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KERALA GAZETTE
അസാധാരണം
EXTRAORDINARY

ആധികാരികമായി പ്രസിദ്ധപ്പെടുത്തുന്നത്
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KERALA STATE ELECTRICITY REGULATORY COMMISSION, THIRUVANANTHAPURAM

NOTIFICATION

No. 3102/Con.Engg/2023/KSERC. *13th August, 2024.*

In exercise of the powers conferred under Section 26 and 27 of the Energy Conservation Act, 2001 (Central Act 52 of 2001), Section 27A of the Energy Conservation (Amendment) Act, 2022 (Central Act 19 of 2022), read with Section 181 of the Electricity Act, 2003 (Central Act 36 of 2003), and all other powers enabling it in this behalf and after previous publication; the Kerala State Electricity Regulatory Commission hereby makes the following Regulations, namely:—

KERALA STATE ELECTRICITY REGULATORY COMMISSION (ADJUDICATING PROCEDURE) REGULATIONS, 2024

CHAPTER I

PRELIMINARY

1. Short title, extent, application and commencement.—(1) These Regulations shall be called the Kerala State Electricity Regulatory Commission (Adjudicating Procedure) Regulations, 2024.

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(2) They shall extend to the whole of the State of Kerala.

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

(4) They shall be applicable for the adjudication and holding inquiry by the Adjudicating Officer prior to imposition of penalty against any person who fails to comply with the provisions specified in Section 26 of the Energy Conservation Act, 2001, as amended from time to time.

2. Objective.—The objective of these regulations is to notify the provisions regarding the procedure for adjudication before the Adjudicating Officer appointed by the Commission under Section 27 of the Energy Conservation Act, 2001, as amended from time to time.

3. **Definitions.**—In these regulations, unless the context otherwise requires,—

(a) "**Act**" means the Energy Conservation Act, 2001 (Central Act 52 of 2001);

(b) "**Adjudicating Officer**" means the Adjudicating Officer appointed by the Commission under Section 27 of the Act;

(c) "**Appellate Tribunal**" means the Appellate Tribunal established under Section 110 of the Electricity Act, 2003 and designated as Appellate Tribunal for Energy Conservation by Section 30 of the Act;

(d) "**Bureau of Energy Efficiency**" or "**BEE or Bureau**" means the Bureau established under sub-section (1) of Section 3 of the Act;

(e) "**Commission**" means the Kerala State Electricity Regulatory Commission constituted under Section 82 of the Electricity Act, 2003;

(f) "**Designated Agency**" means any agency designated under clause (d) of Section 15 of the Act;

(g) "**Designated Consumer**" means any consumer specified under clause (e) of Section 14 of the Act;

(h) "**Energy Management Centre**" or "**EMC**" means the Designated Agency in the State of Kerala to co-ordinate, regulate and enforce the provisions of the Act;

(i) "**Interlocutory Application**" means an application filed in any petition or proceeding already initiated before the Adjudicating Officer, but does not include an application for review;

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(j) "**Officer**" means an officer of the Commission;

(k) "**Penalty**" means the penalty that the Adjudicating Officer is empowered to impose under the Act;

(l) "**Perform Achieve and Trade Rules**" or "**PAT Rules**" means the Energy Conservation (Energy Consumption Norms and Standards for Designated Consumers, Form, Time within which, and Manner of Preparation and Implementation of Scheme, Procedure for Issue of Energy Savings Certificate and Value of Per Metric Tonne of Oil Equivalent of Energy Consumed) Rules, 2012 notified by the Central Government;

(m) "**Petition**" shall mean and include all the petitions, applications, replies, rejoinders, supplemental pleadings, other papers and documents filed before the Adjudicating Officer;

(n) "**Proceedings**" means the proceedings of all nature that the Adjudicating Officer may decide to initiate or hold in the discharge of its functions under the Act;

(o) "**Receiving Officer**" means an officer designated by the Adjudicating Officer for the purpose of receiving the petitions;

(p) "**Rules**" means the Energy Conservation (Manner of holding Inquiry) Rules, 2009 or PAT Rules, as applicable;

(q) "**Secretary**" means the Secretary of the Commission.

4. Interpretations.—(1) Words and expressions used and not defined in these Regulations, but defined in the Act or in the Rules or Regulations made thereunder by the Central Government, Government of Kerala, Bureau of Energy Efficiency and the Commission shall have the meanings respectively assigned to them in the Act, Rules and Regulations. Expressions used herein, but not specifically defined in these Regulations or in the Act, but defined under any law passed by the competent legislature and applicable to the energy conservation in the State shall have the same meaning assigned to them in such law. Subject to the above, expressions used herein, but not specifically defined in these Regulations or in the Act or any law passed by a competent legislature, shall have the same meaning as is generally assigned in the Act and the Electricity Industry.

(2) In the interpretation of these Regulations, unless the context otherwise requires,—

(i) words in the singular or plural term, as the case may be, shall also be deemed to include the plural or the singular term, respectively;

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(ii) words importing the masculine gender shall be taken to include females;

(iii) terms "include" or "including" shall be deemed to be followed by "without limitation" or "but not limited to", regardless of whether such terms are followed by such phrases or words of like import;

(iv) references herein to these Regulations shall be construed as a reference to these Regulations, as amended or modified by the Commission from time to time, in accordance with the law for the time being in force;

(v) reference to any Statutes, Rules, Regulations or Guidelines shall be construed as including all statutory provisions consolidating, amending or replacing such Statutes, Rules, Regulations or Guidelines, referred to, as the case may be;

(vi) if a question arises relating to the interpretation of any of the provisions of these regulations, the decision of the Commission shall be final.

CHAPTER II

GENERAL PROVISIONS REGARDING THE PROCEEDINGS BEFORE THE ADJUDICATING OFFICER

5. Appointment of Adjudicating Officer.—The Commission shall appoint any of its members to be an Adjudicating Officer as per Section 27 of the Act for holding inquiry for adjudging and imposing penalty under Section 26 of the Act. In case any existing Adjudicating Officer cease to hold office due to any reason such as superannuation, transfer or proceeding on leave, the Commission shall appoint an alternate Adjudicating Officer within one week, from the date of occurrence of such an event as per Rule 3(1) of the Energy Conservation (Manner of Holding Inquiry) Rules, 2009.

