

7. **न्यायाधीश की शक्ति.-** न्यायाधीश, सिविल प्रक्रिया संहिता, 1908 (1908 का 5) द्वारा अधिकथित प्रक्रिया से आबद्ध नहीं होगा परंतु प्राकृतिक न्याय के सिद्धांत से मार्गदर्शित होगा तथा उसे जांच के स्थान और समय को नियत करने सहित अपनी स्वयं की प्रक्रिया को विनियमित करने की शक्ति प्राप्त होगी।
8. **सदस्य का निलंबन.-** नियम 4 में किसी बात के होते हुए भी और उक्त नियम के अनुसार की जाने वाली किसी कार्रवाई पर प्रतिकूल प्रभाव डाले बिना, केंद्रीय सरकार, भारत के मुख्य न्यायमूर्ति की सहमति से, आरोपों की गंभीरता को ध्यान में रखते हुए अधिकरण के ऐसे सदस्य को निलंबित कर सकती है जिसके विरुद्ध उच्चतम न्यायालय के न्यायाधीश को निर्देश दिया गया है जिस पर उच्चतम न्यायालय के न्यायाधीश से रिपोर्ट प्राप्त होने पर केंद्रीय सरकार ने आदेश पारित न किया हो।
9. **निर्वाह भत्ता.-** किसी निलंबित सदस्य को निर्वाह भत्ते के भुगतान का विनियमन, समरूपी स्तर के सरकारी सेवक पर कुछ समय के लिए लागू नियमों और आदेशों के अनुसार किया जाएगा।
10. **जांच रिपोर्ट.-** जांच पूरी होने के पश्चात् न्यायाधीश अपनी रिपोर्ट भारत के राष्ट्रपति को प्रस्तुत करेगा जिसमें निष्कर्ष और आरोप की प्रत्येक मद के लिए अलग-अलग उसके कारण दिए होंगे जिसमें पूरे मामले के बारे में ऐसी समुक्तियाँ दी गई होंगी जिन्हें उसने उचित समझा हो।

[फा.सं.ए-45011/70/2018-प्रशा.IV]

ज्ञानेश्वर कुमार सिंह, संयुक्त सचिव

## MINISTRY OF CORPORATE AFFAIRS

### NOTIFICATION

New Delhi, the 28th July, 2020

**G.S.R. 470(E).**—In exercise of the powers conferred by section 469, read with sub-section (4) of the section 417 of the Companies Act, 2013 (18 of 2013), the Central Government hereby makes the following rules, namely:—

**1. Short title and commencement.**—(1) These rules may be called the National Company Law Tribunal and National Company Law Appellate Tribunal (Procedure for investigation of misbehavior or incapacity of Chairperson, President and other Members) Rules, 2020.

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

**2. Extent of application.**— These rules shall be applicable to the President, Judicial Member and Technical Members of the National Company Law Tribunal and Chairperson, Judicial Members and Technical Members [appointed before the commencement of Part XIV of Chapter VI of the Finance Act, (7 of 2017)] of the National Company Law Appellate Tribunal established under the Act.

Provided that these rules shall not apply to sitting judge of the High Court appointed as Chairperson, President or Member of the Tribunal or Appellate Tribunal and such Chairperson, President or Member would continue to be governed by the provision of article 217 of the Constitution till he would have held the office of Judge of the High Court.

**3. Definitions.** - (1) In these rules, unless the context otherwise requires,—

- (a) “Act” means the Companies Act, 2013 (18 of 2013);
- (b) “Appellate Tribunal” means the National Company Law Appellate Tribunal established under the Act;
- (c) “Chairperson” means the Chairperson of the Appellate Tribunal and includes a Member authorised to act as the Chairperson in accordance with section 415 of the Act.
- (d) “Committee” means the Committee referred to in sub-rule(2) of rule 4;
- (e) “Judge” means a sitting Judge of the Supreme Court appointed by the President of India under sub-rule (2) of rule 5 to conduct the inquiry;
- (f) “Judicial Member” means a Member of Tribunal or Appellate Tribunal appointed as such under the Act ;
- (g) “Member” means a Member (whether Judicial or Technical) of the Tribunal and Appellate Tribunal and includes Chairperson and President of the Appellate Tribunal or Tribunal as the case may be;

(h) “section” means a section of the Act;

(i) “President” means the President of Tribunal and includes a Member authorised to act or the President in accordance with section 415 of the Act;

(j) “Technical Member” means a member of the Tribunal or Appellate Tribunal appointed as such under the Act.

(k) “Tribunal” means the National Company Law Tribunal established under the Act.

(2) Words and expressions used herein and not defined but defined in the Companies Act, 2013 (18 of 2013) shall have the meanings respectively assigned to them in the Act.

