

TRIPURA GAZETTE



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Agartala, Wednesday, January 16, 2019 A. D., Pausa 26, 1940 S. E.

PART—I— Orders and Notifications by the Government of Tripura,
The High Court, Government Treasury etc.

**Government of Tripura,
Education (Social Welfare and Social Education) Department**

NOTIFICATION

Agartala, 16th January, 2019

Whereas a draft of the Tripura Rights of Persons with Disabilities Rules,

2018 was published as required by sub-sections (1) and (2) of section 101 of the Rights of Persons with Disabilities Act, 2016 (49 of 2016) in the Gazette of Tripura,

Extraordinary, Part-1, vide No. 1208, Registered No. N.E.930, dated the 22nd

November, 2018, inviting objections and suggestions from all persons likely to be affected thereby, before the expiry of thirty days from the date on which the copies of the Official Gazette containing the said notification were made available to the public:

And

whereas the copies of the Official Gazette in which the said notification was published were made available to the public on the 22nd November 2018.

And

whereas objections and suggestions received from the public on the said draft rules were considered by the State Government;

And

Now, therefore, for exercise of powers conferred by sub-sections (1) and (2) of section 101 of the Rights of Persons with Disabilities Act, 2016 (49 of 2016) the State Government hereby makes the following rules, namely:-

CHAPTER - I

Preliminary

1. Short title and Commencement.- (1) These Rules, may

Rights of Persons with Disabilities Rules, 2018.

(2) They shall come into force on the date of their final publication in the official Gazette

(a) "Act" means the Rights of Persons with Disabilities Act, 2016 (49 of 2016);

(b) "Act" means the Rights of Persons with Disabilities Act, 2016 (49 of 2016);

* \ These rules may be called the Tripura

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CHAPTER - I

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CHAPTER - III

Limited Guardianship

Limit GuardianShip_ (1) A District Court or any designated authority as designated by the State Government on its own or otherwise shall grant the support of limited guardianship to a person with disability to take a legally binding decision on his behalf.

(2) The District Court or the designated authority before granting limited guardianship for the person with disability shall satisfy itself that such person is not in a position to take legally binding decision of his own.

(3) The District Court or the designated authority shall take a decision preferably within a period of one month from the date of receipt of an application regarding grant of limited guardianship or from the date of coming to his notice of the need of such limited guardianship

Provided that the consent of the person to act as a limited guardian shall also be obtained before grant of such limited guardianship.

(4) The validity of the limited guardianship as appointed under sub-rule (1) shall be initially for a period of five years which can be further extended by the District Court or the designated authority as the case may be :

Provided that the District Court or the designated authority shall follow the same procedure while extending the validity of the limited guardianship as followed while granting the initial guardianship.

(5) While granting the support of such limited guardianship the Court or the designated authority shall consider a suitable person to be appointed as a limited guardianship in the following preference of merit:-

- (a) The parents or adult children of the person with disability
- (b) Immediate brother or sister
- (c) Other Blood relatives or care givers or prominent personality of the locality

(6) Only those individuals who are over the age of 18 years and who have not been previously convicted of any cognizable offence as defined in the Code of Criminal Procedure, 1973 (1 of 1974) shall be appointed _____

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Mpura Gazette. Extraordinary Issue. January 16. 2019 A. D.

(7) The limited guardian appointed under sub-rule n in all matters before _____

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CHAPTER-IV

Education

6. Terms and condition before recognition of the educational institution.- (1) e terms and conditions of grant of recognition to the educational institutions by the competent authority in the State may include the requirements to comply with the provisions of Section 16 of the Act

CHAPTER-V Certificate of Registration of Institutions

7. Application for, and grant of certificate of registration.- (1) A person desirous of establishing or maintaining an institution for persons with disabilities may make an application in form 'A' to the competent authority referred to in Section 51 of the Act.

(2) Every application made under sub-rule (1) shall be accompanied with:-

- (a) documentary evidence of work in the area of disability;
- (b) the Constitution or bye laws or regulations governing the institution;
- (c) audited statement and details of grants received in the last three years, preceding the date of application;
- (d) a statement regarding total number of persons employed in the Institution along with their respective duties;
- (e) the number of professionals employed in the Institution;
- (f) a statement regarding qualifications of the professionals employed by the Institution: and
- (g) the proof of residence of the applicant.

