

The Jammu and Kashmir grant of Permanent Resident Certificate (Procedure) Act, 1963

Act No.XIII of 1963

Every Deputy Commissioner of a district appointed as the competent authority.

Revenue Department Notification *SRO-328* dated.10th July,1974:- In exercise of the powers conferred by clause (b) of section 3 of the Jammu and Kashmir Grant of Permanent Resident Certificate (Procedure) Act, 1963 (XIII of 1963), and in suppression of all the previous Notifications on the subject, the Government hereby appoint every Deputy Commissioner of a District to be the competent authority for purposes of the said Act within his jurisdiction.

Additional D.C. Jammu also appointed to be the competent authority

Revenue Department 2Notification SRO-539 dated.26th October,1974. In exercise of the powers conferred by clause (b) of section 3 of the Jammu and Kashmir Grant of Permanent Resident Certificate (Procedure) Act, 1963 (XII of 1963), the Government hereby appoint the Additional Deputy Commissioner, Jammu also to be the competent authority for purposes of the said Act in respect of displaced persons within the local limits of his jurisdiction.

The Jammu and Kashmir Grant of Permanent Resident Certificate (Procedure) Rules, 1968.

Revenue Department Notification *SRO-247* dated.25th April, 1969.In exercise of the powers conferred by section 9 of the Jammu and Kashmir Grant of Permanent Resident Certificate (Procedure) Act No.XIII of 1963, the Government hereby make the following rules, the same having been published in the Government Gazette dated.30-12-1963 (S.R.O. No.513) namely:-

1. Short title and commencement.

- 1) These rules shall be called the Jammu and Kashmir Grant of Permanent Resident Certificate (Procedure) Rules, 1968.
- 2) These shall come into force with effect from the date these are published in the Government Gazette.

2. Definitions.

In these rules, unless the context otherwise requires

- a) 'Act' means the Jammu and Kashmir Grant of Permanent Resident Certificate (Procedure) Act, 1963.
- b) 'Form' means a form appended to these rules;
- c) 'Section' means the section of the Act; and {(cc) 'Assistant Commissioner' shall include a Sub-Divisional Officer}
- d) all words used but not defined in these rules shall have the meanings assigned to them in the Jammu and Kashmir Permanent Resident Certificate (Procedure) Act, 1963.

3. Presentation and verification of applications and making of appearances.

1) An application for grant of certificate may be presented either to the competent authority, or to the Tehsildar of the Tehsil in which the applicant ordinarily resides, Provided that persons migrated from one division to another may present their applications to the competent authority or the Assistant Commissioner/Tehsildar of the area in which they reside for the most part of the year immediately preceeding the date of application.[Provided further that Assistant Commissioner/Tehsildar to whom the applicant for grant of Certificate has been presented may get necessary formalities completed and call for a report from the Naib-Tehsildar concerned.

2) In case of minors and persons suffering from any disability, applications for grant of certificates may be made and appearances and other acts done by their duty appointed guardians.

3) Every application made under sub-rules (1) and (2) shall be accompanied by an affidavit as to the correctness of the statement made by him in his application. The application may also be accompanied by any documentary evidence to show that the applicant is a permanent resident of the State. Such evidence shall consist of a certified copy of the entries in the electoral roll, record of rights or annual record, or the register of Births and Deaths prepared or maintained respectively under the Jammu and Kashmir representation of People Act, 1957, the Jammu and Kashmir Land Revenue Act, 1996 and the Jammu and Kashmir Chowkidari Act. 1956, or the Jammu and Kashmir Municipal Act, 2008 or the original or attested copy of a document whereby title to any immovable property has been acquired.

4) Where the application is presented to the competent authority, it shall, unless it decides to hold the inquiry itself, call for a report therein from the Assistant Commissioner/Tehsildar of the Area in which the applicant resides and, where it is presented to Assistant Commissioner/Tehsildar, such Assistant Commissioner/Tehsildar, as the case may be, shall submit the report to the competent authority. Provided that the inquiry made by the competent authority, Assistant Commissioner or Tehsildar, as the case may be, shall be completed within three months from the date of application.

5) Application for grant of certificate may be presented to the Naib-Tehsildar of the sub-division Naibat concerned by the person who resides within the jurisdiction of such Niabat. The concerned Naib Tehsildar shall take recourse to all things which are required to be taken or done under rules and thereafter send the case to the Tehsildar duly recommended who will refer the case to the competent authority with his observations, if any, for final orders].