#### 4. Committee for investigation of complaints. –

(1) The Central Government shall, after receipt of written complaint, alleging any definite charges of misbehavior or incapacity to perform the functions of the office in respect of a Member, it shall make a preliminary scrutiny of such complaint.

(2) The Central Government after Preliminary scrutiny considers necessary to investigate into the allegation, it shall place the complaint together with supporting material as may be available, before a Committee consisting of the following officers, to investigate the charges of allegations made in the complaint; namely:-

- |       |   |                       |
|-------|---|-----------------------|
| (i)   | Cabinet Secretary   | -Chairman; ex-officio |
| (ii)  | Secretary, Ministry of Corporate Affairs                            | -Member; ex-officio   |
| (iii) | Secretary, Department of Legal Affairs, Ministry of Law and Justice | -Member, ex-officio   |

(3) The Committee shall devise its own procedure and method of investigation which may include recording of evidence of the complainant and collection of material relevant to the inquiry.

(4) The Committee shall submit its findings to the President of India as early as possible within a period that may be specified by the President of India in this behalf.

**5. Judge to conduct inquiry. -** (1) If the President of India is of the opinion that there are reasonable grounds for making an inquiry into the truth of any imputation of misbehavior or incapacity of a Member, it shall make a reference to the Chief Justice of India requesting him to nominate a Judge of the Supreme Court to conduct such inquiry.

(2) The President of India shall, by order, appoint the Judge of the Supreme Court nominated by the Chief Justice of India for the purpose of conducting the inquiry.

(3) The notice of appointment of a Judge under sub-rule (2) shall be given to the Member concerned.

(4) The President of India shall forward to the Judge a copy of-

- the articles of charges against the Member concerned and the statement of imputations;
- the statement of witnesses, if any; and
- the material documents relevant to the inquiry.

(5) The Judge appointed under sub-rule (2) shall complete the inquiry within such time of further time as may be specified by the President of India.

(6) The Member concerned shall be given an opportunity of presenting a written statement of defense within such time as may be specified in this behalf by the Judge.

(7) Where it is alleged that the Member concerned is unable to discharge the duties of his office efficiently due to any physical or mental incapacity and the allegation is denied, the Judge may arrange for the medical examination of the Member by such Medical Board as may be appointed for the purpose by the President of India and the Member concerned shall present himself to such medical examination within the time specified in this behalf by the Judge.

(8) The Medical Board shall undertake such medical examination of the Member as may be considered necessary and submit a report to the Judge stating therein whether the incapacity is such as to render the Member unfit to continue in office.

(9) If the Member refuses to undergo such medical examination as considered necessary by the Medical Board, the Board shall submit a report to the Judge stating therein the examination which the Member has refused to

undergo, and the Judge may, on receipt of such report, presume that the Member suffers from such physical or mental incapacity as is alleged in the complaint.

(10) The Judge may, after considering the written statement of the Member and the Medical Report, if any, amend the charges referred to in clause (a) of sub rule (5) and in such a case, the Member shall be given an opportunity of presenting a fresh written statement of defence.

(11) The Central Government shall appoint an officer or an advocate to present the case against the Member.

(12) Where the Central Government has appointed an advocate to present its case before the Judge, the Member concerned shall also be allowed to present his case by an advocate chosen by him.

**6. Application of the Departmental Inquiries (Enforcement of Witness and Production of Documents) Act, 1972 to inquiries under these rules.-** The provisions of the Departmental Inquiries (Enforcement of witness and Production of Documents), Act, 1972 (18 of 1972), shall apply to the inquiries made under these rules as they apply to departmental inquiries.

**7. Powers of Judge.-** The Judge shall not be bound by the procedure to be laid down by the Code of Civil Procedure, 1908 (5 of 1908) but shall be guided by the principles of natural justice and shall have power to regulate his own procedure including the fixing of places and times of his inquiry.

**8. Suspension of Member.-** Notwithstanding anything contained in rule 4 and without prejudice to any action being taken in accordance with the said rule, the Central Government may, with the concurrence of Chief Justice of India, keeping in view the gravity of charges, suspend the Member of the Tribunal against whom reference has been made to the Judge of the Supreme Court until the Central Government has passed orders on receipt of the report of the Judge of the Supreme Court.

**9. Subsistence allowance. –** The payment of subsistence allowance to a Member under suspension shall be regulated in accordance with the rules and orders for the time being applicable to a Government servant of the corresponding level.

**10. Inquiry Report. -** After the conclusion of the investigation, the Judge shall submit his report to the President of India stating therein his findings and the reasons therefor on each of the articles of charges separately with such observations on the whole case as he thinks fit.

[F.No. A-45011/70/2018- Ad.IV]

GYANESHWAR KUMAR SINGH, Jt. Secy.