

OFFICIAL GAZETTE



GOVERNMENT OF GOA

Note: There is one Extraordinary issue to the Official Gazette Series I No. 44 dated 27-1-2005 namely, Extraordinary dated 27-1-2005 from pages 1203 to 1205 regarding Notifications from Department of Law & Judiciary (Legal Affairs Division).

GOVERNMENT OF GOA

Department of Education, Art & Culture

Directorate of Education

Order

1(2)-13-2004/11

Sanction of the Government is hereby conveyed for creation of two (2) posts in the Directorate of Education of Headmasters one each for Government High School, Tharmata Bhile, Surla, Bicholim and Government High School Shristal, Canacona. The post shall be group 'B' Gazetted in the pay Scale of Rs. 7500-250-12000 (Part 'B' Scale).

The expenditure shall be debited to the Budget Head.

2202—General Education
02—Secondary Education
109—Government Secondary Schools
02—Government High Schools (N. P.)
01—Salaries

This issue with the concurrence of the Finance (Rev. & Cont.) Department vide their U. O. No. 3331—F dated 6-12-2004.

By order and in the name of the Governor of Goa.

Ashok, N. P. Dessai, ex officio Joint Secretary (School Education).

Panaji, 13th January, 2005.

Notification

3/82/98/DE/AE (PART)/

The Government of Goa is hereby pleased to frame the following Scheme, namely, SCHEME FOR EDUCATION OF CHILDREN WITH SPECIAL NEEDS

Financial Assistance for Children with special needs

1. *Objective.*— The objective of the scheme is to improve the educational opportunities for children with special needs by way of providing financial assistance to the parents of such children.

2. *Applicability.*— This assistance shall apply to children with special needs studying in recognized Schools from standards I to XII who can be classified as follows:—

- (i) Mentally Challenged.
- (ii) Slow Learner/Learning disabled.
- (iii) Autistic child.
- (iv) Hearing and speech impaired.
- (v) Orthopaedically handicapped including polio and accident cases.
- (vi) Visually impaired.
- (vii) Any other type as per declaration by

Director of Education under this scheme.

3. *Definitions.*— (i) Visually impaired are those, who suffer from either of the following conditions:—

(a) Total absence of sight.

(b) Visual acuity not exceeding 6/60 or 20/200 (snellan) in the better eye with correcting lenses.

(c) Limitation of the field of vision substanding an angle of 20 degree or worse.

(ii) Hearing impaired are those in whom the sense of hearing is non-functioning for the ordinary purpose of life. Generally a loss of hearing at 70 decibels or above at 500, 1000 or 2000 frequencies will make residual hearing non-functional.

(iii) Orthopaedically Handicapped are those who have a physical defect or deformity which causes an interference with the normal functioning of the bones, muscles and joints.

(iv) Mentally Challenged are those in whom there is sub-average general intellectual functioning which originates during the developmental period and is associated with impairment in adaptive behaviour.

(v) Learning* disabled are those having a disorder in one or more basic processes involved in understanding or in using language.

(vi) Autistic are those whose thinking, language and behaviour are affected and have problems in communication and socialization.

(vii) Slow Learners are those with Intelligence Quotient (IQ) ranging between 70 to 85.

4. *Eligibility.*— For the purpose of the grant of this assistance under this scheme students with special needs must fulfil the following conditions:—

(i) The applicant must be a resident of the State of Goa by birth.

(ii) The applicant must be a regular student of a recognized school (Special or Regular).

(iii) The applicant has to produce a medical certificate in the prescribed format i.e. Appendix-II to IV (whichever is applicable) from Medical Board either at Asilo Hospital, Mapusa Hospicio Hospital, Margao or from the Head of the Institute of Psychiatry and Human Behaviour.

(iv) The applicant should not be residing and receiving any maintenance in any institution under the Government or local bodies or private organizations receiving grant-in-aid from local or the Central Government.

(v) The applicant should not be in receipt of any other stipend or assistance from any other source.

(vi) If a family has more than one disabled child, all such children will be eligible for grant of assistance under this scheme subject to fulfillment of other conditions cited above.

(vii) The applicant shall not be eligible for the grant of assistance if he/she happens to be persistent repeater in a particular standard. However one time failure can be condoned at the discretion of the Director of Education.

5. *Nature of Financial Assistance available to a child with special needs:*— (i) Grant of Rs. 500/- per annum on books and other stationary.

(ii) Fixed amount of Rs. 800/- per annum for uniform.

(iii) Travelling allowance of Rs. 200/- per month for 10 months of academic year.

(iv) Actual expenses on equipment required for facilitating the child's education up to a maximum of Rs. 5000/- once in 3 years (to be given in the first year).

(v) Escort allowance of Rs. 200/- per month, subject to attendance of 60% in the month, for 10 months of academic year.

6. *Mode of Payment.*— The assistance as indicated above will be given as follows:—

(i) Assistance for equipment shall be released once in three years.

(ii) Assistance for stationary, books and uniform shall be released in one installment.

(iii) Assistance for travelling and escort allowances shall be released in two installments at the end of each term.