(3) Every application made under sub rule (1) shall comply with the following requirements in respect of the concerned Institution, namely -

- (a) that the institution had been working in the field of rehabilitation of persons with disabilities for not less than three years immediately before the date which the application is made;
- (b) that the institution is registered under the Indian Societies Registration act, 1860 (XXI of 1860) or under any other law for the time being in force in the State and a copy of such registration certificate along with the byelaws and memorandum of association of the society shall accompany the application:
- (c) that the institution has not been running to profit any individual or a body of individuals:
- (d) that the institution has employed professionals registered with the Rehabilitation Council of India to cater to the special needs of children with disabilities,
- (e) that the institution has adequate teaching and learning material for the persons with disabilities; and
- (f) that the institution has submitted its audited accounts and annual reports of last three years with the competent authority.

(4) The certificate of registration under this rule, unless revoked under section 52 of the Act, shall remain in force for a period of five years on and from the date on which it is granted or renewed.

(5) An application for the renewal of certificate of registration shall, be made in the same manner as the application for grant of certificate under sub-rule (1) accompanied with the previous certificate of registration

and a statement that the applicant is applying for renewal of the certificate so accompanied:

Provided that such application shall be made before sixty days of the expiry of the validity of such certificate;

Provided further that the competent authority may consider application for renewal of the certificate of registration after 60 days but not later than 120 days, if he is satisfied that sufficient reasons has been provided for such delay

(6) If the application for renewal of certificate of registration is made before its expiry as specified in the proviso to sub-rule (5), the certificate of registration shall continue to be in force until orders are passed on the application and the certificate of registration shall be deemed to have expired if application for its renewal is not made within sixty days as specified in the said proviso

(7) Every application made under sub-rule (1) or sub rule (5), in which the competent authority referred to in sub-section (1) of Section 51 of the Act, is satisfied that the requirements for grant of certificate of registration under the Act and these rules have been complied with, shall be disposed of by it within a period of ninety days thereafter

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8 Appeal against the order of component authority.- Any person aggrieved by the order of the competent authority referred to in sub-section (1) of Section 51. refusing to grant a certificate of registration or revoking a certificate of registration may. within three months from the date of the order. pre'er an appeal against that order to the appellate authority referred to in sub-section (1) of Section 53 and the appellate authority may. after such enquiry into the matter as it considers necessary and after giving the aoPELLANT ar oportunity of hearings, make such order as it thinks fit

CHAPTER -VI

Appeal Regarding Certificate of Disability

9. Appeal against the decision of the authority issuing certificate of disability.-

(1) Any pe^rscn aggrieved with tne decision of the authority issuing the certificate of disability may within ninety days from the date of the decision, prefer an appeal to the appellate authority designated by the State Government for the purpose under sub-section (1) of Section 59 of the Act in the following manner -

- (a) The appeal shall contain brief background and the grounds for making the appeal
- (b) The aoPEAL shall be accompanied by a copy of the certificate of disability or letter of rejection issued by the certifying authority:

Provided that where a person with disability is a minor or suffering from any disability which renders h:m unfit to make such an appeal himself, the appeal on his beha-f may be made by his legal or limited guardian as the case may be.

(2) On ^rceipt of such appeal, the appellate authority shall provide the appellant an opportunity to present his case and thereafter pass such reasonea and detailed order as it may deem appropriate.

(3) Every appeal preferred under sub-rule (1) shall be decided as expeditiously as possible and not later than a period of sixty days from the date of receipt of the appeal

State Advisory Board

10. Allowances for the Members of the State Advisory Board.- (1)The non- official Members of the State Advisory Board on disability not residing in the State capital region, shall be paid an allowance of rupees two thousand per day for each day of the actual meetings of the said Board.

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(2) . T?® "non_official Members of the State Advisory Board on disability residing outside the State capital region shall be paid daily and travelling allowances for each day of the actual meetings of the said Board at the rates admissible to a Group A or equivalent Officer of the State Government:

11. Notice of the Meeting.- (1) The meetings of the State Advisory Board on disability constituted under sub-section (1) of Section 66 of the Act (hereinafter in this Chapter referred to as 'the Board') shall ordinarily be held in the Capital of the State on such dates as may be fixed by its Chairperson:

Provided that it shall meet at least once in every six months.