6. Adjudicating Officer's office, office hours and sittings.—(1) The Adjudicating Officer shall function from his office at the office of the Commission in Thiruvananthapuram.

(2) The Adjudicating Officer may hold sittings for hearing matters at the headquarters of the Commission at Thiruvananthapuram or at any other place on days and time to be specified by the Adjudicating Officer.

(3) Unless otherwise directed, the office of the Adjudicating Officer shall be open daily except on Saturdays, Sundays and holidays notified by the Government of Kerala.

(4) The office of the Adjudicating Officer shall be open from 09:30 hours to 17:30 hours on all working days or at such times as the Commission's office function.

7. Language of the proceedings before the Adjudicating Officer.—(1) The proceedings of the Adjudicating Officer shall be conducted either in Malayalam or English.

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(2) No petition/representation, document or other material in any language other than Malayalam or English shall be accepted by the Adjudicating Officer unless the same is accompanied by a translation thereof in Malayalam or English.

(3) Any translation which is agreed to, by the parties to the proceedings, or which any of the parties may furnish with the authenticity certificate of the person, who has translated the same in Malayalam or English, may be accepted by the Adjudicating Officer as a true translation.

(4) The Adjudicating Officer may direct that the petition, documents or other materials in English be translated to Malayalam or vice versa.

8. Seal of the Adjudicating Officer.—(1) There shall be a separate seal for the Adjudicating Officer. The impression of the seal shall be certified and kept on record as the official seal of the Adjudicating Officer.

(2) Every order or communication made, notice issued or copy granted by the Adjudicating Officer shall be stamped with the seal of the Adjudicating Officer and shall be authenticated by an Officer of the Commission designated for the purpose.

9. Officers of the Commission to assist the Adjudicating Officer.—(1) The Commission may delegate its officers to assist the Adjudicating Officer to carry out the functions under these regulations.

(2) The Commission shall have the powers to engage consultant/staff for assisting the Adjudicating Officer in matters related to adjudication.

(3) The Secretary of the Commission shall have custody of the seal and records of the Adjudicating Officer and shall exercise such functions as are assigned to him by these Regulations or otherwise by the Adjudicating Officer.

(4) In particular, and without prejudice to the generality of the provisions of sub-regulation (2) above, the officers of the Commission shall have the following functions, namely:—

(i) to receive or cause to receive all the petitions, applications, other filings or references pertaining to the Adjudicating Officer;

(ii) to prepare or cause to prepare the briefs and summaries of all such filings presented before the Adjudicating Officer;

(iii) to assist the Adjudicating Officer in the proceedings conducted by him;

(iv) to authenticate the orders passed by the Adjudicating Officer;

(v) to ensure compliance of the orders passed by the Adjudicating Officer; and

(vi) to collect from the Central Government, State Government and their agencies, the Licensees or other offices, companies and firms or any other

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person as may be directed by the Adjudicating Officer, such information as may be considered useful for the purpose of efficient discharge of the functions of the Adjudicating Officer under the Act, Rules and these Regulations.

(5) The Adjudicating Officer shall always have the authority, either on an application made by any interested or affected party or *suo motu,* to review, revoke, revise, modify, amend, alter or otherwise change any order made or action taken by the Secretary or officers of the Commission under these Regulations, if the Adjudicating Officer considers it to be appropriate.

10. Proceedings before the Adjudicating Officer.—(1) The Adjudicating Officer may, from time to time, hold such proceedings, meetings, discussions, deliberations, consultations, inquiries and investigations, as he may consider appropriate in the discharge of his functions under the Act.

(2) The Adjudicating Officer may appoint an officer or any other person whom he considers appropriate to present the matter in any proceedings before him or otherwise participate and assist him in the proceedings.

(3) All matters which the Adjudicating Officer is required under the Act to undertake and discharge through hearings shall be done through proceedings in the manner specified under the Act, Rules and in these Regulations.

11. Initiation of proceedings.—Proceedings may be initiated under these Regulations in one of the following manners:—

(i) *suo motu* by the Adjudicating Officer;

(ii) upon a petition filed by the Bureau of Energy Efficiency;

(iii) upon a petition filed by the Designated Agency in the State of Kerala;

(iv) upon a petition filed by any person designated by Central Government;

(v) upon a petition or any other filing by any affected or interested person:

Provided that the Adjudicating Officer shall have the right to decide or order that any party is not an affected party for the purpose of these regulations:

Provided further that the proceedings under clause (i) to (v) above shall pertain to matters relating to the powers and functions of the Adjudicating Officer as assigned to it under the provisions of the Act, Rules and these Regulations.

12. Suo motu proceedings.—(1) When the Adjudicating Officer initiates the proceedings *suo motu,* it shall be by a notice of inquiry (hereinafter referred to as the "notice of inquiry") issued by the office of the Adjudicating Officer.

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(2) While issuing the notice of inquiry, the Adjudicating Officer may pass such orders and directions as may be deemed necessary for service of notices to the affected or interested parties and for the filing of replies and rejoinders in support or in opposition of the case, in such form as the Adjudicating Officer may direct.

(3) The Adjudicating Officer may, if he considers appropriate, issue orders for publication of the notice of inquiry inviting comments from the public or any class of persons on the issue involved in the proceedings in such form as the Adjudicating Officer may direct in such order.

(4) While issuing the notice of inquiry, the Adjudicating Officer may, in *suo motu* proceedings and in other appropriate cases, designate an officer of the Commission or any other person whom he considers appropriate to participate in the matter, as if such a person is a party to the proceedings.

13. Proceedings through filing of petitions.—(1) All the petitions shall contain a clear and concise statement of facts with material particulars, reliefs sought, applicable provisions of law and the basis for such reliefs.

