The Bihar Self-Supporting Cooperative Societies Tribunal (Constitution & Procedure) Rules, 2002

GSR 3438./ dated 04.12.2002. In exercise of power conferred by section 51 of the Bihar Self- Supporting Cooperative Societies Act, 1996 (Bihar Act-2 of 1997), the Governor of Bihar is pleased to make the following Rules. The Same having been previously published as required by sub-section (2) of the said section.

CHAPTER - I
Preliminary

1. Short Title. – These rules may be called The Bihar Self-Supporting Cooperative Societies Tribunal (Constitution & Procedure) Rules, 2002.

2. Definitions. – In these rules unless the context otherwise requires.

(i) 'Act' means the Bihar Self-Supporting Cooperative Societies Act, 1996 (Bihar Act, 2 of 1997);

(ii) 'Tribunal' means the Cooperative Tribunal constituted under Section 39 of the Bihar Self- Supporting Cooperative Societies Act, 1996;

(iii) 'Section' means a section of the Bihar self-supporting cooperative Societies Act, 1996;

(iv) ' appeal' means an appeal preferred to the Tribunal under the Bihar Self supporting Cooperative Societies Act, 1996.

(v) 'application' means an application filed to the Tribunal under the Bihar Self-Supporting Cooperative Societies Act, 1996;

(vi) 'Chairman' means the Chairman of the Tribunal.

(vii) 'form' mean a form appended to these rules;

(viii) 'gazette' means the official Gazette of Bihar;

(ix) 'party' means the appellant of applicant, as the case may be and in cludes his pleader or any other person on behalf of the appellant or applicant;

(x) 'opposite party' means respondents to an appeal or an application and shall include an authority whose orders are proposed to be taken in an appeal;

(xi) 'respondents' means opposite party;

(xii) 'pleader' means the pleader as defined in clause (15) of section (2) of the Code of Civil Procedure, 1908 {Central Act V of 1908];

(xiii) 'Secretary' means the person who is for the time being discharging the functions of the Secretary to the Tribunal;

(xiv) 'State Government' means the Government of Bihar.

(xv) Words and expressions used but not defined shall have the meaning assigned to them in the Act and the rules made there under.

CHAPTER - II
Constitution

3. Constitution of Tribunal . – (1) There shall be a Tribunal Called the Bihar Cooperative Tribunal.

(2) The Tribunal Shall consist of one or more members who shall be appointed by the Government from amongst the following categories of persons; (i) Government servant, retired or serving, not below the rank of Special Secretary to Government of Bihar.

(ii) Officer of Bihar Cooperative Service, retired of serving, not below the rank of Joint Registrar, Cooperative Societies.

(iii) Retired senior District and Sessions Judge.

Provided that not more than one person can be appointed from any particular category.

Further provided that one of the members shall be appointed chairman of the Tribunal by the Government.

(3) The Tribunal shall have its own Staff who shall be under the control of the Secretary of the Tribunal. The Secretary of the Tribunal shall be an officer of the Bihar Cooperative Service not below the rank of Deputy Registrar, Cooperative Societies, and shall be deputed by the State Government.

(4) The constitution of Tribunal and the appointment of Chairman and members shall be pu8blished in the official Gazette.

4. Creation of Bench (1) The functions of the Tribunal shall be exercised by a bench to be constituted by one, two or three members. The nature of cases to be disposed of by these benches shall be under discretion of the Chairman;

Provided that a bench consisting of only one member or two members may in its discretion refer a case to a larger bench of two or three members including Chairman, as the Case may be.

(2) (a) Where an appeal or application is heard by all the three members of the Tribunal and the members are divided in opinion on any point or points, such point or points shall be decided in accordance with the opinion of the majority.

Provided that if the post of any one of the members is vacant point or points shall be decided in accordance with the opinion of the Chairman.

(b) Where an appeal or application is heard by a bench constituted of two members whether it consists of the Chairman or not and members and divided in opinion on any point or points, such point shall be referred to a bench consisting of all the three members including Chairman.