(2)The Chairperson of the Board shall, upon the written request of not less than ten members of the Board, call a special meeting of the Board

(3)Fifteen clear days' notice of an ordinary meeting and five clear days' notice of a special meeting specifying the time and the place at which such meeting to be held and the business to be transacted thereat, shall be given by Member-Secretary of the Board to the members of the Board

(4) Notice of a meeting may be given to the members of the Board by delivering the same to them by messenger or sending it by registered post to their respective last known places of residence or business or by email or in such other manner as the Chairperson of the Board may, in the circumstances of the case, thinks fit.

(5) No member of the Board shall be entitled to bring forward for the consideration of the meeting any matter of which he has not given ten clear days' notice to the Member Secretary of the Board, unless the Chairperson of the Board, in his discretion, permit him to do so.'

(6) The Board may adjourn its meeting from day to day or to any particular day as under
ts) Where a meeting of the Board is adjourned from day to day, notice of such adjourned meeting shall be given, to the members of the Board available at the place where the meeting which was adjourned was to be held and it shall not be necessary to give notice of the adjourned meeting to the rest of the members;

(b) Where a meeting of the Board is adjourned not from day to day but from the day on which the meeting is to be held to another date, notice of Such meeting shall be given to all the members of the Board in the manner as specified in sub-rule(4).

12. Presiding Officer.- The Chairperson of the Board shall preside at every meeting of the Board and in his absence, the Vice-Chairperson thereof shall preside, but when both the Chairperson and the Vice-Chairperson of the Board are absent from any meeting, the members of the Board present shall elect one of the members to preside at that meeting.

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(2) If at any time fixed for any meeting or during the course of any meeting less than one-third of the total members of the Board are present, the Chairperson thereof may adjourn the meeting to such hours on the following or on some other future date as he may fix.

(3) No quorum shall be necessary for the adjourned meeting of the Board

(4) No matter which has not been on the agenda of the ordinary or the special meeting of the Board, as the case may be, shall be discussed at its adjourned meeting

(5) (a) Where a meeting of the Board is adjourned under sub-rule(2) for want of quorum to the following day, notice of such adjourned meeting shall be given to the members of the Board available at the place where the meeting which was adjourned was to be held and it shall not be necessary to give notice of the adjourned meeting to other members; and

(b) Where a meeting of the Board is adjourned under sub-rule(2) for want of quorum not to the following, but on a date with sufficient gap, notice of such adjourned meeting shall be given to all the members of the Board in the manner as specified in sub-rule (4) of rule 11

14. Minutes.- (1) Record shall be kept of the names of all the members of the Board who attended the meeting of the Board and of the proceedings at the meetings in a book to be maintained for that purpose by the Member-Secretary of the Board

(2) The minutes of the previous meeting of the Board shall be read at the beginning of every succeeding meeting, and shall be confirmed and signed by the presiding officer at such meeting

(3) The proceeding shall be open to inspection by any member of the Board at the office of the Member Secretary of the Board during office hours

15. Business to be transacted at meeting - Except with the permission of the presiding officer no business which is not entered in the agenda or of which notice has not been given by a member under sub rule (5) of rule 11 shall be transacted at any meeting of the Board

16 Agenda for the meeting of the State Advisory Board - (1) At any meeting of the Board business shall be transacted in the order in which it is entered in the agenda, unless otherwise resolved in the meeting with the permission of the presiding officer

Inpura Gazette, Extraordinary Issue, January 16, 2019 A. I).

Provided that either at the beginning of the meeting of the Board or after the conclusion of the debate on a motion during the meeting, the presiding officer or a member of the Board may suggest a change in the order of business as entered in the agenda and if the Chairperson of the Board agrees, such a change shall take place. ^{di}

17. Decision by majority.- All questions considered at a meeting of the Board shall be

decided by a majority of votes of the members of the Board present and voting and in the event of equality of votes, the Chairperson of the Board, or in the absence of the Chairperson, the Vice-Chairperson of the Board or in the absence of both the Member presiding at the meeting, as the case may be, shall have a second or casting vote.

18. No proceeding to be invalid due to vacancy or any defect.- No proceeding of the Board shall be invalid by reasons of existence of any vacancy in or any defect in the constitution of the Board.