(2) All the petitions to be filed before the Adjudicating Officer shall be typewritten or printed neatly and legibly on one side of white paper and every page shall be consecutively numbered. The Adjudicating Officer may permit or seek copies of the petition to be filed in an electronic form, on such terms and conditions as the Adjudicating Officer may specify.

(3) The contents of the petition shall be divided appropriately into paragraphs, which shall be numbered serially.

(4) The petition shall be accompanied by documents, supporting data and statements relevant to the matters in issue in the petition.

(5) The general heading in all the petitions before the Adjudicating Officer and in all the notices issued or published in that connection shall be as per **Form-I** attached to these Regulations.

14. Fees on applications and petitions.—(1) Every application or petition made to the Adjudicating Officer shall be accompanied by such fees, as specified in the Schedule of Fees as per **Annexure I** to these Regulations. The co-petitioner, if any, shall also have to pay the same fee as is required to be paid by the main petitioner.

(2) The fees payable under these Regulations shall be paid by means of bank draft or pay order or electronic mode, in favour of the Secretary, Kerala State Electricity Regulatory Commission, payable at Thiruvananthapuram.

(3) The fees received by the Secretary of the Commission under these Regulations shall be deposited in a bank account to be maintained by the Commission at such bank(s) and in such Branch(es) as the Commission may direct from time to time or in the Government Account under relevant head of account.

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15. Affidavit in support.—(1) The petitions filed shall be verified by an affidavit, and every such affidavit shall be as per **Form-II** attached to these Regulations.

(2) The affidavit shall be drawn up in first person and shall state the full name, age, occupation and address of the person swearing on the affidavit (hereinafter referred to as the deponent) and the capacity in which he is signing and shall be signed and sworn before a person lawfully authorized to take and receive affidavits.

(3) Every affidavit shall clearly and specifically indicate that the statements are true to the,—

(i) knowledge of the deponent; and/or

(ii) information received by the deponent; or

(iii) belief of the deponent.

(4) Where any statement in the affidavit is stated to be true based on the information received by the deponent, the affidavit shall also disclose the source of the information and a statement that the deponent believes that the information to be true.

16. Authorized representative to appear before the Adjudicating Officer.—(1) A person may appear himself or may authorize any of his employees to appear before the Adjudicating Officer and to act and plead on his behalf.

(2) A person may authorize an advocate or a registered consultant or a member of any statutory professional body holding a certificate of practice to act and plead on his behalf before the Adjudicating Officer.

(3) A person may authorize a certified energy professional (Accredited Energy Auditor/certified Energy Auditor/certified Energy Manager) to appear and plead his case before the Adjudicating Officer, but not to act for him.

(4) Notwithstanding anything contained in sub-regulations (1), (2) and (3) above, the Adjudicating Officer may allow any consumer group or association, or any person duly authorized by such consumer group or association to appear in any proceedings before the Adjudicating Officer.

17. Presentation, scrutiny and admission of the petitions.—(1) All the petitions shall be filed in four copies or in such number of copies as may be directed by the Adjudicating Officer and all such copies shall be complete in all respects.

(2) All the petitions shall be presented in person or by any duly authorized agent or representative to the Receiving Officer at the office of the Adjudicating Officer or such other filing centre or centres, as may be notified by the Adjudicating Officer from time to time. The petitions may also be sent by registered post along with an acknowledgment card to the Secretary. The authorization/vakalatnama in favour of the authorized agent or representative, as the case may be, shall be filed along with the petition. In the event of the petition being

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presented by an authorized representative not being a legal practitioner, the authorized representative shall file a Memorandum of Appearance as per **Form-III** attached to these Regulations.

(3) Upon receipt of the petition, the Receiving Officer shall acknowledge the receipt by stamping and endorsing the date on which the petition has been received and shall issue an acknowledgment with stamp and date to the person filing the petition. In case the petition is received by registered post the date on which the petition is received at the office of the Adjudicating Officer shall be taken as the date of presentation of the petition.

(4) The Receiving Officer shall enter the date of receipt of the petition and such other details as required, in the register maintained for the purpose by the office of the Adjudicating Officer, as per **Annexure II** to these Regulations.

(5) The Receiving Officer may decline to accept any petition which is not complete in all respects and is not in conformity with the provisions of the Act or which is presented otherwise than in accordance with these Regulations or the directions of the Adjudicating Officer:

Provided that no petition shall be refused for defect in their presentation, without giving an opportunity to the person filing the petition to rectify the defect within such time as may be granted by the Receiving Officer for this purpose. If the petition is incomplete and defective, the Receiving Officer shall inform in writing to the person filing the petition, on the defects identified in the petition and give appropriate time to rectify the defects and to resubmit the petition. A standard letter for notifying the defects shall be as in **Form-IV** attached hereto.

(6) Any person aggrieved by the order of the Receiving Officer in regard to the presentation or receipt of the petition may request the Secretary for appropriate order.

(7) As soon as the petition and all necessary documents are filed within the specified time and the defects, inconsistencies and objections, if any, are rectified as per the notice issued by the Receiving Officer, the petition shall be scrutinized, registered and numbered, and shall be placed before the Adjudicating Officer for admission.

(8) The Adjudicating Officer may admit the petition for hearing. The Adjudicating Officer shall not pass an order refusing the admission without giving the person concerned an opportunity of being heard. The Adjudicating Officer may, if he considers appropriate, issue notice to such person or persons, as may be considered necessary to hear the petition for admission.

(9) If the defects are not removed after notice, the Adjudicating Officer may reject the petition without any further proceedings.

(10) If the Adjudicating Officer admits the petition, he may give such orders and directions as may be deemed necessary, for service of notice in **Form-V** attached hereto or in any other Form and in the manner as the Adjudicating Officer may decide, containing particulars of violations under Section 26 of the Act to the respondents and other affected or interested parties as the Adjudicating Officer may consider appropriate, to appear within

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twenty one days from the date of issue of such notice for the filing of replies and rejoinders in opposition or in support of the petition, in such form as the Adjudicating Officer may direct.

(11) The petitions may be filed following the e-filing procedure of the Commission, as and when e-filing facility is introduced in the Commission. The procedures mentioned in sub regulations (1) to (10) above shall then be made through online mode, following the e-filing procedure introduced in the Commission.

