

**Government of West Bengal
Finance Department
Audit Branch
Writers' Buildings**

No. 10500-F

Dated, Kolkata, the 19th November, 2004.

NOTIFICATION

In exercise of the power conferred by Clause (3) of Article 166 of the Constitution of India, the Governor is pleased hereby to make the following amendments in the West Bengal Financial Rules, Volume-I, as subsequently amended (hereinafter referred to as the said Rules), namely:-

AMENDMENTS – C.S. NO. 106

in the said Rules, -

(1) for Rule 47, substitute the following Rule:-

47. (1) No contract shall be made by a subordinate authority which has not been directed or authorised to do so by or under the orders of the Governor in terms of Clause (1) of Article 299 of the Constitution. The Governor shall be made a party to every contract of the Government and the words "for and on behalf of the Governor of West Bengal" should follow the designation of the officer authorised in this behalf under Article 299 of the Constitution and executing the contract appended below his signature.

Note-1. - The various classes of contracts and assurances of property, authorised by the Governor in exercise of the powers conferred by Clause (1) of Article 299 of the Constitution which may be executed by different subordinate authorities of the Government are specified in the notification issued by the Judicial Department from time to time.

Note-2. - The limitations upon the powers of subordinate authorities, the condition under which such power should be exercised and the general procedure prescribed with regard to various classes of contracts and assurances of property, such as calling for and acceptance of tenders, etc. are laid down in Delegation of Financial Power Rules, 1977, and the appropriate Departmental regulations and orders.

(2) The following general principles shall be observed by all offices empowered to enter into contracts or agreements for obtaining supply and execution of works and services on behalf of the Government and involving expenditure from public fund: -

- (a) The terms of contract must be precise and definite and there must be no room for ambiguity or misconstruction therein.
- (b) The terms of the contract once entered into shall not be materially varied without the previous consent of the authority competent to enter into the contract and the reasons for the variation should be recorded. No payment to contractors by way of compensation or otherwise, outside the strict terms of the contract or in excess of the contract rates shall be authorised without the previous approval of the Finance Department.
- (c) No contract involving an uncertain or indefinite liability or any condition of an unusual character should be entered into without the previous consent of the Finance Department.

Where escalation in respect of labour overheads, customs duties, freight charges etc. is provided for in a contract the basis for the calculation of the same should be clearly indicated.

(3) **Liquidated Damage.** - All contracts should have a provision for recovery of liquidated damages for default on the part of the contract or unless any special instructions are issued by the "Competent Authority".

Explanation. – "Liquidated Damage" shall mean losses or damages sustained by the Government for default on the part of the contractor either because of delayed supply or execution of works within the stipulated date or otherwise. It should be provided for in terms of a specific percentage of the total contract value of the supply or works for a day or week or month, as the case may be.

(4) "Cost Plus" contracts should be avoided except where these are unavoidable.

Explanation. - "Cost plus" contract shall mean a contract wherein the price payable for supplies or services under the contract is determined on the basis of the actual cost of production of the supplies or services concerned plus profit either at a fixed rate per unit or at a fixed percentage on the actual cost of production.

(5) (a) In the agreements for the execution of a work as a contract work, which should invariably be in writing, there should be a stipulation as to the quantity of work to be done and the time within which it is to be completed.

(b) These provisions shall apply, mutatis mutandis, for supplies also.

(6) In case of high value works, the contract deeds should be specially prepared in consultation with the Government law officers and as far as possible, the standard form of contract shall be used.

(7) Unless otherwise exempted by any special Rules or order of the Government, security in the form as prescribed in Rule 25 of these Rules, shall, in all cases, be taken for due fulfilment of a contract.

(8) Subject to Note-1 below, orders should be placed only after open tenders or quotations have been invited and in the cases where the lowest tender or quotation is not accepted, reasons should be recorded.

