THE COMPANY SECRETARIES (ELECTION TRIBUNAL) RULES, 2006

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In exercise of the powers conferred by clause (5) of sub-section (2) of section 38A, read with sub-section (3) of section 10B of the Company Secretaries Act, 1980 (56 of 1980), the Central Government hereby makes the following rules namely :—

1. Short title and commencement

(1) These Rules may be called the Company Secretaries (Election Tribunal) Rules, 2006.

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

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2. Definitions

In these Rules, unless the context otherwise requires,—

(a) "Act" means the Company Secretaries Act, 1980;

(b) "aggrieved person" means a person who contested that election to the Council to which the dispute pertains;

(c) "dispute" means a dispute raised by an aggrieved person arising out of the election to the Council of the Institute;

(d) "election" means election to the Council held under sub-section (2) of section 9 of the Act;

(e) "legal practitioner" means a person registered with Bar Council of India or any of the State Bar Councils and is eligible to appear before a Court of law;

(f) Tribunal" means the Tribunal formed under sub-section (1) of section 10B of the Act.

3. Constitution of Tribunal

(1) The Central Government shall establish a Tribunal by notification in official gazette, in accordance with the provisions of section 10B of the Act within, as far as practicable, 45 days of receipt

of an application forwarded by the Secretary of the Institute under section 10A of the Act.

(2) The Presiding Officer or a member of the Tribunal may resign his office by a notice in writing under his hand addressed to the Central Government.

(3) The Presiding Officer and each member of the Tribunal may cease to remain the Presiding Officer or member, as the case may be, due to any of the following reasons,—

(a) death; or

(b) resignation; or

(c) becoming physically or mentally incapable of acting as the Presiding Officer or a member, as the case may be; or

(d) his being no longer being eligible to be the Presiding Officer or a member, as the case may be; or

(e) removal by the Central Government.

(4) A casual vacancy in the Tribunal shall be filled by the Central Government, by a notification, from out of the categories in which such vacancy occurs.

4. Terms and conditions of service of the Presiding Officer and Members of the Tribunal

The Presiding Officer and other members of the Tribunal would be part-time members and would be appointed for the term of the Tribunal.

5. Allowances

(1) The Presiding Officer and other members of the Tribunal would be paid the following amount as allowance for each day of sitting, namely,—

(a) Presiding Officer — Rs. 500;
(b) Members — Rs. 400.

(2) The Central Government may revise the sitting fee or honorarium from time to time, through notification in the Official Gazette.

(3) If the presiding officer or member is in employment with the Central Government or State Government, he would be eligible only

for a lump sum honorarium of Rs. 5,000/- and would not be eligible for any sitting fee.

6. Travelling and daily Allowance

The Presiding Officer and other Members of the Tribunal, while on tour, shall be entitled to the travelling allowance and daily allowances as admissible to them in their official capacity and in case the member is not a Government Servant, he will be entitled to the travelling allowance and daily allowance as admissible to an officer holding a post carrying a scale of pay of a Joint Secretary to the Government of India.

7. Meetings of Tribunal

(1) All meetings of the Tribunal shall be held at the headquarters of the Institute:

Provided that, if the Tribunal is of the opinion that in the interest of justice it is expedient to hold a meeting at any other place than the headquarters of the Institute, it may hold a meeting at such a place.

(2) The date or dates and time of meetings shall be fixed by the Presiding Officer in consultation with other members of the Tribunal:

Provided that, a notice of not less than 15 days before the scheduled date of every such meeting shall be given by the Presiding Officer to the other members of the Tribunal, Secretary of the Institute and the parties involved.

(3) The quorum for transaction of business at a meeting of the Tribunal shall be two.

(4) The Presiding Officer shall chair all the meetings of the Tribunal:

Provided that in the absence of Presiding officer, the member appointed under clause (c) of sub-section (2) of section 10B of the Act shall chair the meeting.

(5) All questions which come up before any meeting of the Tribunal shall be decided by a majority of the members present and voting, and in the event of an equality of votes, the Presiding Officer or in his absence, the member presiding, shall have a second or casting vote.

8. Procedure to be adopted by the Tribunal

(1) In the discharge of its functions, the Tribunal shall be guided by the principles of natural justice and, subject to the other provisions of the Act and these Rules, the Tribunal shall regulate its own procedure:

Provided that, as far as practicable, the Tribunal shall try to ensure that a dispute is heard and decided by it within six months from the date of its constitution.

(2) Every party appearing before the Tribunal shall have the right to be represented before it by a legal practitioner or, with the permission of the Tribunal, by any other person.

(3) At the time of giving its decision, the Tribunal may,—

(a) dismiss the application;

(b) declare the election of all or any of the elected candidates to be void;

(c) declare the election of all or any of the elected candidates to be void and the applicant or any other candidate to have been duly elected; and

(d) may pass such order as to costs as it may consider appropriate.

(4) All orders and decisions of the Tribunal shall be authenticated by the Presiding Officer and other members of the Tribunal.

9. Powers of the Tribunal

(1) For the purpose of deciding a dispute under these Rules, the Tribunal shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) the discovery and production of any document;

(c) receiving evidence on affidavit; and

(d) cross-examining the witnesses produced before it.

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10. Duration of the Tribunal

The term of the Tribunal shall be over within 15 days from the date of announcement of its decision on the dispute under reference.

11. Residuary provision

Matters relating to the terms and conditions of services of the Presiding Officer and other members of the Tribunal, the place of meetings and allowances, with respect to which no express provision has been made in these rules shall be referred in each case to the Central Government for its decision and the decision of the Central Government thereon shall be binding on the Tribunal, the Presiding Officer and other members.

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