

OFFICE OF THE JUSTICE T.C.DAS COMMISSION OF INQUIRY

SHILLONG

No.TCD/Commission of Inquiry/2006/01

Dated: 24th August, 2006.

JUSTICE T.C.DAS COMMISSION OF INQUIRY

(REGULATIONS OF PROCEDURE)

ORDER 2006

In exercise of the powers conferred by section 8 of the Commission of inquiry Act 1952(hereinafter referred to as the Act) as amended from time to time, Commission of Inquiry (Central) Rules, 1972 (hereinafter referred to as the Rules)and all other powers enabling the Commission in this behalf, the Hon'ble Justice T.C.DAS Commission of inquiry consisting of Shri T.C.DAS (a Retired Judge of The Guwahati High Court) constituted under the Act, with its Headquarter at Shillong, East Khasi Hills District vide Government of Meghalaya, Health & Family Welfare Department Notification No.Health.127/2005/Pt.A/20, (hereinafter referred to as the Commission) makes the following orders to Regulate the Procedure:-

1. The Headquarter of the Commission shall be at Shillong.
2. The Commission shall hold it's sitting at Shillong or any other location as specified within India. The date, time and venue of the Commission at any other location than Shillong shall be notified from time to time.
3. The Office of the Commission shall function from 11am to 2pm on all government working days at MATI Building, Room No.115.
4. The Proceedings of the Commission shall be conducted in English. However, the Commission may in its own discretion keeping in view the facts and circumstances, allow the proceedings to be conducted other than English. However, when the proceedings are conducted other than English, simultaneously, its English translation shall take place.
5. All hearings of the Commission shall be open to the public except when the Commission may deem fit to direct either in public interest or for any other good reason to hold the proceeding in camera or in private, in respect of any particular person or persons ,or any specific subject matter.
6. The entry of visitors to the Court Room, where the Commission intends to hold public sittings shall be regulated by issue of necessary direction on this behalf from time to time.

7. No person/persons shall be permitted to take any photographs, videotape or tape-record the proceedings inside the official premises of the Commission without the prior/specific permission of the Commission.

8. All the communications to the Commission shall be addressed to the Secretary to the Commission at its headquarter at Shillong till such time that such address is changed and duly notified.

9. The Commission may at any stage of the proceedings require any person(s), who in its opinion are likely to be acquainted with the facts relating to the matters specified in the aforesaid notification mentioned:-

- a) Require to file a statement of facts accompanied by way of an Affidavit,
- b) Where it appears to the Commission that the statement/affidavit does not contain full version of the deponent, the Commission may direct the deponent to submit an additional affidavit making full disclosure of the facts known to him/her; and,
- c) To produce any materials/records in the possession of the said person/persons.

10. The Secretary of the Commission, or any other official of the Commission duly authorized on its behalf, may receive any document/documents on behalf of the Commission and shall be authorized to sign the summon and every other process issued by the Commission.

11. Any affidavit(s)/statements() filed before the Commission, or otherwise, shall be attested by a Magistrate or any other Authority Empowered to Administer Oath. And any such affidavit/statement shall be submitted to the Secretary, Commission of Inquiry on or before the 12.9.06 in room No. 115 in the office chamber of the Executive-Chairman MESLSA, MATI Building, Additional Secretariat, Shillong from 11.00 a.m to 2.00 p.m.

12. The statement accompanied by an affidavit may be presented under acknowledgement either in person or through counsel or a duly authorized representative to the Secretary or an official authorized by him during office hours or may be sent by registered acknowledgement due post.

13. The statements and the accompanying affidavits so filed shall be in English. However, if the same are in any other language, they shall be accompanied by true translation of the same in English duly authenticated to be true translation by a Magistrate or any other authority empowered to administer oath.

14. Statement of fact relating to each subject matter shall be in separate paragraphs.

15. The affidavit shall be drawn up in the first person and divided into paragraphs to be numbered consecutively. The opening paragraphs of the affidavits shall state the description, occupation, postal address with police station and true place of abode of the deponent.

16. Each affidavit shall carry a verification in the end in the following manner:-

“Verified that the statement made in paragraphs of the above statement/affidavit are true to my personal knowledge and those of paragraphs. are true to information received and believed to be true”.

18. The Magistrate or the authority before whom the affidavit is sworn, shall make the following endorsement:-

“Sworn before me by the deponent who is identified to my satisfaction by or is personally known to me. The affidavit has been read out in full to the deponent who has signed after admitting it to be correct, this day of 2006 at

Seal and Signature of the Magistrate/Authority”

17. If information contained in the statement is derived from any document, or records, the particulars and nature of such documents, the person in custody or control thereof should be indicated and source of such information should be disclosed. If any part of the statement is based on information received by the deponent, he shall disclose the source of such information.

18. The deponent shall file along with the statement, a list of such documents on which he intends to rely. He shall also file a list of witnesses with their full particulars and addresses whom he would like to examine in support of his statements along with a summary of facts they are likely to depose. Against the name of each witness the deponent shall indicate briefly the fact or facts, which the witness is expected to prove in his examination, and give reasons, why instead of oral examination his examination on affidavit will not suffice.