(c) For the matter in which Registrar or State Government is either Applicant or Respondent it shall necessarily be placed in the bench headed by the Chairman.

CHAPTER - III

Terms Headquarters, Office Hours

5. Terms of Office (1) The members of the Tribunal shall normally be appointed for a period of two years from the date of their appointment.

Provided that the period of appointment may be reduced or extended by the State Government.

(2) Any vacancy in the membership of the Tribunal shall be filled up by the State Government as soon as may be possible. During the vacancy in the post of the Chairman or pending the appointment of a permanent Chairman, the Government may appoint one of the remaining member as Chairman.

6. Term & Conditions : (1) The members of the Tribunal including Chairman Shall be deemed to be public servant within the meaning of section 21 of the Indian Penal Code, 1960 (XLV) of 1960) and the proceeding taken before the Tribunal Shall be subject to sections 195 and 340 of the Code of Criminal Procedure.

(2) No member shall accept any other paid employment outside the duties of his office during the term of his membership of the Tribunal.

7. Headquarters of the Tribunal : (1) The headquarters of the Tribunal Shall be at Patna having its jurisdiction all over the State.

8. Office Hours : The Tribunal Shall hold its sitting during the same hours as that of other offices of the State Government.

9. Language: The language of the Tribunal shall be in Hindi :

Provided that the parties to a proceeding before the Tribunal may file documents drawn up in English if they so desire.

CHAPTER - IV

Appeals and applications

10. Presentation of Appeals and Application (1) An appeal or an application, as the case may be, shall be presented to the Secretary of the Tribunal either by the party or by sending it through a registered post.

(2) Where an appeal or an application is presented by a Pleader or an authorized agent it shall be accompanied by a duly stamped letter of authority appointing him as such.

(3) Every such appeal or application shall be made in accordance with the Act and these Rules and shall be accompanied by a challan for the amounts as prescribed hereunder –

(i)	In relation to monetary disputes	1% of the claim subject to a minimum of Rs. 10/- (Rupees Ten) and maximum of Rs. 1000/- (Rupees one Thousand) only
(ii)	In relation to non-monetary disputes, other than election disputes	Rs. 20/- (Rupees Two Hundred) only
(iii)	In relation to election disputes	Rs. 500/- (Rupees Five Hundred) only
(iv)	In relation to appeal under Section-5	Rs. 200/- (Rupees Two Hundred) only
(v)	In relation to application under section-41	Rs. 200/- (Rupees Two Hundred) only
(vi)	In relation to application under section 44	Rs. 200/- (Rupees Two Hundred) only

(4) An appeal shall contain the necessary parties to the appeal and the authority whose orders are proposed to be taken in an appeal and shall contain the name and address of opposite party to whom the notice have to be sent.

(5) An application shall contain the necessary parties to the case and the substance and grounds of the case or the dispute and shall contain the name and address of the opposite party to whom the notice may have to be sent.

11.Procedure for filing appeal: An appeal shall be in the form of a memo setting forth concisely the grounds of objections to the decision of order which is the subject matter of the appeal, and shall be accompanied by the original or a certified copy of the decision or order passed by the authority competent to pass the said order. Every appeal shall also be accompanied by as many copies of the memo as there are respondents in addition to three originals.

12. Procedure for filing application : An application shall be in the form of a plaint setting forth precisely the substance, and ground for the case, and shall be accompanied, by the original or certified copy of such documents and/ or papers as are necessary to substantiate the case. Every application will also be accompanied by as many copies of the plaint as there are opposite parties in addition to the originals.

CHAPTER - V

Registration of appeals and applications

13. Registration of Appeals and Application (a) On receipt of an appeal or an application, the Secretary shall endorse on it the date of its receipt and shall show cause in

Form I in respect of appeals and in form-II in respect of other application, appended to these rules.

The secretary shall thereafter examine.

(i) whether the person presenting it has an authority to do so; and (ii) whether it conforms to the provisions of the Act and these rules.