The Head of the Institution shall disburse the amount of assistance to the concerned students against receipt and shall furnish receipts and utilization certificate in the prescribed form to the Adult Education section of the Directorate of Education, Panaji. Necessary undertaking shall be obtained from parents/guardian of the student.

7. *Mode of Applying.*— The application for the grant of assistance shall be made in the prescribed form Appendix - I. The applications should be routed through the concerned school and should be sent to the Director of Education within the

period as may be specified from time to time. Each application shall be accompanied by the Certificate in the prescribed form (Appendix- II, III & IV) as may be applicable.

8. *Scrutiny and Sanction.*— (i) The applications so received shall be scrutinized by the Directorate of the Education.

(ii) The Director of Education shall be the sanctioning authority under this scheme and his decision as regards to the selection or rejection of the assistance shall be final and binding.

9. *Cancellation of the Grant of Financial Assistance.*— (i) The assistance is liable to be cancelled if the student changes the school without prior permission of the Director of Education for good and sufficient reasons.

(ii) The student is liable to refund the amount of assistance if he/she discontinues studies during the course of the year for which the assistance is awarded without valid reasons.

(iii) The assistance shall be discontinued if at any stage, the information furnished by the candidate is found either incorrect or suppressive of any material facts. In this case the amount of assistance shall be recovered from the student at the discretion of the Director of Education.

10. *Leave of Absence.*— (i) For continuous absence of a period not exceeding three months, the assistance shall be paid on medical grounds duly supported by a Medical Certificate from Authorized Government Medical Attendant. The period of leave availed of on any other grounds shall not qualify for payment of assistance.

(ii) Payment of assistance will cease on the period of leave exceeding three months.

11. *Other Conditions.*— (i) The Director shall be the final authority concerning the interpretation of these guidelines.

(ii) The Government may relax any of the provisions of above for good and sufficient reasons.

APPENDIX - I

GOVERNMENT OF GOA

DIRECTORATE OF EDUCATION

PANAJI - GOA

APPLICATION FORM FOR FINANCIAL ASSISTANCE
UNDER "SCHEME FOR EDUCATION OF CHILDREN
WITH SPECIAL NEEDS"

PART - I

1. Name of the child (in block letters):
Surname Name
2. Date of Birth:
3. Address:
4. Name of School:
5. Standard of study:
6. Nature of the disability:
(Visually impaired/Hearing impaired/Orthopaedically Handicapped/Mentally Challenged/Slow learner/ Learning disabled/Autistic/any other type (Specify clearly)
7. Percentage of Disability:
8. Name and address of parents/guardian and relationship with the applicant:
9. Profession of parents/guardian:
10. Is the child in receipt of stipend/financial assistance from any other agency?
(i) If yes, give details :
(ii) Name the scheme under which the assistance is granted :
(iii) Name the address of agency which grants the stipend/assistance:
- (iv) Amount granted under this stipend :
- (v) Purpose for which the financial assistance is given:
- (vi) Year in which it was given :
11. Any equipment required for facilitating education (Specify the instrument or equipment required, the estimated cost of the equipment/instrument).
12. Have you engaged an escort?
If yes please indicate
(a) Name of the Escort
(b) Amount paid per month
(c) Address of Escort

13. What is the mode of travelling?
Give details.

14. Documents attached
- (a) Disability certificate
 - (b) Copy of identity card issued by Directorate of Social Welfare.
 - (c) Appendix II, III and IV (whichever applicable).

15. Whether child is repeater

16. I hereby declare

(i) that the statements made in the application are true to the best of my knowledge and belief and that no material information having bearing on selection has been concealed.

(ii) that I have acquainted myself with the terms and conditions of the scheme and shall strictly adhere to them.

(Signature of the Parent/Guardian)

Place:

Date:

PART - II

(To be filled in by the Head of the Institution)

1. Name of the student.
2. Name and address of the Institution.
3. Standard in which the applicant is studying during the current academic year.
4. Standard in which the applicant was studying in the previous year.

Attendance Sheet of Disabled Student (To be submitted at the end of first term and again by 31st March every year)

Sr. No. of the disabled student	Attendance of Disabled student in respective months											
	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.		

5. I hereby declare that the information given. By the applicant in Part – I has been checked and found true to the best of my knowledge and belief.

Signature of Head of the Institution with Seal.

APPENDIX - II

Form for the purpose of grant of financial assistance to mentally challenged/visually impaired/hearing impaired students to be used by the Government Doctor

Paste a passport size Photograph duly signed and stamped by issuing authority

This is to certify that Miss/Master
.....
whose particulars are furnished below, is a bonafide mentally challenged / visually impaired / hearing impaired person.

Particulars of the mentally challenged/visually impaired/hearing impaired person:

- (i) Address:.....
- (ii) Father's name :
- (iii) Age:.....
- (iv) Sex:
- (v) Signature or thumb impression of mentally challenged/visually impaired/hearing impaired person:.....

Place : Date:

Clear Seal of Govt. Hospital: Signature of Member of Medical Board.

Signature of Chairman of Medical Board.

*Strike out where not applicable.

