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GOVERNMENT OF KERALA

Abstract

ADVANCE—HOUSE CONSTRUCTION ADVANCE TO GOVERNMENT EMPLOYEES—
 ADDITIONAL LOAN FROM RECOGNISED FINANCIAL INSTITUTIONS—CREATION
 OF *SECOND MORTGAGE—RECOMMENDATIONS OF THE V PAY
 COMMISSION—IMPLEMENTATION OF—ORDERS ISSUED

FINANCE (LOANS) DEPARTMENT

G.O. (P) 436/91/Fin.

Dated, Thiruvananthapuram, 31st July 1991

ORDER

The V Pay Commission has recommended that a provision for a second mortgage for obtaining an additional loan from recognised Financial Institutions similar to the provision in the Central Government House Building Advance Rules may be made in the State Rules also. At present a second charge on the property already mortgaged to Government for obtaining additional loan from an outside agency is not permissible as per Article 244 c(ii) Kerala Financial Code Volume I.

2. Government have examined the matter in detail and are pleased to order that the State Government Employees will be permitted to obtain an additional loan from recognised Financial Institutions as detailed below and to create a second mortgage on the property already pledged to Government.

- (1) Banking Institutions including Co-operative Banks;
- (2) Financial Corporations set up by the State Governments which provide loans for house construction;
- (3) Apex Co-operative Housing Finance Institutions;
- (4) Public Companies formed and registered in India with the main object of carrying on the business of providing long term finance for constructing or purchase of houses in India for residential purposes, like the Housing Development Finance Corporation Limited.

* The Second Mortgage mentioned in this G.O. is the Mortgage to a Financial Institution other than Government.

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3. This permission will be subject to the condition that they obtain prior permission from the Head of Department/Government in Finance Department and draft deed of second mortgage is submitted to the Head of Department/Government in Finance Department for scrutiny.

4. It would be for the Government Employees to ascertain the willingness of the Financial Institutions concerned to accept the second charge before applying for permission to the Head of the Department. In all cases, the expenditure on registration of the Mortgage Deed, etc., shall be borne by the Government Servants themselves as at present.

5. In the event of the loanee Government Employee creating a second mortgage only by deposit of title deeds in favour of the Financial Institution the documents in possession of Government will be handed over to the concerned Financial Institution for the purpose of creating the second mortgage. The Financial Institution should convey their willingness to the concerned Head of Department of the Government Employee to sanction the loan on second charge. The Head of Department will then issue formal orders for transmitting the title documents to the Financial Institution. The documents will be handed over only after executing a tripartite agreement on stamp paper by Government loanee, and the Financial Institution to abide by the terms and conditions in this regard, in the form appended.

(i) The documents of title shall be held and retained by the Financial Institution concerned only as second mortgage subject and subordinate to the rights of Government.

(ii) The concerned Financial Institution shall not at any time or for any reason part with the deeds without the written consent of Government and only on such conditions as may be imposed by Government at its discretion.

(iii) After at any time the concerned Financial Institution ceases to be second mortgagee the said Financial Institution shall return the title deeds to Government only, whether or not any demand in this behalf is made by Government.

(iv) The Financial Institution shall produce the title deeds as and when required by Government for any reason whatsoever regardless of whether the second mortgage due to be in existence or otherwise discharged. As soon as the purpose is served the same shall be returned to the Financial Institution to be dispensed subject to these conditions.

(v) Nothing in these provisions shall be construed to create any financial or other obligation or liabilities in the first Mortgagee vis-a-vis the Financial Institution or shall in any manner alter, abridge or abrogate the rights of Government as first mortgagee, who shall always be the paramount mortgagee.

6. The total amount of House Building Advance sanctioned by Government and the loan raised by Government Servants from outside Institutions shall not exceed the cost ceiling limits of 70 times of basic pay subject to a maximum of Rs. 3.00 lakhs.

7. Necessary amendments to the Kerala Financial Code will be issued separately.

By order of the Governor,

P. S. DHARMARAJAN,

Additional Secretary (Finance)

To

The Accountant General (A&E/Audit) Kerala, Thiruvananthapuram.

All Heads of Departments and Offices.

All Departments and Sections of the Secretariat.

The Registrar, High Court, Ernakulam (with C.L.)

The Registrars University of Kerala/Gocho/Kozhikode (with C.L.)

The Registrar, Agriculture University, Mannuthy, Thrissur (with C.L.)

The Secretary, Kerala Public Service Commission (with C.L.)

The Secretary, Kerala State Electricity Board, Thiruvananthapuram (with C.L.)