(b) If the Secretary of the Tribunal finds that the appeal or application does not conform to the requirement of the Act and/ or these rules, he shall cause it to be returned by making an endorsement on the some and calling upon the appellant or the applicant in

Form-II to rectify the defect or defects within a period of not less than 15 days and cause it to be entered in the remarks column of the Form-I and paste it on the notice board of the Tribunal. The Secretary may, for sufficient cause extend the said period, if the defect or defects are not rectified within the period allowed.

(c) If the defect or defects are not rectified within the period allowed, the Secretary shall make a report to the effect to the Chairman who may reject the appeal or the application, and affix the same on the notice board of the Tribunal.

(d) if the Secretary is satisfied that the appeal or the application is presented properly, he shall cause the particulars of the same to be entered in the registers in

Form-I & II respectively, as the case may be, Such entries shall be numbered yearwise according to the order in which they are registered. The serial number in the Register shall be given as the case number of the appeal or the application as the case may be, Separate petition has to be filed for any 'Interim' order required.

Provided that if more than one appeal are filed against the some order, or more than one application are filed in the same matter, they shall be clubbed together and disposed off by a common order.

14. Application for Interim suspension order : Where a party seeks the interim suspension of the impugned order, he shall file a separate application for the same. Every such application shall be supported by an affidavit in respect of application for stay or suspension of the impugned order passed by the departmental authorities, especially relating to misappropriation of amounts and sanction of benami loans. No interim order in the nature of stay or suspension for a specified period shall be issued unless the application produces a cash deposit of not less than 60 % of the amount involved in the impugned order or furnishes of equal value as directed by the Tribunal.

15. Stay of Orders : In an appeal, if the Tribunal is satisfied on an affidavit that in is just and reasonablethat the operation of the impugned order be stayed or suspended.

(a) It may, by order, suspend the operation of the impugned order temporarily after giving notice to the affected person; or

(b) It may give notice to the respondent or respondents and after giving an opportunity

16. Distribution of work : The Chairman of the Tribunal shall distribute work among the members of the Tribunal subject to the following:

(a) a single member shall hear all appeals, applications for admission and interim order and the Chairman shall entrust this work by rotation to all the members;

(b) after admission and interim orders, if any, the matter shall be heard by Chairman or two member bench including Chairman of the tribunal.

Provided that the Chairman may constitute a three- member bench whenever it is necessary basing on the nature of the case.

Explanation : (i) The single member mentioned in clause (a) above may either be the Chairman himself of any other member.

(ii) The tribunal shall fix date for hearing and notice of the dates fixed for hearing shall be issued to the parties concerned by registered post with acknowledgement in the

form IV annexed to these rules. A copy of the respondent memorandum of appeal or the plaint shall also be furnished to the respondent or respondents.

(c) A Copy of the affidavit and the application for suspension of impugned order shall also be furnished to the respondent or respondents along with the notice of hearing.

CHAPTER - VI

Hearing, adjournments and judgments

17. Procedure for hearing, adjournments: On the date fixed for hearing or any other date to which the applicant, as the case may be shall ordinarily be heard first in support of his case, the respondent or his case, the respondent or his advocate shall if necessary, be heard next and such cases the appellant or the applicant be entitled to reply.

18. Evidence : (1) Where a party desires that a witness be examined by the Tribunal or cause production of documents for additional evidence, he may apply to the Presiding Officer through an affidavit for summon in, the persons whose attendance in required either to give evidence or to produce documents and the secretary shall issue in

Form-V to the party or his counsel for service on the person concerned, after the Presiding Officers pass an order on the affidavit filed.

(2) Where the person to be summoned is a public servant, the party shall along with the application or summons before summons is granted, deposit before the Secretary as sum of money as appears to the Tribunal to be sufficient to defray travelling and other expenses of the person summoned for coming to the Tribunal and going back and for one day's attendance.

(3) Where the person to be summoned is not a public servant, it shall be the duty of the party who takes out the summons to produce the witness of cause the production of the documents and where he fails to produce them, it shall be deemed that he has given up the claim for additional evidence.