18. Service of notices and process issued by the Adjudicating Officer.—(1) Any notice or process to be issued by the Adjudicating Officer may be served by any one or more of the following modes, as may be directed by the Adjudicating Officer:—

(i) by hand delivery or courier;

(ii) service by the petitioner or any other party in the proceedings;

(iii) by registered post with acknowledgement due;

(iv) by any electronic mode such as e-mail etc.;

(v) by publication in two local newspapers one in English and one in Malayalam, in cases where the Adjudicating Officer is satisfied that it is not reasonably practicable to serve the notices, process etc., on any person in the manner mentioned above;

(vi) in any other manner as may be considered appropriate by the Adjudicating Officer.

(2) Every notice or process required to be served on or delivered to any person may be sent to the person or his agent authorized to accept service at the address furnished by him for service or at the place where the person or his agent ordinarily resides or carries on business or personally works for gain.

(3) In the event any matter is pending before the Adjudicating Officer and the person to be served has authorized a representative to appear for or represent him in the matter, such representative shall be deemed to be duly authorized to take service of the notices and processes on behalf of the person concerned in all matters and the service on such representative shall be taken as due service on the person to be served.

(4) Where a notice is served by a party to the proceedings on any other party either in person or through registered post, an affidavit of service shall be filed by such party with the Adjudicating Officer giving details of the date and manner of service of notices and processes and proof of such service.

(5) Where any petition is required to be published it shall be published within such time as the Adjudicating Officer may direct and unless otherwise directed by the Adjudicating Officer, in one issue each of a daily newspaper in English language and two daily newspapers in Malayalam language having wide circulation in the State.

(6) Save as otherwise provided in the Act or in the Regulations or subject to any direction which the Adjudicating Officer or the Secretary or the officer designated for the

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purpose may issue, the petitioner/applicant or any other person whom the Adjudicating Officer may make responsible, shall arrange for publication or service of all the notices, summons and other process required to be served.

(7) The Adjudicating Officer shall be entitled to decide in each case, the person who shall bear the cost of such service or publication. The Adjudicating Officer may place notice of any proceedings on the website of the Commission.

(8) In default of compliance with the requirements of the regulations or directions of the Adjudicating Officer as regards the service of notice, summons or process or the publication thereof, the Adjudicating Officer may either dismiss the petition or give such other or further directions, as he thinks fit.

(9) No service or publication required to be done shall be deemed invalid by reason of any defect in the name or description of a person, provided that the Adjudicating Officer is satisfied that such service is in other respect sufficient, and no proceedings shall be invalidated by reason of any defect or irregularity in the service or publication unless the Adjudicating Officer, on an objection taken, is of the opinion that injustice has been caused by such defect or irregularity or there are otherwise sufficient reasons for doing so.

19. Procedure to be followed where any party does not appear.—(1) When, on the date and the time fixed for hearing or any other date or time to which such hearing may be adjourned, if any party or his authorized representative fails, neglects or refuses to appear before the Adjudicating Officer when the matter is called for hearing, the Adjudicating Officer may, in his discretion, either dismiss the petition for default when the petitioner or the person who moves the Adjudicating Officer for hearing is absent or proceed ex-parte with the inquiry against the concerned person to hear and decide the petition in the absence of such person after recording the reasons in writing for so doing.

(2) Where a petition is dismissed for default or decided ex-parte, the person aggrieved may file an application within 30 days from the date of receipt of the order of such dismissal or proceeding held ex-parte, as the case may be, for recall of the order passed, and the Adjudicating Officer may recall the order on such terms as he thinks fit, if the Adjudicating Officer is satisfied that there was sufficient cause for the non-appearance of the aggrieved person when the petition was called for hearing.

20. Procedure to be followed where the concerned party appears.—(1) Where the concerned person appears before the Adjudicating Officer along with the reply to the notice issued by the Adjudicating Officer, an opportunity shall be given to the concerned person to be heard and justify his case and to produce documents/proofs/material on record which become grounds for validating that there was no such non-compliance carried out by the concerned person against the provisions of the Act.

(2) The Adjudicating Officer shall hear pleadings of both the parties (Petitioner and the Respondent) during the hearing. He may direct both the parties to provide documents in support of the statements made during the hearing of the matter.

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21. Filing of reply and other documents by the respondents.—(1) The respondent and those who intend to oppose or support the notice of inquiry or petition, shall file reply in four copies or such number of copies, as may be directed by the Adjudicating Officer, along with the documents relied upon by him, within such period not exceeding twenty one days from the date of issuance of notice/petition, as may be fixed by the Adjudicating Officer.

(2) In the reply filed, the respondent or the concerned persons shall specifically admit, deny or explain the facts stated in the notice of inquiry or the petition and may also state such additional facts, as he considers necessary for a just decision in the matter.

(2) The reply shall be signed and verified and supported by an affidavit in the same manner as in the case of a petition. The respondent shall also indicate in the reply, whether he wishes to participate in the proceedings and be orally heard.

(3) The respondent shall serve a copy of the reply along with the documents duly attested to be true copies, on the petitioner or his authorized representative and file proof of such service with the office of the Adjudicating Officer at the time of filing the reply.

(4) Where the petitioner states additional facts as may be necessary for the just decision in the matter, the Adjudicating Officer may allow the respondent to file rejoinder to the reply filed by the petitioner(s). The procedure mentioned above for filing of the reply shall apply *mutatis mutandis* to the filing of the rejoinder.

22. Filing of objections etc., by the public.—(1) Every other person who intends to file objections or comments in regard to a matter pending before the Adjudicating Officer, pursuant to the publication issued for the purpose (other than the persons to whom notices, processes etc. have been issued calling for reply) shall deliver to the Receiving Officer the statement of objections or comments with copies of the documents and evidence in support thereof within the time fixed for the purpose.

(2) The Adjudicating Officer may permit such person(s)/ organization(s) or groups as he may consider appropriate to facilitate the proceedings and the decision in the matter.