19. District-level Committee.- The District-Level Committee on disability referred to in Section 72 of the Act shall consist of -

- (i) An Officer of the Civil Service of the Union or of the State, not below the rank of a District Magistrate or a Deputy Commissioner, as the case may be, of a district ex-officio Chairperson;
- (ii) Civil Surgeon or Chief Medical Officer member;
- (iii) a Psychiatrist of the District Hospital member;
- (iv) a Public Prosecutor of the District member,
- (v) a Representative of a Registered Organization member;
- (vi) a Person with disability as defined in Clause(s) of Section 2 of the Act member; and
- (vii) Any other member as invited by the Chairperson member;
- (viii) District Officer dealing with empowerment of persons with disabilities member secretary;

20. Functions of the Committee.- The District - Level Committee on disability shall perform the following functions, namely:-

- (a) advise the District authorities on matters relating to rehabilitation and empowerment of persons with disabilities.
- (b) monitor the implementation of the provisions of the Act and the rules made there under by the District authorities.
- (c) assist the District authorities in implementation of schemes and programmes of the Government for empowerment of persons with disabilities

ITipura Gazette, Extraordinary Issue, January 16, 2019 A. D.

- (d) look into the complaints relating to non implementation of the provisions of the Act by the District authorities and recommend suitable remedial measures to the concerned authority to redress such complaints.
- (e) look into the appeal made by the employees of Government establishments aggrieved with the action taken by the District level establishments under subsection (4) of Section 23 of the Act and recommend appropriate measures
- (f) any other functions as may be assigned by the State Government.

CHAPTER -VIII

State Commissioner for Persons with Disabilities

21. Qualification for appointment of State Commissioner.- A person shall not be qualified to be appointed as a State Commissioner for Persons with Disability under sub-section (1) of Section 79 of the Act (in this Chapter referred to as the State Commissioner) unless, -

- (i) he has special knowledge or practical experience in respect of the matters relating to rehabilitation of persons with disabilities;
- (ii) he has not attained the age of fifty-six years on the 1st January of the year in which the last date for receipt of applications, as specified in the advertisement inviting applications for appointment of the State Commissioner, occurs;
- (iii) he possesses the following educational qualifications and experience, namely
 - (A) Educational qualifications:
 - (i) essential : Graduate from a recognized university;
 - (ii) desirable: recognized degree or diploma in social work or law or management or human rights or rehabilitation or education of disabled persons.
 - (B) Experience:
 - at least twenty years experience in a Group 'A' level or equivalent post:-
 - (i) in Central or State Government or
 - (ii) Public Sector Undertakings or Semi Government or Autonomous Bodies dealing with disability related matters or social sector or
 - (iii) works in the capacity of a senior level functionary in a registered state or national or international level voluntary organization working in the field of disability or social development;

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- 'gib e candidates fulfilling the criteria mentioned in rule 20

(2) A Search-cum-Selection Committee shall be constituted by the State Government to recommend to ,t a panel of three suitable candidates for the post of the State Commissioner

(3) Composition of the Search-cum-Selection Committee referred to in sub-rule (2) shall be governed by relevant instructions issued by the concerned administrative department of the State Government

(4) The panel recommended by the Search-cum-Selection Committee under sub-rule (2) may consist of persons from amongst those who have applied in response to the acveitment mace under sub-rule (1) as well as from other willing eligiole persons in the employment of Central or State Government when the Committee may cons cer suitable

(5) The State Government shall appoint one of the candidates out of the oanel recommended by the Search-cum-Selection Committee under sub-rule (2) as the State Commissioner

23. Term of the State Commissioner.- (1) The State Commissioner shall be appointee on ful -time basis for a period of tthree years from the date on which he assumes office, or till he attains the age of sixty-five years, whichever is earlier

(2) A person may serve as State Commissioner for a maximum of two terms, subject to the upper age limit of sixty-five years.

24 Salary and allowances of the State Commissioner.- (1) The salary and allowances of the State Commissioner shall be the salary and allowances as admissible to a Secretary to the State Government

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specified below namely:- of State Commiss, oner shall be such as

2 where a State Commissioner, being a retired government servant or a retired employee of any institution or autonomous body funded by the Central or State Government, is in receipt of pension in respect of such previous service, the salary admissible to him under these rules shall be reduced by the amount of the pension and if he had received in lieu of a portion of the pension, the commuted value thereof by the amount of such commuted portion of the pension

(a) Leave:

Group 'A' officers shall be entitled to such leave as is admissible to Group 'A' officers under relevant provisions of the State Civil Service Rules applicable on them.

