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PART I—Orders and Notifications by the Governor of West Bengal, the High Court, Government Treasury etc.

HIGH COURT AT CALCUTTA

APPELLATE SIDE

NOTIFICATION

No.7613-RG

Dated the 23rd August, 2010

The following amendments of the existing Rules of the High Court at Calcutta relating to the application under Article 226 of the Constitution of India shall be made with effect from the date of the publication in the Official Gazette.

Amendments of the Rules of the High Court at Calcutta relating to the application under Article 226 of the Constitution of India.

The existing Rules 1 to 54 be placed under Chapter-I under the Head "General" and the following Rules be incorporated under Chapter-2 under the Head "Public Interest Litigation":

Chapter-2

Public Interest Litigation

55. **Application of this Chapter :-** The Rules incorporated in this Chapter will be applicable only to Public Interest Litigation as defined in Rule 56 hereof in addition to those contained in Chapter-I.

56. **Definition of Public Interest Litigation:-** Public Interest Litigation shall include a litigation the subject matter of which is a legal wrong or a legal injury caused to a person or to a determinate class of persons by reason of violation of any constitutional or legal right or any burden imposed in contravention of any constitutional or legal provision or without authority of law or any such legal wrong or legal injury or illegal burden is threatened and such person or determinate class of persons is, by reason of poverty, helplessness or disability or socially or economically disadvantaged position, unable to approach the Court for relief, and for redressal of which any member of the public not having any personal interest in the subject matter presents an application for an appropriate direction, order or writ in this Court under Article 226.

Notwithstanding anything contained above, in any appropriate case, though the petitioner might have moved a Court in his private interest and for redressal of personal grievances, the Court in furtherance of the public interest involved therein may treat the subject of litigation in the interest of justice as a public interest litigation.

57. **Modes of entertainment of Public Interest Litigation:-**

A Public Interest Litigation may be initiated in any of the following ways :

- By presenting a petition of motion complying with the formalities required for filing an ordinary writ-application under Group-IX (Residuary) of the Classification List being Scheduled B hereof. Such petition should be placed before the Division Bench constituted by the Hon'ble Chief Justice for entertaining Public Interest Litigation.

Provided that a letter addressed to the Hon'ble the Chief Justice pointing out the violation of the constitutional or legal right or the instances of the legal injury to any person or class of persons, which can form the subject matter of a Public Interest Litigation, may also be entertained.

Provided further that a letter addressed to the Hon'ble the Chief Justice shall be an exception to the normal rule of presenting petitions in accordance with these rules.

- b) Suo Motu reference by any of the Judges of this Court including the Hon'ble the Chief Justice calling for appropriate action in a situation, which forms the subject matter of a Public Interest Litigation.

58. Procedure for initiation of proceedings by way of letter addressed to the Hon'ble the Chief Justice:-

- a) All letters addressed to the Hon'ble the Chief Justice as provided in the proviso to Rule 57 (a) of these rules shall be considered by the Hon'ble the Chief Justice in chamber and listed for consideration if the Hon'ble the Chief Justice so directs.
- b) In the event the Hon'ble the Chief Justice is of the considered view that the subject matter of the letter does not constitute public interest litigation as defined in this chapter or that the sender of the letter is not sufficiently disabled to present a formal petition in terms of Rule 57(a) of these rules, an intimation shall be sent by the Registry to the sender of the letter whereupon the sender of the letter shall be entitled to present a formal petition before the Court.
- c) Once the contents of a letter are treated as constituting ground for initiation of a public interest litigation, it shall be registered like any other writ petition by giving a number and then listed before the Division Bench vested with determination to take up Public Interest Litigation for necessary orders being passed thereon.
- d) The sender of the letter upon registration thereof as a regular writ petition shall not be entitled to engage a member of the Bar of his choice in support of his claim but may withdraw the petition and present a formal petition in terms of Rule 57 (a) of these Rules.

59. Procedure for initiation of Suo Motu Proceedings at the instance of the Judges:-

If any of the judges of this Court is of the opinion, whether in course of hearing of any judicial business or otherwise, that there has been violation of fundamental or legal right of any person or class of persons or there exists any instance of legal injury, which constitutes the subject matter of a Public Interest Litigation justifying immediate intervention of this Court, he may, by giving a report in detail, draw the attention of the Division Bench taking up Public Interest Litigation by directing the Registrar General to register such report as a Public Interest Litigation and to place the same before the said Division Bench. The report so placed before the Division Bench shall be treated as a Public Interest Litigation and the Division Bench shall decide the matter in accordance with law. Neither any court fees shall be payable on such Suo Motu Proceedings nor any supporting affidavit need be affirmed.

60. Engagement of Advocates for assisting the Court:-

In the matter of Public Interest Litigation mentioned in Rules 58 and 59 above, the Division Bench taking up Public Interest Litigation may, in its discretion, engage any member of the Bar for rendering pro-bono service in support of the contents of the letter forming subject matter of Public Interest Litigation.

Nothing in these Rules shall preclude the Division Bench to direct payment of honorarium to such an advocate if it considers fit and proper in the circumstances by directing the parties before it to bear the same.

61. Power of court to take appropriate action in case a Public Interest Litigation is found to be frivolous:-

If a Division Bench while disposing of a Public Interest Litigation initiated in terms of Rule 57(a) and 57(b) of these Rules finds that the same is a frivolous one or made with mala fide intention or both, it may not only impose exemplary costs against the petitioner but also debar him from presenting any Public Interest Litigation in future before this Court for such a period as it thinks fit.

- 62. Costs:-** The costs that may be awarded by the Division Bench while dismissing a frivolous Public Interest Litigation may, if directed, be deposited in a fund to be operated by the Registrar General and the money so realised should be deposited with State Legal Services Authority.

By order of the High Court,

Murari Prasad Shrivastava,
Registrar General.