4. Conduct of enquiries.

a) On receipt of the application, the Tehsildar/Assistant Commissioner or the competent authorities the case may be shall hear and record a brief statement of the applicant and the witnesses produced by him or summoned under clause (b) or called by him on his own motion. He may, if he deems necessary, invite objections, if any, to the grant of certificate and hear the person or persons objecting as also the witnesses, if any, produced by the applicant and record their statements. Such statements shall form a part of the record.

b) The applicant may apply for summons to witnesses paying at the same time process fee in the form of Court fee stamps and depositing in advance the amount of travelling and subsistence allowance to be paid to the witness at the rates in force in respect of witnesses summoned to appear before a Civil Court.

c) The Tehsildar or the Assistant Commissioner, as the case may be, shall, at the completion of the enquiry, submit the file to the competent authority along with his report enclosing thereto two copies of the certificate in Form'A' with the finger prints of the left hand of the applicant, if he be a male, and of the right hand in the case of a female, together with the signature or right hand thumb impression in case of female and left hand thumb impression in case of male applications affixed to and marks of identification and measurements of height entered at the places indicated therein, in his presence. If the competent authority were himself to make an enquiry, he shall get the copies of the certificate similarly completed.

d) Where finger prints and signature/thumb impression cannot be obtained due to any disability or infirmity of the applicant, the Tehsildar, Assistant Commissioner or the competent authority, as the case may be, shall record in his own hand and under his own signature the reasons thereto on both the copies of the certificate.

e) In fixing dates for the hearing of parties and their witnesses, in adjoining proceedings and in dismissing applications in default or for other sufficient reason, the Tehsildar or Assistant Commissioner or the competent authority will, so far as the nature of the case may require or permit, be guided generally by the principles of the procedure for the time being in force in civil courts; provided that no order of dismissal shall be made except by the competent authority.

f) The provisions of clauses (a) and (b) of this rule shall apply, so far as is possible, to the proceedings taken in applications presented under clause (a) of sub-rule (1) of rule 7, and on reports made under sub-section (2) of section 6 of the Act, the revisional authority shall be competent to remit any issue to an officer subordinate to him for enquiry and report

5. Grant of certificate.

1) The authority to grant certificate under these rules shall be the competent authority.

2) When an order granting a certificate is made, one copy of the certificate duly signed by and bearing the seal of the competent authority shall be delivered to the applicant or on his behalf to any of the persons specified in clauses (b), (c) and (d) of sub-section (1) of section 4 or to his duly appointed guardian against a proper receipt obtained on the other copy (of the certificate) which shall be similarly signed and sealed and remain attached to the file. Thereafter the file shall be consigned to the records, that received from the Tehsildar being returned to him for this purpose.

6. Disposal of applications.

The Tehsildar/Assistant Commissioner and the competent authority shall have the files entered in a register maintained in Form 'B' and have an index in Form 'C' put on each one of them, the details under the headings of the columns in the register and the index being recorded according to the proceedings taken on them.

7. Revisional Proceedings.

1) a) An application for revision under sub-section (1) of section 6 shall be accompanied by a copy of the order of which revision is sought and may be presented to the Secretary to Government, Revenue Department, and, if he finds it to be in order, he shall admit it for being heard by the Revenue Minister; provided that when the revisional authority is holding office in a division other than the one to which an application for revision pertains, such application may be presented before a Revenue Officer for transmission to such revisional authority

b) Every written application or statement filed by a party to a proceeding under the Act, shall be drawn up and verified in the manner provided by the Civil Procedure Code for written statements in suits.

c) All reports under sub-section (2) of section 6 shall contain a brief statement of facts of the case and the grounds for reference to the Government and shall be made by the competent authority through the officers to whom he is sub-ordinate. Where the competent authority is the Deputy Commissioner, he shall submit the report through the Divisional Commissioner and Financial Commissioner and inform the applicant about it.

2). An entry of the substance of the order made under sub-section (1) of section 6 shall be made on the copy of the certificate attached to the file referred to in rule 5 and in the register referred to in rule 6 under the signature of the Tehsildar. Where the file is consigned to the records, such entry shall be made by the Record-Keeper under the orders, such of the competent authority. The original order issued by the Government shall be attached to and form a part of the file.

8. Cancellation of certificate.

Where the orders of the competent authority granting a certificate have on revision been reversed and the person holding the certificate has, therefore, ceased to be a permanent resident:-

1) the fact shall forthwith be notified in the Government Gazette for information of the public by the Deputy Commissioner of the district, to which such person belongs, and also communicated by him to the Government Departments and the institutions have any dealings with such persons as a Government Servant or otherwise. The Deputy Commissioner shall at the same time take appropriate action in the matter of acquisition of his having been deemed a permanent resident, such person could not acquire; and

2) the Tehsildar shall call upon the person to whom the certificate is granted or his successor - interest if he is dead, to surrender the certificate. On the certificate having been surrendered, a note of the cancellation shall be made by the file on which the certificate was granted.

9. Executive Instructions. -

The Revenue Minister may issue executive instructions not inconsistent with the Act and these rules.