Note-1. – Subject to the special rules or order or procedure that may be prescribed by the Government in respect of a particular department, open tender shall invariably be invited for the supply of articles or stores or for execution of works and services worth Rs. 20,000=00 or more. Selection of agency should be made on the basis of at least three tenders or quotations, which shall be opened in presence of willing agents. If the number of tenders received is less than three, tender should be invited afresh. Cash transaction upto Rs. 500=00 may be made without any tender or quotation. Such transaction above Rs. 500=00 and upto Rs. 20,000=00 shall be made after inviting quotations from more than four to five reliable firms, which shall be opened in presence of willing agents. Notice for quotation shall be issued through notice board of the office, the offices of the Sub-Divisional Officers and the District Magistrates and the Panchayats, Municipalities, in respect of offices outside Kolkata. In Kolkata, such notice shall be displayed in the notice board of Local Offices sending the same to suppliers etc. Tender notice shall always be given due publication through the leading dailies in English, Hindi and Bengali. Such notice should be published through Information and Cultural Affairs Department. The limit prescribed herein applies to an article or a collection of articles more or less of one kind or obtained from one source. The use of intermediate general suppliers should be discouraged.

Note-2. – The head of the Office is authorised to purchase the supply fittings, sanitation and sewage plant fittings and parts for pumps, compressors, engine and motors in use in the water supply and conservancy work in the establishment, only in case of emergencies such as sudden failure of machines, etc. when it is not possible to make the purchases after calling tenders or quotations. A certificate should always be recorded in each such occasion over the signature of the head of the Office.

Note-3. – Foodstuffs for the hostels attached to Government schools and colleges may be purchased from the open market, if it proves advantageous having regard to the price and quality of the articles and if the supplier fails to supply the essential items for hostels.

(9) (a) In selecting the tender to be accepted the financial status of the individuals and firms tendering shall be taken into consideration in addition to all other relevant factors.

(b) Sales Tax and Income Tax Clearance Certificate should be furnished by the contractors for contract value above Rs. 50,000=00.

(c) In the case of private individuals and firms tendering in foreign countries for contracts of large value, that is, contracts of over Rs. 25 Lakhs, the Head of the Indian Mission post concerned should be consulted.

(10) The Comptroller and Auditor General and under his direction other Audit authorities shall have power to examine contracts and to bring before the Public Accounts Committee any cases where competitive tenders have not been sought or high tenders have been accepted or where other irregularities have come to light. Authorities who are authorised to enter into contracts or agreements should send copies of all contracts and agreements valued over Rs. 1 Lakh to the Principal Accountant General (A & E), West Bengal, Principal Accountant General (Audit), West Bengal and Accountant General (Local Bodies Audit), West Bengal.

(11) (a) The terms of contract for the purchase of perishable stores should invariably include a separate warranty clause a model of which is given in the form appended hereunder. This form may, however, be modified to suit local conditions.

(b) It should be ensured that in all contracts where a warranty clause is included, the position regarding delivery of goods in replacement of rejected ones is made clear beyond doubt by adding the words "free of cost at the ultimate destination" after the words "by the purchaser" in the penultimate sentence of the said clause, where the incorporation of such a clause is not inconsistent with the other conditions of the contract.

(12) The question whether any sales tax, purchase tax, octroi and terminal taxes and other local taxes and duties are to be paid and if so, by which party, should be settled before entering into any contract involving transfer of movable property of any nature.

(13) No work should be done under an agreement/contract beyond the date of expiry of its tenure. Wherever it is considered that the work has to be continued beyond the date of expiry of the tenure, timely action should be taken for renewing the contract/agreement for the further period required, after a suitable review of the provisions of the old agreement/contract to see whether any modifications therein are required.

(14) Subject to provision of these rules and any other special rules, where open tender is not invited and purchase is effected by limited/short notice tenders the specific reasons for doing so should be recorded and the approval of the competent authority should be taken in writing, unless such action is taken in accordance with any instruction issued by the Government.

(2) After Rule 47, insert the following Rules: -

47A. Subject to the provisions of Rule 47(B), the State Government Departments/Directorates/Offices/Undertakings/Corporations/Organisations/Government Companies/Panchayats/Local Bodies shall adopt the following measures in the matter of making all purchases and executing of all works.

(1) All Registered SSI units of the State are to be given 15% price preference vis-à-vis large and medium scale Industrial Units and other SSI units located outside the State.

However, the Government shall have the power to exempt specific establishments which are required to run on commercial lines from the operation of price preference policy for all or specified purposes and also subject to such condition as may be specified. Registered S.S.I. Units of the State shall be exempted from payment of earnest money for tenders and such units, if selected, as per the principle mentioned hereinbefore shall be exempted from payment of security deposits.

