APPELLATE AUTHORITY FOR INDUSTRIAL AND FINANCIAL RECONSTRUCTION (SECRETARY'S POWERS AND DUTIES) RULES, 1988[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.—(i) These rules may be called the Appellate Authority for Industrial and Financial Reconstruction (Secretary's Powers and Duties) Rules, 1988.

(ii) 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 Appellate Authority constituted under sub-section (2) of section 12 of the Act;

(c) "Appellate Authority" means the Appellate Authority for Industrial and Financial Reconstruction, constituted under section 5 of the Act, and includes, where the context so requires, a Bench exercising the jurisdiction, powers and authority of the Appellate Authority;

(d) "Chairman" means the Chairman of Appellate Authority;

(e) "Secretary" means the Secretary to the Appellate Authority appointed under sub-section (1) of section 8 of the Act.

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

(2) The Appellate Authority, 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 Appellate Authority.

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

(a) It shall be the duty of the Secretary to assist the Appellate Authority in making such enquiry as it deems fit in connection with any appeal before the Appellate Authority.

(b) The Secretary shall have the right to collect from the Central Government, the Reserve Bank, any scheduled bank or any other bank, public financial institutions or State level institutions or other offices, institutions, companies, firms, such information as may be

1. *Vide* G.S.R. 463 (E), dated 18th April, 1988, published in the Gazette of India, Extra., No. 204, dated 18th April, 1988.

considered useful for the purpose of discharge of the functions of the Appellate Authority under the Act and place the said information before the Appellate Authority.

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

(d) The Secretary shall have the custody of the records of the Appellate Authority.

(e) The official seal of the Appellate Authority 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 Appellate Authority before the same is registered in the office of the Appellate Authority;

(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 Appellate Authority;

(vii) dispose of all matters relating to the service of the notices, summons, other process, applications for issue of fresh notices, summon or other process or for extending time for ordering a particular mode of service including the substituted service by publication of the notices, 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 Appellate Authority under section 27 of the Act.