Note:

- 1) (i) Visually impaired are those, who suffer from either of the following conditions:—
 - (a) Total absence of sight.
 - (b) Visual acuity not exceeding 6/60 or 20/200 (snellan) in the better eye with correcting lenses.
 - (c) Limitation of the field of vision subtending an angle of 20 degree or worse.
- (ii) Hearing impaired are those in whom the sense of hearing is non-functioning for the ordinary purpose of life. Generally a loss of hearing at 70 decibles or above at 500, 1000 or 2000 frequencies will make residual hearing non-functional.
- (iii) Mentally challenged are those in whom there is sub-average general intellectual functioning which originates during the developmental period and is associated with impairment in adaptive behaviour.

2) Certificate should be issued only to the mentally challenged/visually impaired/hearing impaired persons. The photograph must be signed and stamped in such a way that Doctor's signature and stamp appears partly on the photograph and partly on the certificate.

3) The certificate is valid for five years from the date of issue. After expiry of the period of validity of the certificate, the person is required to obtain a fresh certificate. A photostat copy of this certificate is accepted for the purpose of grant of assistance.

4) No alteration in the form is permitted.

APPENDIX - III

Form for the purpose of grant of financial assistance to orthopaedically handicapped (cerebral palsy, polio, accident cases etc.) students to be used by the Government Doctor

Paste a passport size Photograph duly signed and stamped by issuing authority

This is to certify that Miss./Master whose particulars are furnished below, is a bonafide orthopaedically handicapped person/patient and cannot travel without the assistance of escort.

Particulars of the orthopaedically handicapped person/patient :

- (A) Address:
- (B) Father's name:
- (C) Age:
- (D) Sex:
- (E) Nature of handicap (to be written by Doctor whether disability is permanent or temporary):.....
- (F) Cause of loss of functional capacity :.....
- (G) Signature or thumb impression of orthopaedically handicapped person /patient (not necessary for those whose both hands are missing or non functional) :.....

Place :..... Date:.....

Clear Seal of Govt. Hospital Signature of Member of Medical Board.

Signature of Chairman of Medical Board.

*Strike out where not applicable.

Note:

1. Orthopaedically handicapped are those who have a physical defect or deformity which causes an interference with the normal functioning of the bones, muscles and joints.

2. The Certificate should be issued only to the orthopaedically handicapped person/patient who cannot travel without the assistance of escort and the photograph must be signed and stamped in such a way that Doctor's signature and stamp appears partly on the photograph and partly on the certificate.

3. In the case of temporary disability, the certificate is valid for two years from the date of issue. In the case of permanent disability the certificate shall remain valid for five years After expiry of the period of validity of the certificate, the person is required to obtain a fresh certificate. A photostat copy of this certificate is accepted for the purpose of grant of assistance.

4. No alteration in the form is permitted.

APPENDIX - IV

Form for the purpose of grant of financial assistance to slow learners/learning disabled/autistic children to be used by the Government Doctor

Paste a passport size Photograph duly signed and stamped by issuing authority

This is to certify that Miss./Master: whose particulars are furnished below, is a bonafide slow learner/learning disabled/ /autistic child.

Particulars of the slow learner/learning disabled/ /autistic child.

- (i) Address:
- (ii) Father's name :.....
- (iii) Age:.....
- (iv) Sex.....
- (v) Signature or thumb impression of the slow learner/ /learning disabled/ autistic child.....

Place :..... Date:.....

Clear Seal of Institution Signature of Head of Institute of Psychiatry and Human Behaviour

*Strike out where not applicable.

Note:

- 1. Learning disabled are those having a disorder in one or more basic processes involved in understanding or in using language.
- 2. Autistic are those whose thinking, language and behaviour are affected and have problems in communication and socialization.
- 3. Slow Learners are those with Intelligence Quotient (IQ) ranging between 70 to 85.
- 4. Certificate should be issued only to the slow learners/learning disabled/autistic children. The photograph must be signed and stamped in such

a way that Doctor's signature and stamp appears partly on the photograph and partly on the certificate.

5. The certificate is valid for five years from the date of issue. After expiry of the period of validity of the certificate, the person is required to obtain a fresh certificate. A photostat copy of this certificate is accepted for the purpose of grant of assistance.

6. No alteration in the form is permitted.

APPENDIX - V

ADMISSIBLE ITEMS FOR PURCHASE OF EQUIPMENT

Equipment for slow learners/dyslexics

1. Medication
2. Hearing Aids – If the child has associated problems with hearing
3. For the locomotor and neuromuscular disabled:

- a. Wheelchairs
- b. Walkers
- c. Callipers
- d. Crutches
- e. Waist bands – to strap them to the chair
- f. Special orthopaedic shoes
- g. Special pens/pencils (thick-with a triangular shape) Furniture suitable for the child (e.g. Chairs with arm rests), tables with raised edges – (Specially on three sides)

4. Spectacles – for children with visual problems.

5. In the toilets:

- a. Railings on either side
- b. Non-slip mats

6. For cookery class, such children (i.e. the children with spasticity) would require:

- (a) Cutlery with thick handles for better grip
- (b) Plates with non-slip bottom
- (c) Easily accessible cupboards – where the equipment is stored