19. Additional Evidence: The parties shall not be entitled to produce additional evidence whether oral or documentary before the Tribunal but,

(a) If the authority from whose order the appeal is preferred has refused to admit evidence which ought to have been admitted.

(b) If the opposite party in the case has refused to admit evidence which ought to have been admitted, or

(c) If the party seeking the additional evidence satisfies the Tribunal that such evidence, notwithstanding, the exercise of due diligence was not within his knowledge or could not be produced by him before time when the order under appeal was passed, or

(d) if the Tribunal requires any document to be produced or any witnesses to be examined so as to enable it to pass just order, and

(e) for any other sufficient reason Tribunal may allow such evidence or documents to be produced or witnesses examined:

Provided that where such evidence is received the other party shall be entitled to produce rebutting evidence, if any.

20. Adjournment : (1) The Tribunal may, on such terms as it thinks fit and at any stage adjourn the hearing of the appeals or applications on its own accord by mentioning in the open court or on an oral request or by an affidavit filed by the petitioner or the respondent.

(2) An application for adjournment shall be presented with an affidavit by the party or a person who is well acquainted with the facts of the case.

(3) Each application for an adjournment shall be stamped with the court fee of Rupees one hundred only and copies of the applications shall also be given to the other party.

21. Procedure in case of death of an appellant or an applicant : : (1) If an appellant or an applicant or the respondent therein dies while the case is pending and it cannot be proceeded with unless his legal representative is brought on record, the "Tribunal shall adjourn further proceedings to enable the legal representative of the deceased to be made a party. If such legal representative fails to do so within a period of sixty days from the date of death of the appellant or applicant, or if the appellant/applicant fails to file making the legal representative as per the appeal or application, shall abate as regards such deceased appellant of applicant or the respondent as the case may be.

(2) Notwithstanding anything contained is sub-rule (i) there shall be no abatement of an appeal or application by reason of the death of any party between the conclusion of the hearing and passing of the order and the order may, is such a case, be passed notwithstanding the death, and shall have the same force and effect as it would have were it passed before the death took place.

22. Effect on the death of appellant or applicant after passing the abatement order : (1) Whenever an order of abatement has been passed in a case where the appellant or applicant has died,

his legal heir or representative, in a case where the respondent had died the appellant or applicant, may within sixty days from the date of such order apply to the Tribunal for setting aside the abatement and the Tribunal may on sufficient cause being shown to its satisfaction set aside the abatement and proceed with the appeal or application by reason of death of any party between the conclusion of the hearing and passing of the order and the order may in such a case, be passed notwithstanding the death and shall have the same force and effect as would had were it passed before the death took place.

(2) Where an application under sub-rule (i) has been filed after more than sixty days from the date of the order the tribunal may condone the delay on a separate application filed for the purpose when the delay is property explained.

23. Order : (1) Every order or the tribunal shall be in writing and shall be pronounced in the court immediately after hearing or on the date fixed for the purpose, with shall not be ordinarily more than fifteen days from the date of the final hearing.

(2) The order shall be pronounced in open court after giving notice to the parties concerned. In case the order is not pronounced on the date fixed, it, may be pronounced within fifteen days from the date originally fixed for the hearing after intimating to the Chairman the reasons for the delay.

(3) Where the bench consists of more than two members the order of the tribunal shall be given by the majority of the member.

(4) Where an appeal or application is heard by a bench consisting of the Chairman or not and the members are divided in opinion on any point or points such point or points shall be referred to the full bench consisting of the three members for disposal

(5) The order rendered shall not be invalidated in case of any unfilled vacancy in the tribunal.

(6) If any case which comes up before a single member or a bench which is not comprised of the Chairman involves a question of Law, such a single member or the bench may in his of their discretion refer such case for decision by bench consisting of the Chairman.

(7) A tribunal shall serve a copy of the order to the appellant or applicant and the respondent or respondents after disposal.

24. Return of document : (1) The parties shall not be entitled for return of the documents filed by them before the tribunal within six weeks from the date of order of the tribunal.

(2) The party may apply after six weeks from the date of the receipt of order with an undertaking of the effect that the documents shall be produced whenever the Tribunal calls for the same and in such case, the documents may be returned to the parties.

