

THE HIGH COURT OF MEGHALAYA
SHILLONG

NOTIFICATION

Dated, Shillong the 20th April, 2017

**APPOINTMENT OF ARBITRATORS BY THE HIGH COURT OF
MEGHALAYA SCHEME, 2017**

No.HCM.II/430/2013/1402. In exercise of the powers conferred under sub-section (10) of Section 11 of the Arbitration and Conciliation Act, 1996 [as amended by the Arbitration and Conciliation (Amendment) Act, 2015], and in terms of the Resolution adopted in Agenda No.2 in the Full Court Meeting held on 19.04.2017, the High Court of Meghalaya, in supersession of the Scheme notified earlier on 25.11.2013, is pleased to make the following scheme for appointment of arbitrators.

1. Short Title and Commencement. – This Scheme may be called the Appointment of Arbitrators by the High Court of Meghalaya Scheme, 2017 and shall come into effect from the date it is notified by the Registrar General of this Court.

2. Definitions. – In this Scheme, unless the context otherwise requires,-

(a) “**Act**” means the Arbitration and Conciliation Act, 1996 [as amended by the Arbitration and Conciliation (Amendment) Act, 2015] and as amended from time to time;

(b) “**Court**” or “**High Court**” means the High Court of Meghalaya;

(c) “**Registrar General**” means the Registrar General of the High Court of Meghalaya and in his absence, the Registrar, the Joint Registrar, the Deputy Registrar or any other officer authorized to act on his behalf.

3. Submission of request. – The request to the High Court, under sub-section (4) or sub-section (5) or sub-section (6) of Section 11 of the Act, shall be made in writing and shall be accompanied by–

- a) the original arbitration agreement or a duly certified copy thereof;
- b) the names and addresses of the parties to the arbitration agreement;
- c) the names and addresses of the arbitrators, if any, already appointed;
- d) the names and addresses of the person or institution, if any, to whom any function has been entrusted by the parties to the arbitration agreement under the appointment procedure agreed upon by them;
- e) the qualifications required, if any, of the arbitrators by the agreement of the parties;
- f) a brief statement describing the general nature of dispute and the points at issue;
- g) the relief or remedy sought; and
- h) an affidavit, supported by the relevant documents, to the effect that the condition to be satisfied under sub-section (4) or sub-section (5) or sub-section (6) of Section 11 of the Act, as the case may be, before making the request to the High Court, has been satisfied.

4. Authority to deal with the request. – Upon receipt of a request under paragraph 3 of this Scheme, the High Court may either deal with the matter itself or designate any other person or institution for the purpose. Such designation of any other person or institution shall not be regarded as a delegation of judicial power by the High Court.

An application so made shall be disposed of by the High Court or the person or the institution designated by it, as the case may be, as expeditiously as possible and an endeavor shall be made to dispose of the matter within a period of 60 (sixty) days from the date of service of notice on the opposite party.

5. Forwarding of request to designated person or institution. – Where the High Court designates any person or institution, under paragraph 4 of this Scheme, the request along with the documents, mentioned in paragraph 3 of this Scheme, shall be forwarded forthwith to such person or institution and a notice shall also be sent to the parties to the arbitration agreement.

6. Seeking further information. – The High Court or the person or the institution designated by it, under paragraph 3 of this Scheme, may seek further information or clarification from the party making the request under this Scheme. It may also seek a disclosure, in writing, from the prospective arbitrator in terms of sub-section (1) of section 12 of the Act.

7. Rejection of request. – Where the request made by any party under paragraph 3 is not in accordance with the provisions of this Scheme, the High Court or the person or the institution designated by him may reject such request.

8. Intimation to parties to the arbitration agreement. – Subject to the provisions of paragraph 7 of this Scheme, the High Court or the person or the institution designated by it shall direct that a notice of the request to appoint an arbitrator, together with copies of all documents referred to in paragraph 3 of this Scheme or, as the case may be, information or clarification, if any, sought under paragraph 6 of this Scheme, be given to all parties to the arbitration agreement informing them that they may, if so chosen, assist the High Court or its designate, within the time specified in the aforesaid notice.

9. Withdrawal of authority. – If the High Court, on receipt of a complaint from either party to the arbitration agreement or otherwise, is of opinion that the person or institution designated by it, under paragraph 4 of this Scheme, has neglected or refused to act or is incapable of acting, it may withdraw the authority given to such person or institution and may either deal with the request itself or designate another person or institution for that purpose.

10. Intimation of action taken on request. – The appointment made or measure taken by the High Court or any person or institution designated by it in pursuance of the request, under paragraph 3 of this Scheme, shall be communicated in writing to –

a) the parties to the arbitration agreement;

- b) the arbitrators, if any, already appointed by the parties to the arbitration agreement;
- c) the person or the institution referred to in paragraph 3 (d);
- d) the arbitrators appointed in pursuance of the request.

11. Requests and communications to be sent to the Registrar General. – All requests under this Scheme and Communications relating thereto, which are addressed to the High Court, shall be presented to the Registrar General of the Court who shall maintain a separate Register of such requests and communications.

12. Delivery and receipt of written communications. – The provisions of sub-sections (1) and (2) of Section 3 of the Act shall, as far as possible, apply to all written communications received or sent under this Scheme.

13. Costs for processing the request. – The party making a request under this Scheme on receipt of notice of demand from –

- a) the Registrar General, where the High Court makes the appointment of an arbitrator or takes the necessary measures, or
- b) the designated person or the institution, as the case may be, where such person or institution makes appointment of arbitrator or takes the necessary measures,

pay such amount towards the costs involved in processing the request as may be directed.

14. Fees for the arbitral tribunal. – For the purpose of determination of the fees and the manner of its payment payable to the arbitral tribunal, the High Court may, as far as may be practicable, fix the same as per the rates specified in the Fourth Schedule to the Act.

15. Interpretation. – If any question arises with reference to the interpretation of any of the provisions of this Scheme, the question shall be referred to the High Court, whose decision shall be final.

16. Amendment of Scheme. – The High Court may, from time to time, amend any provision of this Scheme.

17. Repeal and Savings. – “The Appointment of Arbitrators by the Chief Justice of the High Court of Meghalaya Scheme, 2013” as notified on 25.11.2013 stands repealed; however, such repeal shall be without prejudice to the validity of anything done or any action taken under the repealed Scheme.