(3) Unless permitted by the Adjudicating Officer, the person filing objections or comments pursuant to sub-regulation (1) above shall not be entitled to make oral submissions. However, the Adjudicating Officer may take into account the objections and comments filed after giving such opportunity to the parties in the proceedings as the Adjudicating Officer considers appropriate to deal with the objections and comments.

23. Collection of information.—The Adjudicating Officer may make such order as he thinks fit in terms of the provisions of the Act for collection of information, inquiry, investigation, entry, search, seizure, without prejudice to the generality of his powers in regard to the following:—

(i) The Adjudicating Officer may, at any time, direct the Secretary or any one or more Officers or Consultants or any other person as he considers appropriate to study, investigate or furnish information with respect to any matter within his purview.

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(ii) The Adjudicating Officer may for the above purpose give such other directions as he may deem fit and specify the time within which the report is to be submitted or information furnished.

(iii) The Adjudicating Officer may issue or authorize the Secretary or an officer of the Commission, to issue directions to any person to produce before him and allow to be examined and kept by an officer specified in this behalf, the books of accounts etc. or to furnish information to the specified officer.

(iv) The Adjudicating Officer may, for the purpose of collecting any information, particulars or documents which the Adjudicating Officer consider necessary in connection with the discharge of his functions under the Act, issue such directions as may be considered necessary.

(v) If any such report or information obtained appears to the Adjudicating Officer to be insufficient or inadequate, the Adjudicating Officer or the Secretary or an Officer authorized for the purpose may give directions for further inquiry, report and furnishing of information.

(vi) The Adjudicating Officer may direct such incidental, consequential and supplemental matters that may be considered relevant in connection with the above, be attended to.

24. Hearing of the matter.—(1) The Adjudicating Officer may determine the manner, place, date and time of hearing of the matter considered appropriate by him.

(2) The Adjudicating Officer shall complete the inquiry within sixty days from the date of issue of the notice referred in Regulation 17(10).

(3) The Adjudicating Officer may curtail aforesaid period of 60 days looking to the need to expeditiously decide the matter.

(4) If the inquiry may not be completed within the period of sixty days, the Adjudicating Officer may after recording reasons in writing seek extension of time from the Commission for a further period of sixty days.

(5) The Adjudicating Officer may decide the matter on the pleadings of the parties or may call for the parties to produce evidence by way of affidavit or to lead oral evidence in the matter.

(6) If the Adjudicating Officer directs evidence of a party to be led by way of affidavit, the Adjudicating Officer may, if he considers it to be necessary or expedient, grant an opportunity to the other party to cross examine the deponent of the affidavit.

(7) The Adjudicating Officer may, if considered necessary or expedient, direct that the evidence of any of the parties be recorded by an officer or by any person designated for the purpose by him.

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(8) The Adjudicating Officer may direct the parties to file written note of arguments or submissions in any proceedings before him within a specified time, as he considers appropriate.

25. Power of the Adjudicating Officer to call for further information, evidence etc.—(1) The Adjudicating Officer may, at any time before passing orders on the matter, require the parties or any one or more of them or any other person whom he considers appropriate, to produce such documentary or other evidence as he may consider useful or relevant for the purpose of enabling him to pass orders.

(2) The Adjudicating Officer may direct the summoning of witnesses and examine them on oath, discovery and production of any document or other material objects producible in evidence, requisitioning of any public record from any office, examination by an officer of the Commission; of the books, accounts or other documents or information in the custody or control of any person which he considers relevant for the matter.

(3) The Adjudicating Officer may, if he considers appropriate, allow any of the parties to produce further evidence in the matter considering the evidence brought on record under sub-regulations (1) and (2) above.

26. Reference of issues to others.—(1) At any stage of the proceedings, the Adjudicating Officer may refer such issue or issues in the matter, as he considers appropriate, to persons including, but not limited to the officers of the Commission and or the Government agency/body, whom the Adjudicating Officer considers as qualified to give expert or specialized advice or opinion.

(2) The Adjudicating Officer may nominate from time to time any person including, but not limited to, the officers of the Commission to visit any place or places, for inspection and report on the status of the place or any facilities therein.

(3) The Adjudicating Officer, if he thinks fit, may direct the parties to appear before the persons, Government agency/body designated under sub-regulations (1) or (2) above, to present their respective views on the issues or matters referred to such persons.

(4) The report or the opinion received from such person, Government agency/ body shall form a part of the record of the case and parties to the proceedings shall be given copies of the report or opinion. The parties to the proceedings shall be entitled to file their version either in support of or in opposition to such report or opinion.

(5) The Adjudicating Officer shall duly take into account the report or the opinion given by the person, Government agency/body and the reply filed by the parties while deciding the matter and if considers necessary, the Adjudicating Officer may examine the person giving such report or the opinion.

(6) The Adjudicating Officer shall, however, not be bound by the report or the opinion given under sub-regulations (1) and (2) above and the Adjudicating Officer shall be entitled to take such decision as he considers appropriate.

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27. Imposition of penalty.—(1) On completion of inquiry, the Adjudicating Officer shall record his findings and if he is satisfied on the basis of his findings that the person has failed to comply with the provisions of any of the clauses specified in Section 26 of the Act, Rules or Regulations made thereunder or notification of the Central Government in consultation with the Bureau or directions of the State Government or Orders of the Adjudicating Officer or revealed the non compliance or violation for which notice was served, he may impose such penalty as he thinks fit in accordance with the provisions of any of those clauses of Section 26 of the Act.

(2) Before imposing any penalty, the Adjudicating Officer shall give an opportunity to the person upon whom such penalty is proposed to be imposed, to represent against the proposal to impose such penalty and also on the quantum or extent of the penalty proposed to be imposed.

(3) While adjudicating the quantum or extent of penalty to be imposed, the Adjudicating Officer shall consider, amongst other relevant things, the following factors namely:—

(i) the nature and extent of non-compliance or violation;

(ii) the amount of disproportionate gain or unfair advantage, wherever quantifiable, made as a result of the default;

(iii) the repetitive nature of the default;

(iv) the loss caused to a consumer and the amount of compensation thereof.