(2) Subject to the provisions of Clause (c) of this sub-rule,

(a) all Industrial Undertakings/Organisations in the large/medium sector owned/managed by the State Government will be given 10% price preference over large and medium units within the State and outside and also SSI units of other States.

(b) State-based medium and large-scale units will be given 10% price preference over large and medium units and SSI units of other States.

(c) the price preference allowed under Clauses (a) and (b) are only for the purpose of selection, but once a unit is selected on the basis of such preferences it has to agree to execute the work or make supplies at the lowest valid price bid failing which orders will be placed with the organization/firm offering the lowest valid price.

Explanation: The term "State-based unit" means and includes the unit whose major manufacturing unit (if it has got more than one unit) is situated within the State or which has its manufacturing unit within this State. In the notices of the tenders/quotations in respect of purchases by all organisations directly or indirectly controlled by an administrative department of the Government (e.g. W.B.S.E.B., Zilla Parishad, Panchayat Samity, Municipality, Corporations, Undertakings, Statutory Bodies, D.G.A.H.C. etc.) the preferential purchase policy of the State should be incorporated, so that there may not be any difficulty in finalising purchases allowing the preference as desired by the Government.

(3) While accepting the products of the State-based institutes it should be clearly examined that the same are of ISI Standard (where such specification is required).

Note-1. – The following concessions may be allowed to M/s. Mackintosh Burn Ltd.:-

(i) The M/s. Mackintosh Burn Ltd. may be allowed 10% preference in rate vis-à-vis other organisations engaged in similar activities. Such preference shall, however, be given only for the purpose of selection, but once selected on the basis of such preference, M/s. Mackintosh Burn Ltd. shall have to execute the work at the lowest valid price bid received in the said process of selection, failing which orders will be placed with the organization/firm offering the lowest valid rate.

(ii) The Company may be exempted from submitting earnest money for all tenders from the Government of West Bengal, State Government Undertakings and Statutory Bodies, directly controlled by State Government.

(iii) Security deposit for all works controlled directly or indirectly by the State Government and executed by the Company may be limited to Rs. 1 Lakh.

Note-2. – The State Government Offices may, instead of going through tender or quotation purchase the products of the three production centres of the Refugee Relief and Rehabilitation Directorate, Government of West Bengal (viz. Uttarpara, Titagarh and Habra), provided their rates are comparable to the rates of similar articles of the West Bengal State Handloom Weavers' Cooperative Society Ltd. and the West Bengal Handloom and Powerloom Development Corporation Ltd.

Note-3(a). – Where the Government Stationery Offices fail to supply the Stationery articles to the State Government Offices as per their indents, such articles may be purchased from the Co-operative Societies without obtaining quotations or inviting tenders. In Kolkata, Stationery articles can be purchased from Calcutta Wholesale Consumers' Co-operative Society Ltd., the CONFED and all the subsidiary Consumer Co-operative Societies and from the Samabayika run by that Organisation. In the Districts and Sub-Divisions cash purchase of Stationery articles may also be made from the Wholesale Consumers/ Co-operative Societies and their subsidiary organisations. Such purchase will be made within the delegated powers of the respective heads of offices, heads of departments and other authorities as per provisions of the Delegation of Financial Power Rules, 1977.

Note-3(b). - The requisitioning department/office should reject any supply which is not in accordance with specification maintaining quality.

Note-4. - The Government may, in exceptional circumstances, allow purchases to be made from or work to be executed by a Public Sector Undertaking or a Statutory Body under the administrative control of the State Government after being satisfied about the reasonableness of the price or the rates offered.

