MEMBERS OF PONDICHERRY LEGISLATIVE ASSEMBLY (DISQUALIFICATION ON GROUND OF DEFECTION) RULES, 1986

283 GOVERNMENT OF PONDICHERRY Legislative Assembly Department (G. O. Ms. No. 6, dated 25th February 1986) NOTIFICATION In exercise of the powers conferred by section 14A of the Government of Union Territories Act, 1963 (Central Act 20 of 1963) read with paragraph 8 of the Tenth Schedule to the Constitution of India, the Speaker, Pondicherry Legislative Assembly, hereby makes the following rules, namely:- 1. Short title.- These rules may be called the Members of Pondicherry Legislative Assembly (Disqualification on ground of Defection) Rules, 1986

2. Definitions.- In these rules, unless the context otherwise requires.- (a) 'Act' means the Government of Union Territories Act, 1963 (Central Act 20 of 1963); (b) 'Assembly' means the Pondicherry Legislative Assembly; (c) 'Bulletin' means the Bulletin Part-II of the Assembly; (d) 'Committee' means the Committee of Privileges of the Assembly; (e) 'Form' means a form appended to these rules; (f) 'date of commencemen€, in relation to these rules means the date on which these rules take effect under section 14A of the Act read with sub-paragraph (2) of paragraph 8 of the Tenth Schedule; (g) 'House' means the Assembly; (h) 'Leaded, in relation to a legislature party, means a member of the party chosen by it as its leader and includes any other member of the party authorised by the party to act, in the absence of the leader as, or discharge the functions of, the leader of the party for the purposes of these rules; (i) 'member' means a member of the ' Assembly; (j) 'Tenth Schedule' means the Tenth Schedule to the Constitution of India; (k) 'Secretary' means the Secretary to the Assembly and includes any person for the time being performing the duties of the Secretary

3. Information to be furnished by leader of a legislature party.- (1)The leader of each legislature party (other than a legislature party consisting of only one member) shall, within thirty days after the first sitting of the House, or, where such legislature party is formed after the first sitting, within thirty days after its formation, or, in either case within such further period as the Speaker may for sufficient cause allow, furnish the following to the Speaker, namely:- (a) a statement (in writing) containing the names of members of such legislature party together with other particulars regarding such members as in

Form-I and the names and designations of the members of such party who have been authorised by it for communicating with the Speaker for purposes of these rules; (b) a copy of the rules and regulations (whether known as such or as constitution or by any other name) of the political party concerned ; and (c) where such legislature party has any separate set of rules and regulations (whether known as such or as constitution or by any other name), also a copy of such rules and regulations. (2) Where a legislature party consists of only one member, such member shall furnish a copy of the rules and regulations mentioned in clause (b) of sub-rule (1) to the Speaker, within thirty days after the first sitting of the House or, where he has become a member of the House after the first sitting, within thirty days after he has taken his seat in the House, or, in either case within such further period as the Speaker may for sufficient cause allow. (3) In the event of any increase in the strength of a legislature party consisting of only one member, the provisions of sub-rule (1) shall apply in relation to such legislature party as if such legislature party had been formed on the first date on which its strength increased. (4) Whenever any change takes place in the information furnished by the leader of a legislature party under sub-rule (1) or by a member under sub-rule (2), he shall, within thirty days thereafter, or within such further period as the Speaker may for sufficient cause allow, furnish in writing information to the Speaker with respect to such change. (5) In the case of the House in existence on the date of commencement of these rules, the reference in sub-rules (1) and (2) to the date of the first sitting of the House shall be construed as a reference to the date of commencement of these rules. (6) where a member belonging to any political party votes or abstain from voting in the House contrary to any direction issued by such political party or by any person or authority authorised by it in this behalf, without obtaining, in either case, the prior permission of such political party, person or authority, the leader of the legislature party concerned or where such member is the leader, or as the case may be, the sole member of such legislature party, such member, shall, as soon as may be after the expiry of fifteen days from the date of such voting or abstention, and in any case within thirty days from the date of such voting or abstention, inform the Speaker as in Form-II whether such voting or abstention has or has not been condoned by such political party, person or authority. Explanation : A member may be regarded as having abstained from voting only when he, being entitled to vote, voluntarily refrained from voting

