

Illegal Migrants (Determination by Tribunals) Rules, 1984

CONTENTS

1. Short title and commencement
2. Definitions
3. Preliminary Inquiry
4. Inquiry Officer to proceed with the inquiry
5. Power to elicit information
6. Diary to be kept by an Inquiry Officer
7. Submission of Report
8. Recommendation of the Screening Committee
9. Procedure for making reference to Tribunals
10. Applications to the Tribunal
11. Application Fee
12. Prescribed Authority under Section 11
13. Procedure to be followed in respect of notices issued under Section 21(1)
14. Procedure of filing Appeals
15. Fee for Appeals
16. Date of presentation of Appeal
17. Contents of Memorandum of Appeal
18. What to accompany Memorandum of Appeal
19. Rejection or amendment of Memorandum of Appeal

Illegal Migrants (Determination by Tribunals) Rules, 1984

GS.R.52(E). (New Delhi, the 2nd February, 1984). -In exercise of the powers conferred by section 28 of the Illegal Migrants (Determination by Tribunals) Act, 1983 (39 of 1983) and of all other powers enabling it in this behalf, the Central Government hereby makes the following rules, namely :-

1. Short title and commencement :-

(1) These rules may be called the Illegal Migrants (Determination by Tribunals) Rules, 1984.

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

2. Definitions :-

In these rules, unless the context otherwise requires-

(i) "Act" means the Illegal Migrants (Determination by Tribunals)

Act, 1983 (39 of 1983) ;

(ii) "competent authority" means the Central Government and includes, where a State Government or any officer subordinate to the Central Government or a State Government is empowered by notification under section 21 to exercise and discharge the powers and duties of the central Government under sub-section (1) of section 8, such State Government or officer;

(iii) "Diary" means a diary specified in rule 6 ;

(iv) "Form" means a form appended to these rules ;

(v) "Inquiry Officer" means the officer directed to make inquiry under rule 3;

(vi) "Section" means a section of the Act ;

(vii) "State Government" means the Government of a State in which the Act is in force ;

(viii) "Superintendent of Police" means a Superintendent of Police under the State Government concerned.

3. Preliminary Inquiry :-

For the purpose of making a reference in relation to any person under sub-section (1) of section 8 to the Tribunal (including consideration as to whether a question such as is referred to in that section has arisen in relation to such person), -

(a) the competent authority seized of the matter shall require the Superintendent of Police to direct, or

(b) where such competent authority is the Superintendent of Police himself, the Superintendent of Police shall direct, any officer not below the rank of a Sub-Inspector of Police to make an inquiry.

4. Inquiry Officer to proceed with the inquiry :-

An Inquiry Officer who is directed to make an inquiry under rule 3 in relation to a person as is referred to therein, shall call upon that person to give information as regards the particulars mentioned in Form I.

5. Power to elicit information :-

An Inquiry Officer may elicit information from any person who, in his opinion appears to be acquainted with the facts and circumstances of the case in relation to which he is making inquiry.

6. Diary to be kept by an Inquiry Officer :-

Every Inquiry Officer, making inquiry under these rules shall day by day enter details of his inquiry in a diary kept for the purpose setting forth the time at which any information reached him, or as the case may be, ascertained by him, the time at which he began and closed his inquiry, the place or places, visited by him and the statement of the circumstances ascertained through such inquiry.

7. Submission of Report :-

On completion of the inquiry, the Inquiry Officer shall submit his report in Form II along with the diary to his immediate superior officer who shall endorse his comments thereon and submit it to the Screening Committee referred to in rule 8.

8. Recommendation of the Screening Committee :-

(1) There shall be a Screening Committee at every Sub Division level where the Tribunals are established and shall consist of two members one of whom shall be Sub Divisional Magistrate and the other a Police Officer not below , the rank of a Deputy Superintendent of Police, in the Sub Division concerned.

(2) The Screening Committee shall, after scrutinising the information contained in Form II and the diary, make its recommendations to the Superintendent of Police as to whether the person mentioned in the report is or is not an illegal migrant.

(3) The recommendations of the Screening Committee shall be signed by both the members of the Committee.

9. Procedure for making reference to Tribunals :-

On the recommendations of the Screening Committee and such further information as the competent authority may call for, it appears to that authority that a question arises as to whether any person is or is not an illegal migrant, that authority shall make a reference to the Tribunal for its decision thereon, along with the following material, namely :-

(i) The Diary;

(ii) Report of the Inquiry Officer containing the endorsement of his immediate superior officer ;

(iii) Recommendations of the Screening Committee ;

(iv) Such further information as that authority may consider

necessary.

10. Applications to the Tribunal :-

Every application to the Tribunal under sub-section (2) of section 8 shall be made in Form III

11. Application Fee :-

Every application shall be accompanied by a fee of twenty-five rupees to be paid in the form of court fee stamp

12. Prescribed Authority under Section 11 :-

The Superintendent of Police shall be the authority for the purposes of section 11.

13. Procedure to be followed in respect of notices issued under Section 21(1) :-

The Superintendent of Police may without prejudice to the powers conferred on him under sub-section (1) of section 11 so far as may be, follow the procedure specified in rule 3,Rule 4,Rule 5,Rule 6,Rule 7,Rule 8 while making an inquiry in respect of a notice issued to him by the Tribunal under that sub-section.

14. Procedure of filing Appeals :-

(1) An appeal to the Appellate Tribunal shall be made in Form IV.

(2) The particulars and grounds of appeal and the form of verification appended thereto shall be signed.

(a) in the case of the Central Government, by any officer subordinate to the Central Government or any officer subordinate to the State Government to whom the Central Government has delegated its powers ;

(b) in the case of any person named in a reference or an application under sub-section (2) of section 8, by the person himself; and

(c) in the case of a person referred to in sub-section (2) of section 8, by the person himself

15. Fee for Appeals :-

Every memorandum of appeal to the Appellate Tribunal shall be accompanied by a fee of twenty-five rupees to be paid in the form of court fee stamp

16. Date of presentation of Appeal :-

The duly authorised officer of the Appellate Tribunal shall endorse on every copy of the memorandum of appeal the date on which it is presented and shall sign the endorsement.

17. Contents of Memorandum of Appeal :-

Every appeal shall set forth, concisely and under distinct heads, the grounds of appeal without any argument or narrative; and such grounds shall be numbered consecutively.

18. What to accompany Memorandum of Appeal :-

Every memorandum of appeal shall be submitted in duplicate and shall be accompanied by two copies (at least one of which shall be a copy, certified by the officer authorised by the Tribunals) of the order appealed against.

19. Rejection or amendment of Memorandum of Appeal :-

The Appellate Tribunal may reject a memorandum of appeal, if it is not in the prescribed form or return it for being amended within such time as it may allow and on presentation after such amendment, the memorandum shall be endorsed in the manner specified in rule 16