(b) Leave Travel Concession:

The State Commissioner shall be entitled to such Leave Travel Concession as is admissible to Group 'A' officers under relevant provisions of the State Civil Service Rules applicable on them.

(c) Medical Benefits :

The State Commissioner shall be entitled to such medical benefits as is admissible to Group 'A' officers under the relevant provisions of the State Civil Service Rules applicable on them.

26. Resignation and removal.- (1) The State Commissioner may, by notice in writing under his hand, addressed to the State Government, resign from his post.

(2) The State Government shall remove the State Commissioner from his office, if he

- (a) becomes an undischarged insolvent, or
- (b) engages himself during his term of office in any paid employment or activity outside the duties of his office, or
- (c) is convicted and sentenced to imprisonment for an offence which in the opinion of the State Government involves moral turpitude; or
- (d) is in the opinion of the State Government, unfit to continue in office by reason of infirmity of mind or body or serious default in the performance of his functions as laid down in the Act; or
- (e) without obtaining leave of absence from the State Government, remains absent from duty for a consecutive period of fifteen days or more, or
- (f) has, in the opinion of the State Government so abused the position of the State Commissioner as to render his continuance in the office detrimental to the interest of persons with disability.

Provided that no State Commissioner shall be removed from office under this rule except after following the procedure, mutatis mutandis, applicable for removal of a Group 'A' officer of the State Government

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Inpura Gazette, Extraordinary Issue, January 16, 2019 A. D.

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^determined by the rules and orders for the time being applicable to the Secretary to the State Government.

28. Constitution of the Advisory Committee.- (1) The State Government shall appoint an Advisory Committee comprising the following members, namely:-

(a) Three experts to represent each of the five groups of specified disabilities mentioned in the Schedule to the Act by rotation of whom one shall be woman:

(b) Two experts or senior officers of the Government to be nominated by the State Government.

(2) The tenure of the members of the Advisory Committee shall be for a period of three years.

(3) The State Commissioner may invite subject or domain expert as per the need who shall assist him in meeting or hearing and in preparation of the report.

29. Procedure to be followed by State Commissioner.- (1) A complainant may present a complaint containing the following particulars in person or by his agent to the State Commissioner or send it by registered post or by email addressed to the State Commissioner , namely

(a) tne name, description and the aadress of the complainant.

(b) the name . description and the address of the opposite party or parties , as the case may be , so far as they may be ascertained;

(c) the facts relating to complaint and when and where it arose;

(d) documents in support of the allegations contained in the complaint;

(e) the relief which the complainant claims

(2) The State Commissioner on receipt of a complaint shall refer a copy of the complaint to the opposite party or parties mentioned in the complaint directing imio give his version of the case within a period of thirty days or such extended pen exceeding fifteen days as may be granted by the State Commissioner

(3) On the date of hearing or any other date to which hearing could be adjourned, the parties or their agents shall appear before the State Commissioner

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30 Advisory Committee to assist the State Commissioner.- (1) The State Government shall appoint an Advisory Committee comprising five experts to represent each of the five groups of specified disabilities mentioned in the Schedule to the Act of whom two shall be women

(2) The State Corrm ss»oner may invite subject or domain expert as per the need who shall assist him in meeting or heannq and in preparation of the report

(3) The tenure of the members of the Advisory Committee shall be for a period of three years and the members shall not be eligible for re-nommation

(4^ The non-official members of the Advisory Committee residing in the State capital shall be paid an allowance of rupees two thousand per day for each day of the actual meeting

(5> Non official membe^s of the Advisory Committee not residing in the State cap tal shal oe paic daily anc trave ling allowances for each day of the actual meeting at the rate admissible to a Group A officer of the State Government

31 Submission of annual reports.- (1) The State Commissioner shall as soon as may oe possible after the end of the financial year but not later than the 30th day of September in the next year ensuing prepare and submit tc the State Government an annual report giving a complete account of his activities dur,ng the said financial year

(2) In particular the annual report referred to in sub-rule (1) shall be in the form so that the details of separate matters be prov.ded under separate heads mter-alia containing therein information in respect of each of the following matters name y - -----

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- (c) the main recommendations made by the State Commissioner:
- (d) progress made in the implementation of the Act in the State, and
- (e) any other matter deemed appropriate for inclusion by the State Commissioner or specified by the State Government from time to time to be included in the report.