CHAPTER - VII

Miscellaneous

25. Fees for copies of documents and orders : (1) Any party of any proceedings before Tribunal may apply to the Secretary for the inspection of any document, or for a certified copy of any document and for the orders of the Tribunal.

Form VI and all applications for inspection of the documents shall be entered in the Register in Form VII and shall set out the names and addresses of the applicant in full', the date or description of the document or order of which a copy is required. Any application, which is not in the proper form, shall be returned for representation in proper form.

(3) Every such application for a certified copy shall be accompanied by a deposit of a amount to cover the cost of preparing copies according to the following scale namely.

(i) Copying Fees :

(a) For the first 200 (two hundred) word of less

English	Rs. 5.00
Hindi	Rs. 5.00

(b) For every additional 100 (one hundred) words or fraction there of

English	Rs. 5.00
Hindi	Rs. 5.00

(ii) A uniform extra fee of Rupess five per page, where copies are urgently required

(iii) A uniform fee of Rupess five per page as comparing fee

(4) Certified copies of documents or order shall be prepared on a fullscap0e paper with one inch margin either side and typed in double space.

(5) Certified copies of documents or order shall be delivered by the Secretary to the party concerned.

(6) If the Secretary has any doubt about the propriety of granting the copy of any document he shall place the application before the Chairman and act in accordance with his orders.

(7) The amount calculated to the above scale of fee in sub-rule (3) shall be retained by the Secretary as copying and comparing fees and the surplus amount, if any deposited by the party shall be refunded to him at the time of supplying the copy.

Provided that, the party shall, if the amount deposited by him is not sufficient to cover the fees pay the deficit before taking delivery of copy.

(8) Persons who are not parties to an appeal or application, may be supplied with a certified copy of any document or order under the orders of the Chairman and on payment of fees prescribed by this rule.

(9) Notwithstanding anything contained in this rule, certified copies of orders documents shall be supplied to the Registrar of self-Supporting Cooperative Societies free of cost.

26. Service of Notice :- (1) The Notice required to be issued by the Tribunal shall be sent to the parties by the Registered post, the acknowledgement of which containing the signature of the addressee or any member of his family or his authorized agent when delivered or on endorsement by the postal Authorities to the effect that the notice was refused by the addresses shall, unless the contrary is proved, be deemed to be sufficient to hold that the notice was duly served.

(2) Where the Tribunal is satisfied that the addressee is evading service or that it is not possible to serve the notice in the ordinary way, the Tribunal may take action to summon him for taking personal delivery.

27. Forms of Notices :- Forms III, IV and V appended to these rules, with such variations as the circumstances of any case may require, shall be used for the purpose of notices to be issued by the Tribunal.

28. Maintenance of Registers :- (1) All miscellaneous petitions shall be entered is the Register in

Form VIII and numbered seriatum, and a mention to that effect has to be made in the Register of original appeals or applications.

(2) All applications for inspection of documents on registration shall be entered in the register in

Form VII and numbered seriatum.

29. Refund of fees:- (1) Subject to the provisions of sub-rule (2), the Chairman or the Secretary acting under instructions of the Chairman may, on on application made by the party, order the refund of :-

(a) The full fee paid where the fee was paid by mistake or in the manner not prescribed in sub-rule (3) of rule-10.

(b) The excess amount, where the amount paid is in the excess of the prescribed fee; and

(c) The full fee paid, where the payment of fee is not followed by an appeal or an application to which, the fee was paid.

(2) No refund of fee shall be made if the application for such refund is not made within six months from the date of remittance of fee.

(3) The application for the refund of fee shall be made in the form of memorandum setting forth the grounds on which refund is sought and such application shall be stamped with a court fee stamp of Rs. 10 only.

30. Rules relating to Civil Rules of practice to be followed :- Whenever these rules are silent on the question of any procedure, the Tribunal shall follow the procedure stipulated under the Code of civil procedure, 1908 (Central Act V of 1908) and Bihar Practice and Procedure Manual, 1959.