28. Orders of the Adjudicating Officer.—(1) The Adjudicating Officer, having heard the matter, shall record his findings and pass order on the petition under his seal and signature.

(2) All the orders and decisions issued or communicated by the Adjudicating Officer shall be authenticated by the signature of the Secretary or an officer empowered in this behalf by the Adjudicating Officer and shall bear the office seal of the Adjudicating Officer.

(3) All the Orders of the Adjudicating Officer shall be communicated to the parties in the proceedings free of cost.

29. Payment of Penalty.—(1) The penalty as ordered by the Adjudicating Officer shall be paid within 30 days of the order of the Adjudicating Officer imposing the penalty, or within such extended date as may be allowed by the Adjudicating Officer in such order.

(2) The penalty imposed shall be payable in the same manner as in the case of payment of fees as provided under Regulation 14(2) of these Regulations.

(3) If the penalty imposed by the Adjudicating Officer is not paid within the stipulated time, it may be recovered as if it were an arrear of land revenue.

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CHAPTER III

MISCELLANEOUS

30. Inspection of records and supply of authenticated copies.—(1) The records of the proceedings shall be open to inspection of the parties or their authorized representatives subject to payment of fees as specified in Regulation 14 of these Regulations and compliance with such other terms as the Adjudicating Officer may direct. The application for inspection of documents shall be as in **Form-VI** attached hereto.

(2) The records of every proceedings, except those parts which for reasons specified by the Adjudicating Officer are confidential or privileged, shall be open to inspection by persons other than the parties to the petition, subject to such person complying with such terms as the Adjudicating Officer may direct from time to time including in regard to time, place and manner of inspection and payment of fees.

(3) Any person may obtain authenticated copies of the orders, decisions, directions or any document forming part of the records of proceedings before the Adjudicating Officer to which he is entitled, subject to filing of application as per **Form-VII** attached hereto, accompanied by details of remittance of the fees as specified in Regulation 14 of these regulations.

31. Interim orders.—The Adjudicating Officer may make such interim orders, as he considers appropriate, at any stage of the matter or proceedings pending before him.

32. Powers of Review.—(1) Any person or party aggrieved by a decision, direction or order of the Adjudicating Officer may within forty-five days from the date of receipt of such decision, direction or order apply for the review of the same:

Provided that the Adjudicating Officer may entertain a review after the expiry of the said period of forty-five days, if he is satisfied that the applicant had sufficient cause for not filing it within that period.

(2) An application for such review shall be filed in the same manner as a petition under Chapter II of these Regulations on the following grounds, namely:—

(i) on the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the order was passed; or

(ii) on account of some mistake or error apparent on the face of the record; or

(iii) for any other sufficient reason.

(3) The Adjudicating Officer may after scrutiny of the application, review such decisions, directions, orders and pass such appropriate orders as he deems fit within forty-five days from the date of filing such application:

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Provided that the Adjudicating Officer may, at his discretion, afford the person or party who filed the application for review, an opportunity of being heard and in such cases the Adjudicating Officer may pass appropriate orders as he deems fit within thirty days from the date of final hearing:

Provided further that where the application for review cannot be disposed of within the periods as stipulated, the Adjudicating Officer shall record the reasons for the additional time taken for the disposal of the same.

33. Amendment of orders.—Clerical or arithmetical mistakes in the orders or errors arising therein from any accidental slip or omission may at any time be corrected by the Adjudicating Officer, either on its own motion or on an application of any of the parties.

34. Appeal to Appellate Tribunal.—Any person aggrieved by the order made by the Adjudicating Officer may file an appeal before the Appellate Tribunal for Energy Conservation as per Section 31 of the Act, within forty five days from the date of receipt of the order.

35. Publication of petition.—(1) Where any application, petition, or other matter is required to be published under the Act or these Regulations or as per the directions of the Adjudicating Officer, it shall, unless the Adjudicating Officer otherwise orders or the Act or these Regulations otherwise provide, be published not less than seven clear days before the date fixed for hearing. Except as otherwise provided, such publication shall give a heading describing the subject matter in brief.

(2) The contents to be published shall be approved by the Adjudicating Officer.

36. Issue of orders and practice directions.—Subject to the provisions of the Act and these regulations, the Adjudicating Officer may, from time to time, issue orders, guidelines and practice directions in regard to the implementation of the regulations and procedure to be followed in dealing with concerned matters.

37. Saving of inherent power of the Adjudicating Officer.—(1) Nothing in these regulations shall be deemed to limit or otherwise affect the inherent power of the Adjudicating Officer to make such orders as may be necessary for meeting the ends of justice or to prevent the abuse of the process of the Adjudicating Officer.

(2) Nothing in these regulations shall bar the Adjudicating Officer from adopting a procedure which is at variance with any of the provisions of these regulations, if the Adjudicating Officer, in view of the special circumstances of a matter or class of matters and for reasons to be recorded in writing, deems it necessary or expedient for dealing with such a matter or class of matters.

(3) Nothing in these regulations shall, expressly or impliedly, bar the Adjudicating Officer from dealing with any matter or exercising any power under the Act for which no regulations have been framed, and the Adjudicating Officer may deal with such matters, powers and functions in a manner he thinks fit.

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38. General power to amend.—(1) The Commission shall be entitled from time to time to add, amend, alter or vary these regulations and the amount of fees prescribed, by a notification to be made by the Commission.

(2) The Adjudicating Officer may, at any time and on such terms as to costs or otherwise, as he may think fit, rectify any defect or error in any proceeding before him, and all necessary amendments shall be made for the purpose of determining the real question or issue arising in the proceedings.

39. Power to remove difficulties.—If any difficulty arises in giving effect to any of the provisions of these regulations, the Commission may, by general or special order, do anything not being inconsistent with the provisions of the Act which appears to it to be necessary or expedient for the purpose of removing the difficulties.

40. Effect of non-compliance.—The failure to comply with any requirement of these regulations shall not invalidate any proceeding or order passed by the Adjudicating Officer merely by reason of such failure unless the Adjudicating Officer is of the view that such failure has resulted in miscarriage of justice.