47B. (1) Notwithstanding anything contained anywhere in these rules, purchases of the articles shown in the lists marked A-I, A-II, A-III, A-IV, A-V, A-VI, A-VII and A-VIII (vide Annexure-'A') appended hereunder shall be made by all State Government Departments/Directorates/Offices/Organisations from West Bengal Small Industries Development Corporation, West Bengal Khadi and Village Industries Board, West Bengal State Handloom and Powerloom Development Corporation Limited, West Bengal State Leather Development Corporation, West Bengal Handicrafts Development Corporation, West Bengal State Handicrafts Co-operative Society, West Bengal Comprehensive Area Development Corporation and Central Engineering Organisation, Dasnagar, Howrah respectively only and from no other source at a price fixed by those agencies which will formulate their own pricing policy keeping normal margin on account of profit and overhead expenses which should not exceed generally 10%. In order to ensure that the prices of various articles are fixed in accordance with these principles, the prices should be scrutinised by the respective administrative department of the organisations. The relevant provision of Rule 47(A) would be subject to the provision of Rule 47(B). The requisitioning Departments/Directorates/Offices/Organisations should not insist that deliveries should be made by the agencies as mentioned above at places indicated by the Departments etc. The Departments etc. should be prepared to lift them from such places mutually agreed upon between the requisitioning Departments etc. and the supplying agencies.

(2) All Government Departments/Directorates/Offices/Organisations shall be required to purchase the articles (45 in numbers) mentioned in Annexure-'B' appended hereunder from Registered Small Scale Units only by inviting tenders/quotations in respect of these items. These Units will, however, have to compete amongst themselves. The Government, however, shall have the power to grant exemption from the above Rule in specific cases for good and sufficient reasons. The Government may include/exclude any item under Annexures-'A' & 'B' on recommendation from C. & S.S.I. Department and on the basis of such decision, these Annexures will be amended.

(3) (a) Indenting Offices should intimate the supply schedule of articles in a financial year to the supplying agencies as per Annexure-'A' within one month from the commencement of the financial year indicating the specifications, if any, desired with an intimation to C. & S.S.I. Department.

(b) Supplying agencies shall, on receipt of such indents with specifications, if any, confirm to the indenting offices adherence to the supply schedule within 15 days from the date of receipt of such indents.

(c) In case of failure of the Small Scale Units to supply articles within the stipulated period, the defaulting units may be black-listed by the concerned Department, after due consideration of the reasons for the delay.

(5) Supplying agencies in Annexure-'A' shall update price list of articles earmarked for supply by them whenever any change therein is unavoidably necessitated and intimate the same to the concerned indenting offices and to C. & S.S.I. Department.

(6) Supplying agencies in Annexure-'A' and SSI Units supplying articles in Annexure-'B' shall ensure maintenance of quality of their articles through periodical tests and maintain such test reports for inspection by indenting offices, if desired.

(7) Supplying agencies in Annexure-'A' and SSI Units supplying articles in Annexure-'B' shall be exempted from payment of earnest money for tenders and security deposit against supply of articles indented to them.

(8) Drawing and Disbursing Officers, while preferring bills on purchases of articles to Kolkata Pay & Accounts Offices/Treasuries in Districts, shall furnish a certificate on the body of the bills that purchases have been made in strict compliance of the stores purchase policy of the State Government and Pay & Accounts Officers/Treasury Officers shall, while scrutinizing the bills, ensure that such certificates are furnished.

Purchase of Duplicating machine, Calculators/Calculating machines, Typewriters for use in Government Offices and liveries for use of the Government employees shall continue to be governed by the Finance Department, Organisation and Methods Branch orders issued from time to time.

ANNEXURE – 'A'

A-I : List of items to be supplied by West Bengal Small Industries Development Corporation Limited.

- 1) Aluminium Utensil.
- 2) Can (made of G.P. sheets for milk and measuring).
- 3) Invalid Wheelchair.
- 4) Steel Furniture.
- 5) Electric Fan and Electrical Goods.
- 6) Bucket (G.I. & plastic).
- 7) Plastic Can/Container/Thali etc. and plastic goods.
- 8) Manhole cover.
- 9) Furniture.
- 10) Shoe polish and Metal Polish.
- 11) PVC pipe and tube.
- 12) Air Conditioner.
- 13) Paint.
- 14) Polythene sheet (tarpaulin).
- 15) Websi brand detergent & cake, bulb & battery.
- 16) Bitumen.
- 17) Exercise book.
- 18) Door and window frame.

A-II : List of items to be supplied by the Khadi & Village Industries Board, West Bengal.

- 1) Handmade Paper.
- 2) File cover and board with flap.

A-III : List of items to be supplied by (1) West Bengal State Handloom Weavers' Co-operative Society Ltd. (Tantuja) and (2) West Bengal Handloom and Powerloom Development Corporation Limited (Tantusree).