Slow Learners/Learning Disabled:

(i) (with visual problems)

- Spectacles
- Specially/Individual Designed, reading material and other teaching aids

- Special Reading kits (Graded reading material)
- Individual work sheets (with larger prints and drawings/pictures)

(ii) With hearing problems:

Hearing aids

(iii) With C.P./Loco motor disabilities:

Wheel chairs

Typewriters

Computers

Special pencils (writing material)

Special chairs/tables (modified furnitures)

(iv) Dyslexics:

Remedial Kits (individual for home use)

Mentally Challenged: (Autistics included) and based on individual problems may require:

- * Educational Aids
- Spectacles hearing aids
- * Medication

Multiple disabled (Mentally Challenged with orthopaedic handicapped) or only orthopaedic handicapped)

Callipers

Wheel chairs

Walker/Rotators

Head gear

Waist bands

Special Charts/tables

(with straps/supporters)

Modified equipment like special plates, spoons, teaching aids, dressing modification.

— Special toilet seats, grips in individual toilets(at homes)

Hearing Impaired:

Individual Aid for each child

1. Pocket Hearing Aid :

1 Pencil battery per month for each child.

2. Behind the Ear Hearing Aid:

1 button battery per month for each child.

FINANCIAL ASSISTANCE TO THE MANagements OF REGULAR AND SPECIAL SCHOOLS

1. *Objective.*— The objective of this assistance is to give an incentive to the managements of special and regular schools that admit and teach children with special needs. This will promote the cause of inclusive education which is spelt out in the Persons with Disabilities Act of 1995.

2. *Applicability.*— This assistance shall apply to regular and special schools having children with special needs on their rolls (Stds. I to XII).

3. *Nature of Assistance.*— The institutions shall be provided with an incentive of Rs. 300/- for more than 60% student attendance or Rs. 200/- for less than 60% attendance but more than 45% attendance, per month per child to the school giving education for a maximum of 10 months of each academic year.

4. *Mode of applying.*— The applications for financial assistance to the institutions as indicated above shall be made in the prescribed form (Appendix-I) by 30th September (for the first term) and again by 28th February (for the second term).

5. *Mode of payment.*— The financial assistance at the above rates will be given to the Institution in two installments at the end of each academic term subject to submission of attendance report of children with special needs enrolled in the institution.

6. *Conditions.*— (a) A separate bank account is to be opened and operated to record transactions relating to this assistance.

(b) A school in receipt of financial assistance shall be open to inspection by an officer of the Education Department.

(c) The accounts of the scheme shall be maintained properly and separately submitted as and when required. They should be open to check by an officer deputed by the State Government. They shall also be open to a test check by the internal and external audit.

(d) The audited accounts together with utilization certificate in the prescribed form duly countersigned by the Chartered Accountant are required to be furnished within six months in respect of preceding year or after expiry of the duration for which grant is approved.

(e) The agency shall maintain a record of all the assets acquired/created wholly or substantially out of Government grant and maintain a register of such assets. Such assets shall not be disposed of encumbered or utilized for the purpose other than those for which the grant was given, without prior sanction of the State Government. Should the agency cease to exist at any time, such properties shall revert to the Government.

(f) When the State Government has reasons to believe that the sanctioned money is not being utilized for the approved purpose, the payment of grant may be stopped and the earlier grants recovered.

(g) The institution must exercise reasonable economy in the working of the approved project.

(h) The grantee agency shall furnish the Director of Education such reports as may be prescribed.

(i) The release of Grant shall be subject to the financial rules.

(j) The decision of the Secretary to the Government of Goa on the question whether there has been breach or violation of any of the terms and conditions mentioned in the sanction letter shall be final and binding on the grantee.

(k) The managements of special and regular schools should make special efforts for children with special needs as follows:—

(1) Work towards enrollment and retention of such children in their institutions.

(2) Develop the self esteem of such students by encouraging their active participation in all the school activities, competitions etc.

(3) Hold special remedial classes for children with learning difficulties.

(4) Set up resource room in the school.

7. *Admissible items of expenditure.*— (1) User friendly and barrier free furniture and other equipment.

(2) Orientation/Talks for teachers/parents/students for sensitizing them on the issue of disabilities in students, early detection of disabilities in students, remediation for children with learning difficulties.

(3) Training of teachers working for education of children with special needs.

(4) Construction of barrier free class rooms, toilets, libraries and resource room.

(5) Any other item with the prior approval of the Director of Education.

8. *Scrutiny and sanction.*— (a) The applications so received shall be scrutinized in the Directorate of Education.

(b) The Director shall be the sanctioning authority and his decision as regards selection or rejection shall be final.

(c) The Director shall be the final authority concerning the interpretation of these guidelines and may relax any of the above for good and sufficient reasons.

