BOARD FOR INDUSTRIAL AND FINANCIAL RECONSTRUCTION (SECRETARY'S POWERS AND DUTIES) RULES, 1987[1]

In exercise of the powers conferred by section 36 of the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986), the Central Government hereby makes the following rules, namely:—

1. Short title and commencement.—(1) These rules may be called the Board for Industrial and Financial Reconstruction (Secretary's Powers and Duties) Rules, 1987.

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

2. Definitions.—In these rules, unless the context otherwise requires,—

(a) "Act" means the Sick Industrial Companies (Special Provisions) Act, 1985 (1 of 1986);

(b) "Bench" means a Bench of the Board constituted under sub-section (2) of section 12;

(c) "Board" means the Board for Industrial and Financial Reconstruction, established under section 4 of the Act, and includes, where the context so requires, a Bench exercising the jurisdiction, powers and authority of the Board;

(d) "Chairman" means the Chairman of the Board;

(e) "operating agency" means any public financial institution specified by the Board, by general or special order, as its agency;

(f) "reference" means reference made to the Board under section 15 of the Act;

(g) "Secretary" means the Secretary to the Board appointed under sub-section (1) of section 8 of the Act.

3. General.—(1) The Secretary shall be the principal officer of the Board who shall exercise his powers and perform his duties under the control of the Chairman.

(2) The Board in discharge of its functions under the Act, may take such assistance from the Secretary, as it may deem fit, and the Secretary shall be bound to assist the Board.

(3) In particular and without prejudice to the generality of the provisions of this rule, the Secretary shall have the following powers and perform the following duties, namely:—

(a) It shall be the duty of the Secretary to scrutinise the report submitted by any operating agency, in pursuance of the order of the Board made under sub-section (2) of section 16 of the Act and submit a

1. *Vide* G.S.R. 506 (E), dated 15th May, 1987, published in the Gazette of India, Extra., No. 262, dated 15th May, 1987.

report to the Board on the point as to whether the said report is complete with respect to matters which the operating agency was required by the Board to enquire into or not, and seek directions of the Board as to carrying out of further inquiry, if any, by the operating agency and submission by it of a further report.

(b) It shall be the duty of the Secretary to scrutinise the scheme prepared by any operating agency in pursuance of an order of the Board under sub-section (3) of section 17 or a fresh scheme prepared by an operating agency in pursuance of the order of the Board under sub-section (5) of section 18 of the Act, and submit a report on the point as to whether the said scheme has been prepared in accordance with the guidelines specified in the order of the Board.

(c) The Secretary shall have the right to collect from the Central Government, the Reserve Bank, any scheduled bank or any other bank, the public financial institutions or the State level institutions, or other offices, institutions, companies, firms, such information as may be considered useful for the purpose of efficient discharge of the functions of the Board under the Act and place the said information before the Board.

(d) The Secretary may call upon any industrial company to furnish within such time, as may be specified by him, information in relation to compliance by the company of the provisions of sub-section (1) of section 23 and seek the directions of the Chairman as to further action, if any, to be taken in the matter.

(e) The official seal of the Board shall not be affixed to any order, summons, other process or any certified copy issued by the Board or any other documents save under the authority in writing of the Secretary.

(f) The Secretary shall have the custody of the records of the Board.

(g) The official seal of the Board shall be in the custody and control of the Secretary.

4. Additional powers and duties of the Secretary.—(1) In addition to his powers and duties specified in rule 3, the Secretary shall have the following additional powers and perform the following duties, namely:—

(i) receive all references, applications, reports, letters, representations and other documents;

(ii) decide all questions arising out of any reference to the Board before the same is registered in the office of the Board;

(iii) require any reference to be amended in accordance with the Act or the regulations made under section 13 of the Act;

(iv) subject to the directions of the Chairman, or the respective Benches, as the case may be, fix dates for hearing of references, applications or other proceedings;

(v) direct formal amendment of records;

(vi) grant leave to inspect the records of the Board;

(vii) dispose of all matters relating to the service of the notice, summons, other process, applications for issue of fresh notices, summons or other process, or for extending time for ordering a particular mode of service including the substituted service by publication of the notice, summons or other process by way of advertisement in the newspapers.

(2) An appeal against the decision of or direction issued by the Secretary under clauses (ii), (iii), (v) (vi) and (vii) shall be made to the Chairman by the aggrieved party within 15 days from the date on which such decision or direction is communicated to him and the decision thereon of the Chairman shall be final.

5. Powers exercisable under these rules to be in addition to other powers of the Secretary.—(1) The powers exercisable and duties to be performed by the Secretary under these rules shall be in addition to those prescribed under any other rules as have already been made or as may be made from time to time, by the Central Government under section 36 of the Act.

(2) The powers exercisable and duties to be performed by the Secretary under these rules are without prejudice to those as may be specified by the Chairman or delegated to the Secretary, by the Board under section 27 of the Act.

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