- 1) Cotton Hosiery.
- 2) Curtain cloth and Furnishing.
- 3) Duster.
- 4) Garments made of cotton, Polyester cotton (Terrycotton) and Polyester-Viscose (all types) including uniform for children and uniform for Police, Jails, Forests, Fire Services and other Departments.
- 5) Liveries for Drivers and Group-'D' employees.
- 6) Patients' coats and Pyjamas.
- 7) Surgical Dressing (Gauge & Bandage cloth).
- 8) Cotton tape.
- 9) Hospital linens-Dosuti, patra, Strecher cloth, Tikin, Towel, etc.
- 10) Mosquito netting.
- 11) Towel.
- 12) Bed sheet and Bed cover.
- 13) Saree.
- 14) Dhoti.
- * 15) Powerloom long cloth.
- * 16) Powerloom Markin.

* To be supplied by WBHPDCL only.

- A-IV :** **List of items to be supplied by West Bengal State Leather Development Corporation Ltd. (Charmaja).**
- 1) Attache case/bag.
 - 2) Boots and shoes including ammunition boots and Officers' boots, gumboots.
 - 3) Chappals and sandals.
 - 4) Hand Gloves.
 - 5) Leather suitcase.
 - 6) Leather belt.
 - 7) Bus & Tram Conductors' bag.
 - 8) Football and Volleyball.
 - 9) Jungle boot, Safety Miners' Boots of all types.
- A-V :** **List of items to be supplied by the West Bengal Handicrafts Development Corporation Ltd. (Manjusha).**
- 1) Knitted Woollen products.
 - 2) Dhokra (Jute) Mats.
 - 3) Coir Door-mat.
 - 4) Waste Paper Basket.
 - 5) Readymade Garment including School Uniform but excluding Uniform for Police, Jails, etc.
 - 6) Gift item/handicraft items.
 - 7) Woollen Carpet.
 - 8) Woollen blanket.
 - 9) Hospital linen items excluding gauge and bandage.
- A-VI :** **List of items to be supplied by the West Bengal State Handicrafts Co-operative Society Ltd. (Bangasree).**
- 1) Readymade Uniforms for Primary School children under District Primary School Councils.
 - 2) Summer & Winter liveries for Group-'D' staff/Drivers.
 - 3) Gift items/handicraft items.
 - 4) Handloom Sarees and Dhoties.
 - 5) Hospital linen items excluding gauge and bandage.
- A-VII :** **List of items to be supplied by the West Bengal Comprehensive Area Development Corporation.**
- 1) Curtain Cloth.
 - 2) Duster.
 - 3) Liveries for Drivers and Group-'D' employees.
 - 4) Bed Sheet and Bed Cover.
 - 5) Knitted Woollen products.
 - 6) Coir Door Mat.
 - 7) Bags and pouches made of nylon, cloth and jute.
- A-VIII :** **List of items to be supplied by the Central Engineering Organisation, Dasnagar, Howrah.**
- 1) Machining and Fabrication job.
 - 2) Ferrous and non-ferrous casting.
 - 3) Industrial Fastener etc.
 - 4) Repair and maintenance of hospital equipments and furniture.

ANNEXURE – 'B'

List of items to be procured directly by Government Departments/Corporations and Statutory Bodies from the registered Small Scale Units.

- 1) Registers and Exercise Books.
- 2) Rubber Hose pipe.
- 3) Wax candle.
- 4) Writing ink & Fountain pen ink.
- 5) Office Gum Paste.
- 6) Flooring Tile.
- 7) Conduit pipes.
- 8) Stone Chips.
- 9) Dustbin.
- 10) Steel Window & ventilator – Metallic.
- 11) Rolling shutter.
- 12) Building Hardware.
- 13) Surgical Gloves.
- 14) Expanded Metal.
- 15) Voltage Stabilizer.
- 16) P.V.C. Cable & Wires.
- 17) Electrical Light Fitting Choke.
- 18) Metal Clad Switch.
- 19) Sports Goods.
- 20) Brushes (Paint).
- 21) Domestic Electrical Appliances.
- 22) Scientific Laboratory Glassware.
- 23) Tyre & Tube (Cycles).
- 24) Steel Trunk.
- 25) Tarpauline.
- 26) Readymade Garments.
- 27) Cotton/Woolen socks.
- 28) R.C.C. pipe.
- 29) Liquid/Laundry soap.
- 30) Wood screw.
- 31) Wire Nail and Horse Shoe Nail.
- 32) Drawing and Mathematical Instruments.
- 33) Lamp Holder.
- 34) Drums & Barrel.
- 35) A.C.S.R. & A.A.C. Conductor.
- 36) Glass Ampoule (Distilled Water).
- 37) Wooden Packing case.
- 38) Wire Netting.
- 39) Electric Call Bell.
- 40) Wall Clock.
- 41) Office Stationery (like Gems Clip, Pin, Pin Cushion, Table top Glass, Paper Weight).
- 42) Agricultural Tools and implements (like/including Kodali, Pruning knife, duster/sprayer etc.).
- 43) Personal Weight machine/Bathroom scale (for weighing) [used by Doctor/Hospital/Nursing Home].
- 44) Circular hanging spring balance upto 200 kgs.
- 45) Fire extinguisher.