By Order of the Commission,

C. R. SATHEESH CHANDRAN,
Secretary.

Explanatory Memorandum

(This does not form part of the notification, but is intended to indicate its general purport.)

The overall objective of the Energy Conservation Act, 2001 was to provide necessary legal framework for promoting efficient use of energy and its conservation measures in India. The Act provides directions to establish systems and procedures for measuring and monitoring energy efficiency to coordinate policies and programmes on efficient use of energy with stakeholders. The Central Government established the Bureau of Energy Efficiency (BEE/ Bureau) under the provisions of the Act. The Act empowers the Bureau to specify guidelines, regulations and framework to various programmes of Bureau such as Perform Achieve and Trade scheme (PAT), Standards and Labeling (S&L), Energy Conservation and Sustainable Building Codes, Certification of Energy Managers and Energy Auditors, and Energy Audit/Accounting of Designated Consumers.

Provisions for inquiry, adjudication and penalty are intended in the Energy Conservation Act to ensure effective operation of all the schemes / regulations. As per Section 27 of the Act, the State Electricity Regulatory Commission shall appoint any of its members as an Adjudicating Officer for holding inquiry and adjudging and imposing penalty under Section 26 of the Act. Section 27 of the Act has been supplemented with the Energy

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Conservation (Manner of holding inquiry) Rules, 2009, notified by the Central Government. The amendments made to the said rules in 2022 provides for the appointment of an Adjudicating Officer in the State Electricity Regulatory Commission in a time bound manner and also to appoint an alternate Adjudicating Officer as may be required. Accordingly as per its order dated 19.01.2023, the Commission has appointed Member (Technical) of the Commission as the Adjudicating Officer for the purpose of adjudging under Section 26 of the Act.

As per the Energy Conservation (Amendment) Act, 2022 (No.19 of 2022) new Section 27A was inserted to empower the State Electricity Regulatory Commission to make regulations to provide for the manner of making applications before the Commission and the fee payable and for any other matter for the purposes of its function.

The Bureau of Energy Efficiency vide letter No. BEE/ECBC/EC Act/22-23/8824-53 dated 02.03.2023 requested the Commission to formulate necessary regulations at the earliest and to intimate the compliance. Hence the Commission has decided to make regulations specifying the manner of; making application before the Commission, the fee payable and the holding of inquiry by the Adjudicating Officer, prior to the imposition of penalty under Section 26 of the Act.

To address the matters indicated above, the Commission published the draft Kerala State Electricity Regulatory Commission (Adjudicating Procedure) Regulations, 2024 on 19th March, 2024, for inviting stakeholder comments and objections. To enhance transparency and to improve informed stakeholder participation, the Commission has also published detailed explanatory memorandum along with the draft Regulations, which details the facts and circumstances led to the publication of the draft. Further, the Commission conducted public hearing on the draft Regulations, at Thiruvananthapuram on 22.05.2024, through hybrid mode. After considering all the suggestions and objections received, and obtaining legal opinion on the objections received from the stakeholders, the Commission approved the Kerala State Electricity Regulatory Commission (Adjudicating Procedure) Regulations, 2024 and decided to publish the approved Regulations in the Official Gazette. The Statement of Reasons for finalizing these amendments is published separately.

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FORM-I

[*See* Regulation 13(5)]

General Heading for petitions

BEFORE THE ADJUDICATING OFFICER

(u/s 27 of the Energy Conservation Act)

Kerala State Electricity Regulatory Commission

Thiruvananthapuram

Petition No. :

(To be filled by the Office, if number has not been assigned earlier)

In the matter of (Gist of the purpose of the petition or application)	:
Name(s) and full address(es) of petitioner(s)/applicant(s)	:
Name(s) and full address(es) of respondent(s)	:

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FORM-II

[*See* Regulation 15(1)]

BEFORE THE ADJUDICATING OFFICER

(u/s 27 of the Energy Conservation Act)

Kerala State Electricity Regulatory Commission

Thiruvananthapuram

Petition No. :

(To be filled by the Office, if number has not been assigned earlier)

In the matter of (Gist of the purpose of the petition or application)	:
Name(s) and full address(es) of the Petitioner(s)/ name(s) and full address(es) of the respondent(s)	:

Affidavit verifying the petition/reply/application

(specify nature of petition)

I …….. son of …… aged …...……. residing at ..... do solemnly affirm and state as follows:

1. I am a petitioner/applicant/respondent in the above matter.

OR

I am a Director/Secretary/ ..... of....., the petitioner/applicant/ respondent in the above matter and am duly authorized by the said petitioner/applicant/respondent to make this affidavit on its behalf. (This is to be included in cases where the petitioner is a Company.)

2. The statements made in paragraphs…… of the petition/application/reply herein now shown to me and marked with the letter "A" are true to my knowledge and the statements made in paragraphs …… are based on the information received and I believe them to be true.

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Solemnly affirmed at..... on this ….. day of ..... that the contents of the above affidavit are true to my knowledge, no part of it is false and nothing material has been concealed therefrom.

Petitioner/Applicant/Respondent

Identified before me

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FORM-III

[*See* Regulation 17(2)]

BEFORE THE ADJUDICATING OFFICER

(u/s 27 of the Energy Conservation Act)

Kerala State Electricity Regulatory Commission

Thiruvananthapuram

Petition No. :

(To be filled by the Office, if number has not been assigned)

IN THE MATTER OF…….

Petitioner(s)

Respondent(s)

Memorandum of Appearance

I,……..practicing as/working as .....

……. having been authorized* by .....……

furnish particulars of person authorizing), hereby enter appearance on behalf of ..... and undertake to plead and act for him/her in all matters of the aforesaid case.

Place :

Date : Signature & Designation

Address for correspondence

---

*Authorization should duly be attached with this letter.

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FORM-IV

[*See* Regulation 17(5)]

BEFORE THE ADJUDICATING OFFICER

(u/s 27 of the Energy Conservation Act)

Kerala State Electricity Regulatory Commission

Thiruvananthapuram

No. …….. Dated ……

To,

……..