GOVERNMENT OF GOA
DIRECTORATE OF EDUCATION
Panaji - Goa

APPLICATION FORM FOR FINANCIAL ASSISTANCE
TO MANagements OF REGULAR AND SPECIAL
SCHOOLS UNDER SCHEME FOR EDUCATION OF
CHILDREN WITH SPECIAL NEEDS

1. Name of the school:—
2. Address of the school:—
3. Whether the school is recognized:—
Attach copy of document.
4. Phone No.:—
5. Students strength of the school:—
6. List of students with special needs in the school:—
7. Bank Account No.:—

*Signature of the Manager of
the school with seal.*

(For office use)

Sr. No.	Name of	Attendance of Disabled student in respective months													
		June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.				

*Signature of Manager
of the school with Seal*

Forwarded to the Director of Printing and Stationery
with a kind request to publish the same in the Official
Gazette.

Ashok N. P. Desai, Director of Education.

Department of Law and Judiciary

Legal Affairs Division

Notification

10/3/2003-LA (Part)

The Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Ordinance, 2004 (Ordinance No. 5 of 2004), which has been promulgated by the President in the Fifty-fifth Year of the Republic of India and published in the Gazette of India, Extraordinary, Part II, Section 1, No. 34 dated 11-11-2004, is hereby published for general information of the public.

S. G. Marathe, Under Secretary (Drafting).

Panaji, 4th January, 2005.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 11th November, 2004/
/Kartika 20, 1926 (Saka)

The Enforcement of Security Interest and
Recovery of Debts Laws (Amendment)
Ordinance, 2004

No. 5 of 2004

Promulgated by the President in the Fifty-fifth Year
of the Republic of India.

An Ordinance to amend the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, and further to amend the recovery of Debts Due to Banks and Financial Institutions Act, 1993 and the Companies Act, 1956.

Whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, therefore, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

CHAPTER I

Preliminary

1. *Short title and commencement.*— (1) This Ordinance may be called the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Ordinance, 2004.

(2) Save as otherwise provided in this Ordinance, the provisions of this Ordinance shall come into force at once.

CHAPTER II

Amendments to the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002

2. *Amendment of section 2.*— In section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereafter in this Chapter referred to as the principal Act), in sub-section (1),—

(i) after clause (h), the following clause shall be inserted, namely:—

‘(ha) “debt” shall have the meaning assigned to it in clause (g) of section 2 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993;’ 51 of 1993.

(ii) in clause (j), the words “in accordance with the directions or guidelines issued by the Reserve Bank” shall be omitted;

(iii) in clause (o), for the words “doubtful or loss asset, in accordance with the directions or under guidelines relating to assets classifications issued by the Reserve Bank”, the following shall be substituted, namely:—

“doubtful or loss asset,—

(a) in case such bank or financial institution is administered or regulated by any authority or body established, constituted or appointed by any law for the time being in force, in accordance with the directions or guidelines relating to assets classifications issued by such authority or body;

(b) in any other case, in accordance with the directions or guidelines relating to assets classifications issued by the Reserve Bank”;

(iv) in clause (u), for the words “trustee or any asset management company making investment on behalf of mutual fund or provident fund or gratuity fund or pension fund”, the words, brackets and figures “trustee or securitisation company or reconstruction company which has been granted a certificate of registration under sub-section (4) of section 3 or any asset management company making investment on behalf of mutual fund” shall be substituted;

(v) in clause (zd), for sub-clause (ii), the following sub-clause shall be substituted, namely:—

“(ii) securitisation company or reconstruction company, whether acting as such or managing a trust set up by such securitisation company or reconstruction company for the securitisation or reconstruction, as the case may be; or”.

3. *Amendment of section 3.*— In section 3 of the principal Act, in sub-section (3), after clause (g), the following clause shall be inserted at the end, namely:—

“(h) that securitisation company or reconstruction company has complied with one or more conditions specified in the guidelines issued by the Reserve Bank for the said purpose.”.

4. *Amendment of section 4.*— In section 4 of the principal Act, in sub-section (2),—

(a) the words “rejection of application for registration or” shall be omitted;

(b) for the words “such order of rejection or cancellation”, the words “such order of cancellation” shall be substituted.

5. *Insertion of new section 5A.*— After section 5 of the principal Act, the following section shall be inserted, namely:—

“5 A. *Transfer of pending applications to any one of Debts Recovery Tribunals in certain cases.*— (1) If any financial asset, of a borrower acquired by a securitisation company or reconstruction company, comprise of secured debts of more than one bank or financial institution for recovery of which such banks or financial institutions has filed applications before two or more Debts Recovery Tribunals, the securitisation company or reconstruction company may file an application to the Appellate Tribunal having jurisdiction over any of such

Tribunals in which such applications are pending for transfer of all pending applications to any one of the Debts Recovery Tribunals as it deems fit.

(2) On receipt of such application for transfer of all pending applications under sub-section (1), the Appellate Tribunal may, after giving the parties to the application an opportunity of being heard, pass an order for transfer of the pending applications to any one of the Debts Recovery Tribunals.

(3) Notwithstanding anything contained in the Recovery of Debts Due to Banks and Financial Institutions Act, 1993, any order passed by the Appellate Tribunal under sub-section (2) shall be binding on all the Debts Recovery Tribunals referred to in sub-section (1) as if such order had been passed by the Appellate Tribunal having jurisdiction on each such Debts Recovery Tribunal.