19. A party or person filing statements/affidavit shall file five copies thereof. If the statements/affidavits are filed in any language other than English, same number of copies of its true translation shall be filed.

20. A deponent who relied on any document, the original document or duly certified copy thereof shall be filed along with the affidavit. If such a document is not in possession or control of the deponent he shall disclose the particulars of the person in whose custody the same is available along with the particulars of the document. In case the document is an official record, the department or the officer in whose custody and control the document is, shall be indicated.

21. On examination of all statements that may be furnished in response to the notices issued under Rule 5 of the Rules, the Commission may, if it considers necessary in the interest of justice, call upon any person filing a statement accompanied by an affidavit to give oral evidence and submit himself to cross-examination. The statement supported by an affidavit filed by a person shall be treated as part of his Examination-in-Chief.

22. No person shall have the right to insist on oral examination of any deponent of a statement/affidavit. The Commission may in its discretion, refuse to call any person for oral examination or cross examination and instead, allow him to be examined on affidavit through interrogatories, delivered to him or issue a commission for examination on interrogatories, or otherwise. The Commission may refuse to summon any witness whose evidence in its opinion, is unnecessary, irrelevant, scandalous, frivolous, vexatious or which may tend to prejudice, embarrass or delay the proceedings or which is otherwise an abuse of process of law.

23. Instead of the Commission recording a statement, the Commission may appoint a person or persons before whom such statement shall be recorded.

24. Registered documents, in original, of their certified copies, will as a rule, be admitted without requiring formal proof of their execution. Similarly, official records pertaining to Government Departments, Statutory Bodies, and State Undertakings including the office notings, orders, etc. may subject to any valid claim of privilege, be admitted without formal

proof unless the Commission, in any particular case, requires it to be proved in the manner laid down in the Evidence Act.

25. Technical rules of the Evidence Act, as such, do not govern the recording and admissibility of evidence before the Commission. However, the Commission shall be broadly guided by the provisions of and the general principles in the Evidence Act as well as the fundamental principles of natural justice keeping in view fairness, equity and justice as required by the circumstances.

26. It would be open to the Commission to frame further regulations of procedure as and when the necessity for the same arises.

27. It shall be the discretion of the Commission to take up all the allegations at once, in convenient groups or seriatim after the receiving of the statements/affidavits.

28. The Commission may, either suo motu or on the application made by any person or party, delete or expunge any matter from any petition, affidavit or other document, or return any document presented to the Commission, which, in the opinion of the Commission is irrelevant or needlessly offensive, scurrilous or scandalous. Any statement not accompanied by an Affidavit or which does not conform to the above mentioned requirements might be liable to rejection by the Commission.

29. The Commission may, in its discretion, utilize the services of any Officers of any department or investigating agencies for conducting any investigation.

30. The Commission may elicit the views of persons having expertise in the field relating to matters pertaining to the inquiry.

31. The Commission reserves its right to alter, modify, delete, or add to any of these regulations of procedure at any time during the inquiry, as and when it considers necessary.

32. In case of any doubt, dispute or difference regarding the provisions of these regulations, the decision of the Commission in this regard shall be final and binding.

33. Having regard to the nature of the Inquiry to be made and other circumstances of the case the Government of Meghalaya also directs that provisions of Sub section (2), (3), (4) and (5) of Section 5 of the Commission of Inquiry Act, 1952, be made applicable to the Commission.

Dated, Shillong 24th August, 2006.

Sd/-
(I.W.Ingty)
Secretary to the Commission of Inquiry

No.TCD/Commission of Inquiry/2006/01-A

Dated: 24th August, 2006.

Copy for information to :

1. P.S. to Chief Minister, Meghalaya.
2. P.S. to Minister, Health & Family Welfare, Meghalaya.
3. P.S. to Chief Secretary, Govt. of Meghalaya, Shillong.
4. The P.S. to Principal Secretary, Health Department, Meghalaya.
5. The P.A. to Commissioner & Secretary, Health Department, Meghalaya.

6. The Officer-on-Special Duty, Health Department, Meghalaya.
7. The Deputy Secretary, Health Department, Meghalaya.
8. The Director of Health Services (MI), Meghalaya, Shillong in duplicate. He is requested to hand over a copy of the above Notice to the General Secretary Meghalaya Medical Services Association and obtain due acknowledgement.
9. The Director of Printing & Stationery, Meghalaya, Shillong for publication of the above Notice in the Extra Ordinary Gazette of Meghalaya.
10. The Director of Information & Public Relations, Meghalaya, Shillong. He is requested to kindly publish the above Notice in the local dailies both in English and Khasi.
11. Dr. (Mrs) Reena Konsam, Medical & Health Officer.
12. Guard file.
13. Notice Board of the Office of the T.C.Das Commission.

By Orders etc.,
Sd/-
Secretary to the Commission of Inquiry.