Sub:— Petition under Chapter II of the Kerala State Electricity Regulatory Commission (Adjudicating Procedure) Regulations, 2024.

In the matter of……

Sir(s),

I am directed to refer to your petition/application dated ……filed on…….. in the above subject and to inform you that on scrutiny, the following defects are observed:

1. The petition is not in the Form prescribed in Chapter II of KSERC (Adjudicating Procedure) Regulations, 2024.
2. The name, description and address of the parties have not been furnished in the cause title.
3. The following concerned parties have not been impleaded:—
   a)
   b)
   c)
4. The petition has not been duly signed.
5. The petition has not been verified through an affidavit.
6. The affidavit is not in the prescribed Form-II attached to the KSERC (Adjudicating Procedure) Regulations, 2024.
7. The affidavit has not been signed and sworn before the competent authority.

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8. Four copies of the petition have not been filed.
9. The copies of the petition are not complete in all respect.
10. The copies of the documents are not legible and duly attested.
11. English/Malayalam translation of the documents and other material in a language other than English/Malayalam has not been filed.
12. Authenticity of English/Malayalam translation of the documents has not been furnished.
13. The *vakalatnama*/letter of authorization has not been filed.
14. The specified fee for the petition/application has not been paid
15. ……
16. ……..

Yours faithfully,

Receiving Officer

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FORM-V

[*See* regulation 17(10)]

BEFORE THE ADJUDICATING OFFICER

(u/s 27 of the Energy Conservation Act)

Kerala State Electricity Regulatory Commission

Thiruvananthapuram

Petition No. : ...../20.....

Petitioner :

Respondent :

In the matter of inquiry under Section 27 of the Energy Conservation Act for alleged contraventions and noncompliance with the provisions of Energy Conservation Act, 2001.

NOTICE

WHEREAS, a petition has been filed by the petitioner above named/*suo motu* proceedings initiated by the Adjudicating Officer, copy whereof is enclosed/copy of which is available in the website of the Commission;

TAKE NOTICE that you may file your version of the case and show cause why penalty should not be imposed against you, duly signed (with 4 copies) within twenty one days from the date of receipt of this notice, failing which the petition will be disposed of in your absence. A copy of the version shall be served on the petitioner/respondent and proof of such service shall be filed along with the version. You may enter appearance in person or through authorized agent on the date of hearing.

It is further notified that the above petition is posted for hearing in the venue given below and the petitioner and respondent/respondents is/are requested to be present for hearing with documents if any relied on by you.

Venue: Court Room,

Kerala State Electricity Regulatory Commission,

KPFC Bhavanam, CV Raman Pillai Road,

Vellayambalam, Thiruvananthapuram - 10

Date of hearing .....

Time .....

Secretary.

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FORM VI

[*See* Regulation 30(1)]

BEFORE THE ADJUDICATING OFFICER

(u/s 27 of the Energy Conservation Act)

Kerala State Electricity Regulatory Commission

Thiruvananthapuram

Application for Inspection of Documents/Records

Petition No. :

…… Petitioner(s)

……. Respondent(s)

I hereby apply for grant of permission to inspect the documents/records in the above case. The details are as follows:

1.	Name and address of the person seeking permission	:
2.	Whether party to the case or the authorized representative of any party (Necessary particulars to be furnished)	:
3,	Details of papers/documents sought to be inspected	:
4.	Purpose of seeking inspection	:
5.	Date and duration of inspection sought	:
6.	Details of payment of fee (Amount, Number and date of DD/Pay order, Name of Bank)	:

Place:

Date: *Signature.*

For Office Use

Granted inspection on……. /Rejected

Date: *Secretary to the Commission.*

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FORM-VII

[*See* Regulation 30(3)]

BEFORE THE ADJUDICATING OFFICER

(u/s 27 of the Energy Conservation Act)

Kerala State Electricity Regulatory Commission

Thiruvananthapuram

Application for Grant of Authenticated Copy

Petition No. :

……Petitioner(s)

……Respondent(s)

1. Name and address of Applicant :
2. Whether the applicant is party to the case or representative of any party :
3. Whether the case is pending or disposed of :
4. Description with date of the document of which copy is applied for :
5. Number of copies required :
6. Details of payment of fee (Amount, No. and date of DD/Pay order, Name of Bank) :

Place :

Date :

Signature.

For Office Use

Granted/Rejected

Additional copying fee payable/
paid and details thereof

Date : *Secretary to the Commission.*

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ANNEXURE I

Schedule of Fees

[*See* Regulation 14(1)]

BEFORE THE ADJUDICATING OFFICER

(u/s 27 of the Energy Conservation Act)

Kerala State Electricity Regulatory Commission

Thiruvananthapuram

Sl. No.	*Description*	*Fees (in Rupees)*
1	Petition before the Adjudicating Officer for adjudication under Section 26 of the Energy Conservation Act, 2001	Rs. 20,000/-
2	Interlocutory Application	Rs. 5,000/-
3	a) Application for authenticated copies b) Charges for authenticated copies	Rs. 100/- Rs. 5/- per page
4	Application for inspection of orders / records of the office of the Adjudicating Officer	Rs. 1,000/- per day

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ANNEXURE II

[*See* Regulation 17(4)]

BEFORE THE ADJUDICATING OFFICER

(u/s 27 of the Energy Conservation Act)

Kerala State Electricity Regulatory Commission

Thiruvananthapuram

Register of Petitions/Applications

Sl. No.	*Diary No.*	*Date of Filing/Receipt*	*Petition/ Application No.*	*Date of Petition / Application*	*Name and address of the Petitioner/Applicant.*	*Name and address of Respondent(s)*	*Subject matter of Petition/Application.*	*Date of Admission*	*Particulars and date of Interim Orders passed, if any.*	*Particulars and date of Final Order.*	*Details of appeals filed, if any, in the Appellate Tribunal.*	*Remarks*
1	2	3	4	5	6	7	8	9	10	11	12	13

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Date:2024.09.03 10:43:05 +05:30