shall get a fresh lease deed executed and registered by the Lessee. The lease deed shall contain all the conditions normally stipulated for such a lease with a specific reference for the acceptance of increase of lease amount during each year of the three years period in a graded manner. If the Lessee fails to execute the lease deed within the period mentioned above, the offer of the Panchayat shall stand withdrawn and the executive Authority or the Commissioner or the Secretary, as the case may be, shall report the matter to the Panchayat immediately, obtain its permission to let the property on auction.

(7) The Panchayat is competent to renew the lease of the property only for a period of three years to an existing Lessee and shall not renew for the second time, even if the Lessee is

willing to pay higher rent. The Executive Authority or the Commissioner or the Secretary, as the case may be, shall put on such lease of property on auction after the sixth year when the existing Lessee will be free to compete in auction and knock out the lease at any amount as he may desire.

(8) Where the Lessee fails to pay the rent specified in the lease deed or where he fails to pay the revised rent, he shall be evicted in accordance with the conditions of the deed and a fresh lease of the property shall be effected in public auction in the manner specified in these Rules.

24. Direct management by the Panchayat - (1) The Panchayat shall have power to manage itself the affairs of letting on lease, the enjoyment or right of a property of collection of fees, for the use of public places like public market, bus stands, vehicle stand, etc., in one or more of the following circumstances, However, the Panchayat can report to the management by itself only for a short period till the lease of such property is let out, -

(a) when the lease is terminated for the violation of conditions of lease deed by the Lessee and the lease property or right has to be necessarily managed by the Panchayat at the risk of the Lessee till the lease for the remaining period is auctioned and a fresh lease deed is executed for its management;

(b) when the process of leasing could not be finsalised due to extraordinary unforeseen circumstances or administrative reasons, before the period of commencement of leasee;

(c) in case of collection of fees during an annual festival of a temple, lasting for a very short period, when there is no bid at the first auction of a lease or when the lease amount is comparatively low due to collusion or other unhealthy means and the Panchayat does not see reason to accept such a low lease amount.

(2) When a Panchayat decides to take up the management by itself of a lease of enjoyment or right of a property, the Executive Authority or the Commissioner or the Secretary, as the case may be, may utilize the service of its employees for the collection work. In exceptional cases, where it is essential to engage temporary staff for collection, it shall also decide regarding the appointment of temporary staff, their daily wages not exceeding the rates fixed by the Inspector for such period of Panchayat management, mode of selection of person for appointment, the amount of security deposit to be collected from the temporary staff, expenditure on the printing of tickets or receipt books and other contingent expenditure. The Panchayat shall be competent to incur expenditure for the departmental management not exceeding thirty per cent of the anticipated receipt without outside sanction and for any expenditure exceeding this limit, the previous permission of the Inspector shall be obtained.

(3) The Executive Authority or the Commissioner or the Secretary, as the case may be, shall decide the colour of ticket for different denominations, for different rates of fees, the design and size of ticket leaves, the number of series of ticket books for different rates of fees, the actual letter of series (such as "A,B,C") of ticket books for different rates of fees, the number of ticket leaves to be provided for each denomination, the details to be provided in the ticket leaf, the size of the leaf, the number of tickets to be printed in each series in each denomination, etc., the details of ticket leaf may be similar to those approved by the Panchayat already when the lease for a particular purpose was auctioned last. Each ticket book shall contain one hundred leaves having printed serial number on the leaves. Depending upon the number of series of ticket book to be printed and number of books to be prefixed in each series the first letter of each series may be printed to serial number of leaf. By this way the leaves of same denomination can be identified on the basis of letter of series prefixed to such serial numbers. The ticket book in each denomination in each series shall be serially numbered. The receipt for the printing of ticket books shall show details, names of series of ticket books printed in each denomination, the total number of leaves in each book and the total number of ticket leaves printed in each series in each denomination.