(4) Any recovery certificate, issued by the Debts Recovery Tribunal to which all the pending applications are transferred under sub-section (2), shall be executed in accordance with the provisions contained in sub-section (23) of section 19 and other provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 shall, accordingly, apply to such execution.”;

6. *Amendment of section 7.*— In section 7 of the principal Act,—

(i) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) (a) The scheme for the purpose of offering security receipts under sub-section (1) or raising funds under sub-section (2), may be in the nature of a trust to be managed by the securitisation company or reconstruction company, and the securitisation company or reconstruction company shall hold the assets so acquired or the funds so raised for acquiring the assets, in trust for the benefit of the qualified institutional buyers holding the security receipts or from whom the funds are raised.

(b) The provisions of the Indian Trusts Act, 1882 shall, except in so far as they are inconsistent with the

provisions of this Act, apply with respect to the trust referred to in clause (a) above.”;

(ii) in sub-section (3), for the words “security receipts issued by such company”, the words “security receipts issued under a scheme by such company” shall be substituted.

7. *Insertion of new section 12A.*— After section 12 of the principal Act, the following section shall be inserted, namely:—

“12A. *Power of Reserve Bank to call for statements and information.*— The Reserve Bank may at any time direct a securitisation company or reconstruction company to furnish it within such time as may be specified by the Reserve Bank, with such statements and information relating to the business or affairs of such securitisation company or reconstruction company (including any business or affairs with which such company is concerned) as the Reserve Bank may consider necessary or expedient to obtain for the purposes of this Act.”.

8. *Amendment of section 13.*— In section 13 of the principal Act,—

(i) after sub-section (3), the following sub-section shall be inserted, namely:—

“(3A) If, on receipt of the notice under sub-section (2), the borrower makes any representation or raises any objection, the secured creditor shall consider such representation or objection and if the secured creditor comes to the conclusion that such representation or objection is not acceptable or tenable, he shall communicate within one week of receipt of such representation or objection the reasons for non-acceptance of the representation or objection to the borrower:

Provided that the reasons so communicated or the likely action of the secured creditor at the stage of communication of reasons shall not confer any right upon the borrower to prefer an application to the Debts Recovery Tribunal under section 17 or the Court of District Judge under section 17 A:

Provided further that where the management of whole of the business or part of the business is severable, the secured creditor shall take

over the management of such business of the borrower which is relatable to the security for the debt.”;

(ii) in sub-section (4), for clause (b), the following clause shall be substituted, namely:—

“(b) take over the management of the business of the borrower including the right to transfer by way of lease, assignment or sale for realising the secured asset:

Provided that the right to transfer by way of lease, assignment or sale shall be exercised only where the substantial part of the business of the borrower is held as security for the debt;”.

9. *Amendment of section 15.*— In section 15 of the principal Act, in sub-section (1), for the words “When the management of business of a borrower is taken over by a secured creditor”, the words, brackets, letters and figures “When the management of business of a borrower is taken over by a securitisation company or reconstruction company under clause (a) of section 9 or, as the case may be, by a secured creditor under clause (b) of sub-section (4) of section 13” shall be substituted.

10. *Amendment of section 17.*— In section 17 of the principal Act,—

(a) in sub-section (1),—

(i) for the words “may prefer an appeal”, the words “may make an application along with such fee, as may be prescribed,” shall be substituted and shall be deemed to have been substituted with effect from the 21st day of June, 2002;

(ii) after sub-section (1), the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 21st day of June, 2002, namely:—

“Provided that different fees may be prescribed for making the application by the borrower and the person other than the borrower.”;

(iii) after the proviso as so inserted, the following *Explanation* shall be inserted, namely:—

“*Explanation.*— For the removal of doubts, it is hereby declared that the communication of the reasons to the borrower by the secured

creditor for not having accepted his representation or objection or the likely action of the secured creditor at the stage of communication of reasons to the borrower shall not entitle the person (including borrower) to make an application to the Debts Recovery Tribunal under sub-section (1) of section 17.”;

(b) for sub-sections (2) and (3), the following sub-sections shall be substituted, namely:—

“(2) The Debts Recovery Tribunal shall consider whether any of the measures referred to in sub-section (4) of section 13 taken by the secured creditor for enforcement of security are in accordance with the provisions of this Act and the rules made thereunder.

(3) If, the Debts Recovery Tribunal, after examining the facts and circumstances of the case and evidence produced by the parties, comes to the conclusion that any of the measures referred to in sub-section (4) of section 13, taken by the secured creditor are not in accordance with the provisions of this Act and the rules made thereunder, and require restoration of the management of the secured assets to the borrower or restoration of possession of the secured, assets to the borrower, it may by order, declare the recourse to any one or more measures referred to in sub-section (4) of section 13 taken by the secured assets as invalid and restore the possession of the secured assets to the borrower or restore the management of the secured assets to the borrower, as the case may be, and pass such order as it may consider appropriate and necessary in relation to any of the recourse taken by the secured creditor under sub-section (4) of section 13.

