THE NATIONAL HIGHWAYS TRIBUNAL (PROCEDURE FOR INVESTIGATION OF MISBEHAVIOUR OR INCAPACITY OF PRESIDING OFFICER) RULES, 2003[1]

In exercise of the powers conferred by sub-section (1) read with clause (d) of sub-section (2) of section 50 of the Control of National Highways (Land and Traffic) Act, 2002 (13 of 2003), the Central Government hereby makes the following rules, namely:—

1. Short title, commencement and application.—(1) These rules may be called the National Highways Tribunal (Procedure For Investigation of Misbehaviour or Incapacity of Presiding Officer) Rules, 2003.

(2) They shall come into force on the date on which the Act comes into force.

(3) These rules shall be applicable to every Presiding Officer of the National Highways Tribunal established under the Act.

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

(a) "Act" means the Control of National Highways (Land and Traffic) Act, 2002 (13 of 2002);

(b) "Tribunal" means the National Highways Tribunal established under sub-section (1) of section 5 of the Act;

(c) "Presiding Officer" means a person appointed as Presiding Officer of the Tribunal under sub-section (1) of section 6 of the Act;

(d) words and expressions used and not defined in these rules but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. Committee for investigation of complaints.—(1) If a written complaint, alleging any definite charges of misbehaviour or incapacity to perform the functions of the office in respect of a Presiding Officer, is received by the Central Government, it shall make a preliminary scrutiny of such complaint.

(2) If, on preliminary scrutiny, the President considers it necessary to investigate into the allegation, it shall place the complaint together with supporting material as may be available, before a committee consisting of the following persons to investigate the charges of allegations made in the complaint:—

(i) Secretary (Coordination and Public Grievances), Cabinet Secretariat
Chairman

(ii) Secretary Ministry of Road Transport and Highways
Member

(iii) Secretary, Department of Legal Affairs, Ministry of Law and Justice
Member

(3) The committee shall devise its own procedure and method of investigation which may include recording of evidence of the complainant and

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1. *Vide* G.S.R. 884 (E), dated 12th November, 2003, published in the Gazette of India , Extra., Pt. II, Sec. 3 (i), dated 12th November, 2003.

collection of material relevant to the inquiry which may be conducted by a judge of the High Court under these rules.

(4) The committee shall submit its findings to the President as early as possible within a period that may be specified by the President in this behalf.

4. Judge to conduct inquiry.—(1) If the President is of the opinion that there are reasonable grounds for making an inquiry into the truth of any imputation of misbehaviour or incapacity of a Presiding Officer, he shall make a reference to the Chief Justice of India requesting him to nominate a Judge of a High Court to conduct the inquiry.

(2) The President shall, by order, appoint the Judge of a High Court nominated by the Chief Justice of India (hereinafter in these rules referred to as Judge) for the purpose of conducting the inquiry.

(3) Notice of appointment of a Judge under sub-rule (2) shall be given to the Presiding Officer concerned.

(4) The President shall forward to the Judge a copy of—

(a) the articles of charges against the Presiding Officer concerned and the statement of imputation;

(b) the statement of witnesses, if any; and

(c) material documents relevant to the inquiry.

(5) The Judge shall complete the inquiry within such time or further time as may be specified by the President.

(6) The Presiding Officer concerned shall be given a reasonable opportunity of presenting a written statement of defence within such time as may be specified in this behalf by the Judge.

(7) Where it is alleged that the Presiding Officer concerned is unable to discharge the duties of his officer efficiently due to any physical or mental incapacity and the allegation is denied, the Judge may arrange for the medical examination of the Presiding Officer by such Medical Board as may be appointed for the purpose by the President and the Presiding Officer concerned shall submit himself to such medical examination within the time specified in this behalf by the Judge.

(8) The Medical Board shall undertake such medical examination of the Presiding Officer as may be considered necessary and submit a report to the Judge stating therein whether the incapacity is such as to render the Presiding Officer unfit to continue in office.

(9) If the Presiding Officer refuses to undergo such medical examination as considered necessary by the Medical Board, the Board shall submit a report to the Judge stating therein the examination which the Presiding Officer has refused to undergo, and the Judge may, on receipt of such report, presume that the Presiding Officer suffers from such physical or mental incapacity as is alleged in the complaint.

(10) The Judge may, after considering the written statement of the Presiding Officer and the Medical Report, if any, amend the charges referred to in clause (a) of sub-rule (4) and in such a case, the Presiding Officer shall be given a reasonable opportunity of presenting a fresh written statement of defence.

(11) The Central Government shall appoint an officer of that Government or an advocate to present the case against the Presiding Officer.

(12) Where the Central Government has appointed an advocate to present its case before the Judge, the Presiding Officer concerned shall also be allowed to present his case by an advocate chosen by him.

5. Application of the Departmental Inquiries (Enforcement of Witness and Production of Documents) Act, 1972 to inquiries under these rules.—The provisions of the Departmental Inquiries (Enforcement of Witness and Production of Documents) Act, 1972 (18 of 1972), shall apply to the inquiries made under these rules as they apply to departmental inquiries.

6. Powers of the Judge.—The Judge shall not be bound by the procedure laid down by the Code of Civil Procedure, 1908 (5 of 1908) but shall be guided by the principles of natural justice and shall have power to regulate his own procedure including the fixing of places and times of the inquiry.

7. Suspension of Presiding Officer.—Notwithstanding anything contained in Rule 4 and without prejudice to any action being taken in accordance with the said rule, the President, keeping in view the gravity of charges may suspend the Presiding Officer against whom a complaint is under investigation or inquiry.

8. Subsistence allowance.—The payment of subsistence allowance to a Presiding Officer under suspension shall be regulated in accordance with the rules and orders for the time being applicable to an officer of the Government of India drawing an equivalent pay.

9. Inquiry Report.—After the conclusion of the investigation, the Judge shall submit his report to the President stating therein his findings and the reasons therefore on each of the articles of charges separately with such observations on the whole case as he thinks fit.