(4) A stock register of ticket books shall be maintained in two parts. In the part one of the register, the details of ticket books printed and brought to stock shall be entered and the details

of issues of ticket a book to the collecting staff, who are appointed with a separate set of serially numbered for all ticket books under each denomination, the ticket books serial be numbered in a separate series for each denomination, the total number of leaves serially numbered under each denomination, the serial number of leaves bound as a ticket – book being printed on the ticket book. The leaves in the ticket – book shall bear the facsimile of the signature of the Executive Authority or Commissioner or the Secretary, as the case may be and singnature of the collecting staff in ink. Part two of this register shall be treated as a personal ledger fo each collecting staff showing the details of ticket books issued to each collecting person under each denomination together with total number of leaves and the total value of ticket books supplied. Whenever ticket books are issued, the dated signature of the collecting person shall be obtained in the register as a token of his acknowledgement. The details of amount daily collected and remitted into the Panchayat shall be noted in this part of the register, denomination – wise and date – wise under the dated signature of the collecting person. In this way the balance amount to be remitted by each collecting person can be ascertained on any date and the responsibility and accountability of the collecting person can be ensured and fixed.

(5) The Executive Authority or the Commissioner or the Secretary, as the case may be, shall issue a set of directions to the collecting staff on all matters enumerated below relating to the collection work, -

(a) area or zone allotted for each collecting person;

(b) rate of fees to be collected for different articles/ purposes or person, ect.,

(c) remittance of daily collection at the Panchayat Office in the evening of the every day with details of the collection work for that day and surrender the counterfoil books;

(d) authorised persons for receiving the collections and counterfoil books from the collecting staff and give acknowledgement in the register or note book maintained by him for this record;

(e) any other pertinent matter which way arise in a particular case;

(f) the person receiving the cash daily at the Panchayat must verify the number of counterfoils and assess the amount which should have been collected and tally it with the case actually received. If any discrepancy is notified in the verification, then he should take up the matter to the notice of Executive Authority or the Commissioner or the Secretary, as the case may be, for suitable further action.

(6) The Executive Authority or the Commissioner or the Secretary, as the case may be, shall keep strict watch over the collection work of the staff. He shall undertake the following measures in this regard. He shall take immediate and effective action in case he notices any irregularity or misappropriation during his check -

(a) verify with vendors or other persons who have to pay fees, whether they receive tickets for the amount they pay to the collecting person, whether they were demanded to pay or give more amount than that specified in the ticket or mentioned in the notice board installed at the site of collection;

(b) verify whether the collecting persons are collecting fees from all persons / vendors or they omit to collect fees from some persons/ vendors or whether they collect money but omit to give receipts;

(c) whether the tickets available with the vendors are genuine or spurious;

(d) any other kind of check, as he may consider necessary or essential;

(e) if he thinks desirable or necessary, he can authoirse the Vice-President to undertake the measures he is taking, on days on which he could not undertake them, due to his pre-occupation with any other official business; and

(f) surprise verification of stock of tickets and cash on hand with the collecting person at frequent intervals.

(7) Each and every collecting person shall maintain a separate account in two parts for his record in respect of tickets entrusted to him and collections made and remitted into the Panchayat. Details of collection made and remitted into Panchayat shall be entered daily in the register.

(8) The Executive Authority or the Commissioner or the Secretary, as the case may be, shall verify the number of ticket books used, cash on hand with every collecting person and append a certificate of verification in the stock register of the collecting persons with a view to keeping strict vigil to prevent misappropriation and defalcation. Any irregularity noticed during such verification should be given due serious consideration and follow up action take. The Executive Authority or the Commissioner or the Secretary, as the case may be, shall arrange to issue a receipt for the cash remitted into the Panchayat Office daily to the collecting person when they remit money and receive used ticket book. The miscellaneous register shall also indicate the serial number of tickets from which fees were collected and the serial number of used ticket books received by the office.

(9) After the period of management by the Panchayat is over, the Executive Authority or the Commissioner or the Secretary, as the case may be, shall review the overall position with reference to the number of ticket books printed, number issued, amount collected and remitted and the net savings accrued and report the matter to the concerned Panchayat at its next meeting.

25. Collection of lease and sale amount - (1) After completing the execution of lease deed, necessary entries shall be made in the register of miscellaneous demand under the attestation of the Executive Authority or the Commissioner or the Secretary, as the case may be.

(2). The Executive Authority or the Commissioner or the Secretary, as the case may be shall make necessary posting regarding the total amount, initial payment, when the deed is executed, what the amount to be recovered in instalments at the beginning of each month, scrutinise this register, note down the due date of instalments of lease amount, and issue advance reminder to the Lessee for remitting the dues. If they fail to remit the instalment due even after a reasonable period, the Executive Authority or the Commissioner or the Secretary, as the case may be, shall take action to terminate the lease besides taking appropriate action to realise the dues with interest.

L.N.VIJAYARAGHAVAN
SECRETARY TO GOVERNMENT

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