(4) If, the Debts Recovery Tribunal declares the recourse taken by a secured creditor under sub-section (4) of section 13, is in accordance with the provisions of this Act and the rules made thereunder, then, notwithstanding anything contained in any other law for the time being in force, the secured creditor shall be entitled to take recourse to one or more of the measures specified under sub-section (4) of section 13 to recover his secured debt.

(5) Any application made under sub-section (1) shall be dealt with by the Debts Recovery Tribunal as expeditiously as possible and disposed of within sixty days from the date of such application:

Provided that the Debts Recovery Tribunal may, from time to time, extend the said period for reasons to be recorded in writing, so, however, that the total period of pendency of the application with the Debts Recovery Tribunal, shall not exceed four months from the date of making of such application made under sub-section (1).

(6) If the application is not disposed of by the Debts Recovery Tribunal within the period of four months as specified in sub-section (5), any part to the application may make an application, in such form as may be prescribed, to the Appellate Tribunal for directing the Debts Recovery Tribunal for expeditious disposal of the application pending before the Debts Recovery Tribunal and the Appellate Tribunal may, on such application, make an order for expeditious disposal of the pending application by the Debts Recovery Tribunal.

(7) Save as otherwise provided in this Act, the Debts Recovery Tribunal shall, as far may be, dispose of application in accordance with the provisions of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 and the 51 of 1993 rules made thereunder."

11. *Insertion of new section 17A.*— After section 17 of the principal Act, the following section shall be inserted, namely:—

"17A. *Making of application to Court of District Judge in certain cases.*— In the case of a borrower residing in the State of Jammu and Kashmir, the application under section 17 shall be made to the Court of District Judge in that State having jurisdiction over the borrower which shall pass an order on such application.

Explanation.— For the removal of doubts, it is hereby declared that the communication of the reasons to the borrower by the secured creditor for not having accepted his representation or objection or the likely action of the secured creditor at the stage of communication of reasons shall not entitle the person (including borrower) to make an application to the Court of District Judge under this section."

12. *Amendment of section 18.*— In section 18 of the principal Act,—

(a) in sub-section (1),—

(i) for the words and figures "under section 17, may prefer an appeal", the words and figures

"under section 17, may prefer an appeal along with such fee, as may be prescribed" shall be substituted and shall be deemed to have been substituted with effect from the 21st day of June, 2002;

(ii) after sub-section (1), the following proviso shall be inserted and shall be deemed to have been inserted with effect from the 21st day of June, 2002, namely:—

"Provided that different fees may be prescribed for filing an appeal by the borrower or by the person other than the borrower:";

(iii) after the proviso as so inserted, the following provisos shall be inserted, namely:—

"Provided further that no appeal shall be entertained unless the borrower has deposited with the Appellate Tribunal fifty per cent. of the amount of debt due from him, as claimed by the secured creditors or determined by the Debts Recovery Tribunal, whichever is less:

Provided also that the Appellate Tribunal may, for the reasons to be recorded in writing, reduce the amount to not less than twenty-five per cent. of debt referred to in the second proviso."

13. *Insertion of new sections 18A and 18B.*— After section 18 of the principal Act, the following sections shall be inserted, namely:—

"18A. *Validation of fee & levied.*— Any fee levied and collected for preferring, before the commencement of the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Ordinance, 2004, an appeal to the Debts Recovery Tribunal or the Appellate Tribunal under this Act, shall be deemed always to have been levied and collected in accordance with law as if amendments made to sections 17 and 18 of this Act by sections 11 and 12 of the said Ordinance were in force at all material times.

18B. *Appeal to High Court in certain cases.*— Any borrower residing in the State of Jammu and Kashmir and aggrieved by any order made by the Court of District Judge under section 17 A may prefer an appeal, to the High Court having jurisdiction over such Court, within thirty days from the date of receipt of the order of the Court of District Judge:

Provided that no appeal shall be preferred unless the borrower has deposited, with the Jammu and

Kashmir High Court, fifty per cent. of the amount of the debt due from him as claimed by the secured creditor or determined by the Court of District Judge, whichever is less:

Provided further that the High Court may, for the reasons to be recorded in writing, reduce the amount to not less than twenty-five per cent. of the debt referred to in the first proviso."

14. *Substitution of new section for section 19.*— For section 19 of the principal Act, the following section shall be substituted, namely:—

"19. *Right of borrower to receive compensation and costs in certain cases.*— If the Debts Recovery Tribunal or the Court of District Judge, on an application made under section 17 or section 17 A or the Appellate Tribunal or the High Court on an appeal preferred under section 18 or section 18A, holds that the possession of secured assets by the secured creditor is not in accordance with the provisions of this Act and rules made thereunder and directs the secured creditors to return such secured assets to the concerned borrowers, such borrower shall be entitled to the payment of such compensation and costs as may be determined by such Tribunal or Court of District Judge or Appellate Tribunal or the High Court referred to in section 18B."

15. *Amendment of section 25.*— In section 25 of the principal Act,—

(a) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) On receipt of intimation under sub-section (1), the Central Registrar shall order that a memorandum of satisfaction shall be entered in the Central Register."