4. Information etc.to be furnished by members.- (1) Every member who has taken his seat in the House before the date of commencement of these rules shall furnish to the Secretary within thirty days from such date or within such further period as the Speaker may for sufficient cause allow, a statement of particulars and declaration as in

Form-III (2) Every member who takes his seat in the House after the commencement of these rules shall, before making and subscribing an oath or affirmation under section 11 of the Act and taking his seat in the House deposit with the Secretary, his election certification or, as the case may be, a certified copy of the notification nominating him as a member and also furnish to the Secretary, a statement of particulars and declaration as in Form-Ill. 285 Explanation : For the purposes of this sub-rule, "Election Certificate" means the certificate of election issued under the Representation of the People Act, 1951 (Central Act 43 of 1951) and the rules made thereunder. (3) A summary of the information furnished by the members under this rule shall be published in the Bulletin and if any discrepancy therein is pointed out to the satisfaction of the speaker, necessary corrigendum shall be published in the Bulletin

Form-IV, a register based on the information furnished under rules 3 and 4 in relation to the members. (2) The information in relation to each member shall be recorded on a separate page in the Register

6. Reference to be by petitions.- (1) No reference of any question as to whether a member has become subject to disqualification under the Tenth Schedule shall be made except by a petition in relation to such member made in accordance with the provisions of this rule. (2) A petition in relation to a member may be made in writing to the Speaker by any other member; Provided that a petition in relation to the Speaker shall be addressed to the secretary. (3) The Secretary shall,- a) as soon as may be after the receipt of a petition under the proviso to sub-rule (2) make a report in respect thereof to the House; and b) as soon as may be after the House has elected a member in pursuance of the proviso to sub-paragraph (1) of paragraph 6 of the Tenth Schedule place the petition before such member. (4) Before making any petition in relation to any member, the petitioner shall satisfy himself that there are reasonable grounds for believing that a question has arisen as to whether such member has become subject to disqualification under the Tenth Schedule. (5) Every Petition,- a) shall contain a concise statement of the material facts on which the petitioner relies ; and b) shall be accompanied by copies of the documentary evidence, if any, on which the petitioner relies and where the petitioner relies on any information furnished to him by any person, a statement containing the names and addresses of such persons and the gist of such information as furnished by each such person. (6) Evert petition shall be signed by the petitioner and verified in the manner laid down in the Code of Civil procedure, 1908 (Central Act 5 of 1908), for the verification of pleadings. (7) Every annexure to the petition shall also be signed by the petitioner and verified in the same manner as the petition. 286 7. Procedure.- (1) On receipt of a petition under rule 6, the Speaker shall consider whether the petition complies with the requirements of the rule. (2) If the petition does not comply with the requirements of rule 6, the Speaker shall dismiss the petition and intimate the petitioner accordingly. (3) If the petition complies with the requirements of rule 6, the Speaker shall cause copies of the petition and of the annexures thereto to be forwarded,- a) To the member in relation to whom the petition has been made ; and b) Where such member belongs to any legislature party and such petition has not been made by the leader thereof, also to such leader, and such member or leader shall, within seven days of the receipt of such copies, or within such further period as the Speaker may for sufficient cause allow, forward his comments in writing thereon to the Speaker. (4) After considering the comments, if any, in relation to the petition, received under sub-rule (3) within the period allowed (Whether originally or on extension under that sub-rule), the Speaker may either proceed to determine the question or, if he is satisfied, having regard to the nature and circumstances of the case that it is necessary or expedient so to do, refer the petition to the Committee for making a preliminary inquiry and submitting a report to him. (5) The Speaker shall, as soon as may be after referring a petition to the Committee under sub-rule (4), intimate the petitioner accordingly and make an announcement with respect to such reference in the House, or, if the House is not then in session, cause the information as to the reference to be published in the Bulletin. (6) Where the Speaker makes a reference under sub-rule (4) to the Committee, he shall proceed to determine the question as soon as may be after receipt of the report from the Committee. (7). The procedure which shall be followed by the Speaker for determining any question ....1 and the procedure which shall be followed by the Committee for the purpose of making a preliminary inquiry under sub-rule (4) shall be, so far as may be, the same as the procedure for inquiry and determination by the Committee of any question as to breach of privilege of the House by a member, and neither the Speaker nor the Committee shall come to any finding that a member has become subject to disqualification under the Tenth Schedule without affording a reasonable opportunity to such member to represent his case and to be heard in person. (8). The provisions of sub-rules (1) to (7) shall apply with respect to a petition in relation to the Speaker as they apply with respect to a petition in relation to any other member and for this purpose, reference to the Speaker in these sub-rules shall be construed as including references to the member elected by the House under the proviso to sub-paragraph (1) of paragraph 6 of the Tenth Schedule

