

THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL, MUMBAI.

Date: 4-12-2001.

Minutes of the proposal to amend Rule 7 and 8 in the Maharashtra Administrative Tribunal (Contempt of Court) Rules, 1996.

As there was a proposal to amend Rule 7 and 8, this proposed draft was circulated to all the Members of M.A.T at the principal seat and at the Benches. All Members were requested to submit their response within two weeks. All the Members except Member (J) and Member (A) at Nagpur <sup>have</sup> ~~has~~ sent their full agreement to the proposed amendment. No response is received from Member (J) and Member (A) from Nagpur Bench of the Maharashtra Administrative Tribunal. Thus the proposed amendment is approved by the majority of the Members of the Tribunal and therefore, the same needs to be incorporated.

Hence, it is directed that the present Rule 7 and 8 be deleted and the same should be substituted by the proposed amendment which is approved. The same shall become part of the Rules. The ~~amendment~~ <sup>ed</sup> Rules should be circulated. 3 copies of the amended rules should be circulated to Secretary of Bar Association, M.A.T at each Benches. This amendment shall come into force from 1st January 2002.

(A.S.Bhate)  
Acting Chairman.

The present Rules called as Maharashtra Administrative Tribunal (Contempt of Courts) Rules, 1996 contained provisions in Rule 7 and 8 for placing petitions for action being taken to be placed in the first instance before the Chairman or Vice Chairman as the case may be. These Rules further require <sup>that</sup> the Chairman or Vice Chairman concerned should determine the propriety of taking any action under the Contempt of Court Act.

The Bar Association of Maharashtra Administrative Tribunal (Mumbai) has proposed amendment to the Rules in so far as they are contained in Rule 7 and 8.

Taking into consideration the amendment proposed by the Bar Association and giving my careful consideration I think that it is not necessary to place the matters before the Chairman or Vice Chairman, as the case may be and the matter should be straightway placed for judicial consideration before a appropriate Bench. In view of this, the Rules require amendment. The amendment can be carried out only by the Tribunal and not by the Chairman by a executive order. I propose that the present Rule 7 and 8 be deleted and they be replaced by fresh Rules 7 and 8 as follows:

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Rule 7 (i) : Any petition, information or motion for action being taken under the Act shall be placed before the Division Bench of the Tribunal for taking further steps

(ii) : If there are more than one Division Bench at a particular Seat of the Tribunal, the petition shall be placed before the Bench which is presided by the Senior most Member amongst the Members at that Seat unless directed otherwise by the Chairman.

NOTE:

The Chairman shall be deemed to be the Senior Most Member and the Vice-Chairman shall be the next Senior Member. If there are more than one Vice Chairman at a particular place Vice Chairman, who is or has been a High Court Judge shall be deemed to be the Senior amongst Vice Chairmen. The seniority of other Members shall be counted as per the date of appointment in the Tribunal. If Judicial and Administrative Members are appointed on one and the same date the Judicial Member shall be deemed to be the Senior.

iii) In case there is no Division Bench functioning at any particular Seat of the Tribunal, the petition shall be placed before the Senior Most Member available at that Seat.

iv) As soon as the Division Bench is constituted and starts functioning the petition shall be placed before the said Division Bench as per the provisions of sub-rule (ii).

RULE-(8): (i) When the Bench/Member decides to take action against the alleged contemnor/s a case shall be registered and numbered as per Rule 5 in Form No.I and the Registrar shall cause:

(a) a notice to be issued to the Advocate General or the Chief Presenting Officer for the State Government in Form-II when the case is taken cognizance of suo motu; and

(b) also a notice be issued to the alleged contemnor in Form III to appear before the Tribunal in person in case of criminal contempt or through an Advocate in case of Civil Contempt on a date to be specified therein to show cause against such proceedings.

(ii) A copy of any order made under sub-rule (i) and such other prayers as may be deemed necessary by the Bench/Member taking the decision under Rule 7 shall accompany such notice.

(iii) When action is instituted on a petition, a copy of ~~the~~<sup>the</sup> petition along with the annexures and affidavits shall be served upon the party charged;

(iv) The notice shall bear the date, seal of the Tribunal and shall be issued under the signatures of the Registrar.

As the Rules have to be framed by the Tribunal every Hon'ble Vice Chairman and Hon'ble Member of the Tribunal at all Seats is requested to approve or suggest any change in the proposed amendment. This may be done within two weeks from the receipt of this Proposal/Draft under signature and <sup>be</sup> send it to the Registrar-in-Charge.

(A.S. Bhate)  
Acting Chairman.