(b) in sub-section (2), for the words "The Central Registrar shall, on receipt of such intimation", the words, brackets and figures "If the concerned borrower gives an intimation to the Central Registrar for not recording the payment or satisfaction referred to in sub-section (1), the Central Registrar shall on receipt of such intimation" shall be substituted.

16. *Amendment of section 28.*— In section 28 of the principal Act, for the words and figures "under section 12", the words, figures and letter "under section 12 or section 12A" shall be substituted.

17. *Amendment of section 31.*— In section 31 of the principal Act, in clause (g), for the words "any properties not liable to attachment", the words and brackets "any properties (including the properties specifically charged with the debt recoverable under this Act)" shall be substituted.

18. *Amendment of section 38.*— In section 38 of the principal Act, in sub-section (2), after clause (b), the following causes shall be inserted, namely:—

"(ba) the fee for making an application to the Debts Recovery Tribunal under sub-section (1) of section 17;

(bb) the form of making an application to the Appellate Tribunal under sub-section (6) of section 17;

(bc) the fee for preferring an appeal to the Appellate Tribunal under sub-section (1) of section 18;"

CHAPTER III

Amendments to the Recovery of Debts Due to Banks and Financial Institutions Act, 1993

19. *Amendment of section 2.*— In section 2 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993 51 of 1993. (hereafter in this Chapter referred to as the principal Act), in clause (h), after sub-clause (i), the following sub-clause shall be inserted, namely:—

"(ia) the securitisation company or reconstruction company which has obtained a certificate of registration under sub-section (4) of section 3 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002;" 54 of 2002.

20. *Amendment of section 19.*— In section 19 of the principal Act, after sub-section (1), the following provisos shall be inserted, namely:—

"Provided that the bank or financial institution may, with the permission of the Debts Recovery Tribunal, on an application made by it, withdraw the application, whether made before or after the Enforcement of Security

Interest and Recovery of Debts Laws (Amendment) Ordinance, 2004 for the purpose of taking action under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, if no such action had been taken earlier under that Act.

Provided further that any application made under the first proviso for seeking permission from the Debts Recovery Tribunal to withdraw the application made under sub-section (1) shall be dealt with by it as expeditiously as possible and disposed of within thirty days from the date of such application:

Provided also that in case the Debts Recovery Tribunal refuses to grant permission for withdrawal of the application filed under this sub-section, it shall pass such orders after recording the reasons therefor."

CHAPTER IV

Amendments to the Companies Act, 1956

21. Amendment of section 4A.— In section 4A of the Companies Act, 1956 (hereafter in this Chapter referred to as the principal Act), in sub-section (1), clause (vi) shall be omitted.

22. Amendment of section 424A.— In section 424A of the principal Act, in sub-section (1), after the second proviso, the following provisos shall be inserted, namely:—

"Provided also that in case any reference had been made before the Tribunal and a scheme for revival and rehabilitation submitted before the commencement of the Enforcement of Security Interest and Recovery of Debts Laws (Amendment) Ordinance, 2004, such reference shall abate if the secured creditors representing three-fourth in value of the amount outstanding against financial assistance disbursed to the borrower have taken measures to recover their secured debt under sub-section (4) of section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002:

Provided also that no reference shall be made under this section if the secured creditors representing three-fourth in value of the amount outstanding against financial assistance disbursed to the borrower have taken measures to recover their secured debt under sub-section (4) or section 13 of the Securitisation and Reconstruction of Financial Assets and Enforcement Security Interest Act, 2002."

A. P. J. ABDUL KALAM,
President

T. K. VISWANATHAN,
Secy. to the Govt. of India.

Department of Mines

Order

5/2/2000-Mines

Sanction of the Government is hereby conveyed to the continuation of the following Group 'A' and 'B' (Gazetted) post, in the Directorate of Mines, Panaji-Goa, for a further period from 1-3-2005 to 28-2-2006.

Sr. No.	Designation of Post and Pay Scale	Grade	No. of Posts	Budget Head
1	Director of Mines Rs. 10,000-325-15,200	'A' (Gazetted)	01	2853-Non Ferrous Mining & Metallurgical Industries.
2	Senior Geologist Rs. 10,000-325-15,200	'A' (Gazetted)	01	2853-Non Ferrous Mining and Metallurgical Industries.

02- Regulation and Development of Mines.
001-Direction and Administration Mines (Non-Plan).
01-Salaries.
02- Regulation & Development of Mines.

1	2	3	4	5	1	2	3	4	5
				001-Direction and Administration 03-Environmental Studies in Mining Areas (Plan). 01-Salaries.					001-Direction and Administration 02-Strengthening of Mines Department (Plan). 01-Salaries.
3.	Senior Technical Assistant Rs. 6,500-200-10,500	'B'	01	2853-Non Ferrous Mining and Metallurgical Industries. 02- Regulation & Development of Mines.					

By order and in the name of the Governor of Goa.

J. B. Bhingui, Joint Secretary (Mines).

Panaji, 25th January, 2005.