By order of the Governor
Sd/- **Samar Ghosh**
Principal Secretary to the
Government of West Bengal.

MODEL FORM OF WARRANTY CLAUSE
(See Clause 11(a) of Rule 47 of W.B.F.R. – I)

The contractor/seller hereby declares that the goods/stores/articles sold to the buyer under this contract shall be of the best quality (and workmanship) and shall be strictly in accordance with the specifications and particulars contained/mentioned in the clause _____ hereof and the Contractor/seller hereby guarantees that the said goods/stores/articles would continue to conform to the description and quality aforesaid for a period of _____ days/months from the date of delivery of the said goods/stores/articles to the Purchaser and that notwithstanding the fact that the Purchaser (Inspector) may have inspected and/or approved that said goods/stores/articles, if during the aforesaid period of _____ days/months the said goods/stores/articles be discovered not to conform to the description and quality aforesaid or have deteriorated (and the decision of the Purchaser in that behalf will be final and conclusive) the Purchaser will be entitled to reject that said goods/stores/articles or such portion thereof as may be discovered not to conform to the said description and quality. On such rejection the goods/articles/stores will be at the Seller's risk and all the provisions herein contained relating to rejection of goods etc. shall apply. The contractor/seller shall, if so called upon to do, replace the goods etc. or such portion thereof as is rejected by the Purchaser otherwise the contractor/seller shall pay to the purchaser such damages as may arise by reason of the breach of the condition herein contained. Nothing herein contained shall prejudice any other right of the Purchaser in that behalf under this contract or otherwise.

Copy forwarded for information to:-

1. The Accountant General (A & E),
West Bengal,
Treasury Buildings,
Kolkata – 700 001.
2. The Principal Accountant General (Audit), West Bengal,
Treasury Buildings,
Kolkata – 700 001.
3. The Accountant General (Local Bodies Audit), West Bengal,
C.G.O. Complex, 3rd MSO Building,
5th Floor, DF Block, Salt Lake,
Kolkata – 700 064.
4. The Commissioner,
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5. The Principal Secretary/Secretary,
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6. The Director,
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7. The Collector, Kolkata,
11, N.S. Road,
Kolkata – 700 001.
8. The District Magistrate,
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9. The District Judge,
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10. The Financial Adviser,
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11. The Superintendent of Police,
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12. The Sub-Divisional Officer,
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13. The Accounts Officer,
West Bengal Secretariat,
Writers' Buildings,
Kolkata – 700 001.
14. The Accounts Officer,
West Bengal Secretariat,
Bikash Bhavan,
Bidhannagar,
Kolkata – 700 091.
15. The Pay & Accounts Officer,
Kolkata Pay & Accounts Office-I,
Civil Defence Building,
81/2/2, Phears Lane,
Kolkata – 700 012.
16. The Pay & Accounts Officer,
Kolkata Pay & Accounts Office-II,
Johar Building,
P-1, Hyde Lane,
Kolkata – 700 073.
17. The Superintendent,
West Bengal Government Press,
Alipore,
Kolkata – 700 027.
18. The Treasury Officer,
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19. The Principal,
Industrial Training Institute,
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20.Branch / Group..... of Finance Department.

Sd/-
(P.K.Guha Roy)
Special Secretary to the
Government of West Bengal.