8. Decision on petitions.- (1) At the conclusion of the consideration of the petition, the Speaker or, as the case may be, the member elected under the 287 proviso to sub-paragraph(l) of paragraph 6 of the Tenth Schedule shall by order in writing,- (a) dismiss the petition, or (b) declare that the member in relation to whom the petition has been made has become subject to disqualification under the Tenth Schedule, and cause copies of the order to be delivered or forwarded to the petitioner, the member in relation to whom the petition has been made and to the leader of the legislature party, if any, concerned. (2) Every decision

declaring a member to have become subject to disqualification under the Tenth Schedule shall be reported to the House forthwith if the House is in session, and if the House is not in session, immediately after the House reassembles. (3) Every decision referred to in sub-rule (1) shall be published in the Bulletin and notified in the official gazette and copies of such decision forwarded by the Secretary to the Election Commission of India and the Government of Pondicherry

9. Directions as to detailed working of these rules.- The Speaker may from time to time, issue such directions as he may consider necessary in regard to the detailed working of these rules.

FORM-I [See rule 3 (1) (a) I Name Of the legislature party: Name of the corresponding political party: Sl. No. (1) Date : Name of the mem ber (in block letters) (2) Father's / Hus band's Name (3) Permanent address (4) Name of the Constituency from which elected (5) Signature of the leader of the legislature party. * Deleted vide GO Ms.No.10 dated 7.11.86 of the Legislative Assembly Dept, Puducherry. 288 FORM-11 [See rule 3 (6)1 To The Speaker, Legislative Assembly, Pondicherry. Sir, At the sitting of the House held during of voting matter). .....

*Thiru.....M. Assembly Constituency) member of Political party), and Member of (name of legislature party) had Voted / abstained from voting. on . of the member) M.L.A. Constituency) member of Political party) and leader of /sole member of (name of legislature party) . (date) (subject- .... (name „ Assembly (name of Voted / abstained from voting. contrary to the direction issued by.... ..... . + (* person / authority / party) without obtaining the perior permission of the said + person / authority / party

2. On (date) .... the aforesaid matter was considered by .... + (* person / authority / party) and the said * voting / abstention was * condoned / was condoned by * him / it. Yours faithfully. (Signature) Date: * Strike out inappropriate words/ portions. + Here mention the name of the person / authority / party, as the case may be, who had issued the direction. 1. 2. 3. 4. 5. 6. 1.. 289 FROM-III [See rule 4] Name of the member (in block letters) Father's / husband's name Permanent address Pondicherry address Date of election / nomination Party affiliation as on - (i) Date of election / nomination (ii) Date of signing this

form DECLARATION hereby declare that the information given above is true and correct. In the event of any change in the information above, I undertake to intimate the Speaker immediately. Signature / thumb-Impression of member. Date: Name of rnember (in block letters) FROM-IV [See rule 5 1) I Father's / Husband 's na me Permanent address Pondicherry address Name of the Assembly Constituencv from which, elected Date of election / nomi_na t ion Name of 1K)litical party to which he Irlongs Name of legislature party to which he belongs Remarks S VAITHYANATHAN, SECRETARY.