CHAPTER - IX

Public Prosecutor

32. Appointment of Public Prosecutor.- (1) The Public Prosecutor to be appointed by the State Government in every Special Court shall have:-

- (a) Practical experience of handing cases of persons with disabilities.
- (b) Experience at the Bar of not less than seven years
- (c) Shall be well versed with local language and customs.

(2) The fee and other remunerations of the Special Public Prosecutor specified or appointed under sub-section (1) of section 85 of the Act shall be the same as that of Public Prosecutor appointed by the State Government under the code of criminal procedure, 1973 (1 of 1974) for conducting the cases before a court of session

CHAPTER - X

State Fund for Persons with Disabilities

33. State Fund for Persons with Disabilities and its management.- (1) There shall be credited to the State Fund for persons with disabilities hereinafter referred to as 'the State Fund':-

- (a) all sums received by way of grant, gifts, donations, benefactons, bequests or transfers
- (b) all sums received from the State Government including grants-in-aid; and
- (c) all sums from such other sources as may be decided by the State Government.

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Persons with Disabilities in the State Government - Chairperson

(b) two representatives from the Department of Health and Family Welfare Department of Education. Department of Labour and Employment.

Department of Finance, Department of Rural Development in the State Government, not below the rank of a Joint Secretary, by rotation in alphabetical orders - Members;

(c) two persons representing different types of disabilities to be nominated by the State Government, by rotation - Members;

(d) Director in the Directorate dealing with Empowerment of Persons with Disabilities in the State Government - Convener and Chief Executive Officer.

(3) The governing body shall meet as often as necessary, but at least once in every financial year.

(4) The nominated members shall hold office for not more than three years.

(5) No member of the governing body shall be a beneficiary of the Fund during the period such Member holds office.

(6) The nominated non-official members shall be eligible for payment of travelling allowance and dearness allowance as admissible to a Group 'A' officer of the State Government for attending the meeting of the governing body.

(7) No person shall be nominated under clause (b) and (c) of sub-rule 2 as a member of the governing body if he -

(a) is, or has been, convicted of an offence, which in the opinion of the State Government, involves moral turpitude; or

(b) is, or at any time has been, adjudicated as an insolvent.

34. Utilisation of the State Fund.- (1) The State Fund shall be utilized for the following purposes, namely:-

(a) financial assistance in the areas which are not specifically covered under any scheme and programme of the State Government;

(b) administrative and other expenses of the Fund, as may be required to be incurred by or under the Act, and

(c) such other purposes as may be decided by the governing body.

(2) Every proposal of expenditure shall be placed before the governing body for its approval

Tripura Gazette, Extraordinary Issue, January 16, 2019 A. D.

(3) The governing body may appoint secretarial staff including accountants with such terms and conditions as it may think appropriate to look after the management and Utilisation of the State Fund based on need based requirement.

(4) The State Fund shall be invested in such manner as may be decided by the governing body

35. Budget.- The Chief Executive Officer of the State Fund shall prepare the budget for incurring expenditure under the State Fund in each financial year showing the estimated receipt and expenditure of the Fund, in January every year and shall place the same for consideration of the governing body

36. Annual Report. - The annual report of the Department dealing with Empowerment of Persons with Disabilities in the State Government shall include a chapter on the State Fund

Januan 16. 2019 A I)

Application for a Certificate of FORM - A Registration
[Sec rule 7(1)]

1 Name of applicant and his address

(2) IniWubor m tespect o* which application is made

a Name

o Address (Office'Proven z Ptone f

(Project) 3* •' eiex i Office

- of the Act coder which me nstitution is already req stereo

i.m Regstrator No ard date of registration (Please attach a photocopy)

41 Memorandum of Association ano Bye-laws of the institution (Please attach a photocopy!

(5) Name address occupation and other particulars of the members of the Boa'd o* Management /Government Body of the institution

(6) Present Activities of the .nstitution

(7) Present membership strength and categorization of the institution List
Of documents to be attached

(a) A copy of the annual report for the previous year.

• b) Aud tec Statement of account duly oedified by Chartered Accountant for the last two years

i • Receipt and Payment Account (by Cnare^ed Accountant for tne ast two years)

(ID Income and Expenditure Account (by Chartered Accountant for the last two yea's)

U H Ba ance sheet for the last two years (by Chartered Accountant for the last two years)

-c> Deta is of stah employed by the nstitution

Tripura Gazette. Extraordinary Issue. January 16. 2019 A. D.

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