31. Functions of secretary :- The secretary shall perform such functions as are assigned to him under these rules of by the Chairman under these rules.

32. Seal of Tribunal :- The Tribunal shall have an Official seal of its own, which shall kept in the custody of the Secretary.

33. Notices, Judgments etc. to be signed and sealed :- Every notice and a certified of any document shall be signed by the Secretary with the date, month and year of signing and shall be sealed with the official seal of the Tribunal.

34. Supply of certified copies of judgments to the Registrar of Self-Supporting Cooperative Societies :- A Certified copy of every Judgment of the Tribunal shall, as soon as practicable, be forwarded to the Registrar of Self-Supporting Cooperative Societies or such other officer or officers appointed to assist him as may be Concerned with the appeal or application.

Sl. No.	**Name of parties and their Pleaders or agents if any**	**2.**		
1.				

Sl. No.				
	Date of the order under appeal			
	3.			
1.				
	Gist of substances/ grounds	es/ f		
	3.			

FORM- III

[See Rule 13 (b)]

Notice of defects in the Appeal/ Application Before the Bihar Cooperative Tribunal at Patna.

Appeal/ Case No……..of 20

Appellant/ Applicant

Vs.

Respondent.

To.

The above named appellant/ applicant,

You have filed an appeal against the orders of the……...……dated ……../an application in the matter of …….

It does not comply with the provisions of the Bihar Self-supporting Cooperative Societies Act, 1996 and the Bihar Self-Supporting Coo0perative Societies Tribunal (Constitution and Procedure) Rule, 2002 in the Following Respects. :-

……

……

You are hereby required to remedy the defects within ……,..of the receipt of this notice by you if you fail, the matter will be placed for orders before the Tribunal)

By Order

Date.

Seal Secretary

FORM – IV

(See Rule 16)

Notice for hearing

Before the Bihar Cooperative Tribunal at Patna.

Appeal/ Case No……..of 20

Appellant/ Applicant

Vs.

Respondent.

To.

The above named appellant/ applicant,

You have filed an Appeal against the orders of the ……dated ……./ an application in the matter of …….

The appeal/ case is posted for hearing on ……

Hence, you are herby required to be present in this tribunal without foil otherwise the appeal/ application is treated as ex-parte.

(Given under the hand and seal of the Bihar Cooperative Tribunal) By Order

Date.

Seal Secretary

FORM – V

(See Rule 18)

Notice for tendering evidence

Before the Bihar Cooperative Tribunal at Patna.

Appeal/ Case No……..of 20 Appellant/ Applicant

Vs.

Respondent.

To.

Mr……

The above named person has preferred an appeal No……..against the orders of ……../filed an application in the matter of …….. You have been included as to tender evidence in the aforementioned case.

You are therefore, requested to make available yourself in the Tribunal with following documents on ……

1.

2.

(Given under the hand and seal of the Bihar Cooperative Tribunal) By Order

Date.

Seal Secretary

FORM- VI

[See Rule 25 (2)]

Register of Application for copies of documents / orders.

Sl. No.	Name and address of the applicant	Appeal/ Case No.	Number of application	Documents applied for copy of	Date of application made for copy	Date on which the documents was made ready for giving copy of	Date o deliver y copy Copi
1.	2.	3.	4.	5.	6.	7.	8.

FORM- VII

[See Rule 25 (2)]

Register of Application for Inspection of documents.

Sl. No.	Name and address of the applicant	Appeal/ Case No.	Number of application	Documents applied for Inspection	Date of application made for inspection	Date on which the documents was made ready for inspection	Date of inspection	Signature of applicant who inspected the documents	Remarks
1.	2.	3.	4.	5.	6.	7.	8.	9.	10.

FORM- IV

[See Rule 25 (2)]

Register of Application for copies of documents / orders.

Sl. No.	Name and parties their Pleaders or agents, if any	Date of order, if any in respect of which application is made	Date of filing the application	Substance of the application	Date of the order of the Tribunal	The ord passed Tribuna
1.	2.	3.	4.	5.	6.	