The General Manager, Kerala State Road Transport Corporation, Thiruvananthapuram (with C.L.)

The Secretaries, Additional Secretaries, Joint Secretaries, Deputy Secretaries and Under Secretaries to Government.

The Private Secretaries to Chief Minister and other Ministers.

The Secretary to Governor

The Stenographer to the Chief Secretary

The Director of Public Relations

APPENDIX

**FORM OF AGREEMENT TO BE EXECUTED BY EMPLOYEES
AVAILING OF ADDITIONAL LOAN FROM OUTSIDE
AGENCY ON SECOND CHARGE**

This agreement is executed on this the day of One thousand nine hundred and between the Governor of Kerala (hereinafter referred to as the Government on the one part and Sri/Smt. (here enter name and home address) now employed as (hereinafter referred to as the bounden) on the second part and M/s.... (name of Financial Institution) (hereinafter referred to as the Financial Institutions) on the third part.

WHEREAS by way of security for the loan amount sanctioned as per G.O. (MS) No. dated for the construction of a residential building for his own residence (hereinafter referred to as the said building) the bounden has mortgaged to Government the properties comprised in Sy. No. of Taluk by a mortgage deed date registered as No. at the Sub Registry Office (hereinafter referred to the Security property) for the due repayment of the above loan with interest.

WHEREAS the bounden has approached the Financial Institution for the completion of the said building by creating a second charge over the said property.

AND WHEREAS the Financial Institution has agreed to sanction an additional loan on creation of a second charge over the said security properties.

AND WHEREAS the bounden has now approached the Government for the transfer of the title deeds kept under the safe custody of Government to the Financial Institution for creating a second mortgage for the purpose of availing an additional loan of Rs. for the completion of the said building.

AND WHEREAS the Government have agreed to the proposal of availing financial assistance by the creation of a second mortgage and ordered as per G.O. No. that the title deeds will be transferred to the Financial Institution for the purpose of creating a second mortgage as per the

terms and conditions therein and in the Kerala Financial Code contained (hereinafter referred to as the said order which shall form part of this agreement as incorporated herein).

Now these presents witness and mutually agreed as follows:--

- (i) The bounden and the Financial Institution shall abide by the terms and conditions prescribed in the said order and in the Kerala Financial Code for the creation of a second charge over the property mortgaged to Government.
- (ii) If the Financial Institution takes any step for the recovery of the entire amount due to them before the repayment period of the loan granted by Government that Institution shall only be entitled to such portion of the amount after paying the entire amount due to Government by way of principal and interest.

In witness thereof Sri/Smt. the bounded and Sri/Smt. for and on behalf of the Governor and Sri./Smt. on behalf of the Financial Institution have hereunto set their hands the day and year first above written.

Signed by Sri.

In the presence of witnesses:

1.
2. (the bounden)

Signed by Sri.

In the presence of witnesses:

1.
2. (Financial Institution)

Signed by Sri.

In the presence of witnesses:

1.
2.

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GOVERNMENT OF KERALA

Finance (Loans) Department

CIRCULAR

Dated, Thiruvananthapuram, 14th December, 1993.

No. 83/93/Fin.

Sub:—HBA—Watching of proper utilisation of the advance sanctioned to Government employees—Further instructions issued.

Ref:—1. Circular No. 28/93/Fin. dated 28-4-1993.

2. Letter No. LA Cell/HBA/Gen./246/1127 dated 7-9-1993 from the Accountant General (A&E), Kerala, Thiruvananthapuram.

In the Circular cited, instructions were issued to the Heads of Departments/Sanctioning authorities requesting to report the cases of non-utilisation of the House Construction Advance sanctioned to State Government employees to the Finance (Inspection Works—Non-Technical) Department of Government. The Accountant General (A&E), Kerala in his letter cited has informed that the above details are required in his Office also, for closing the HBA accounts. All Heads of Departments/Sanctioning authorities are, therefore, requested to forward a copy of the details prescribed to be furnished to Government in the Circular cited, to the Accountant General (A&E), Kerala, Thiruvananthapuram also in future.

In this connection all Heads of Departments/Sanctioning authorities are also reminded that the Utilisation Certificates furnished by the loanecs should be forwarded to the Accountant General, Kerala for verification as contemplated in Article 244 E (vi) of the HBA rules, failing which penal interest will be levied, vide Article 244 D (2) of Kerala Financial Code Vol.I, treating the case as non-compliance of the stipulations in the HBA Rules.

M. C. GEEVARGHESE,
Additional Secretary (Finance).

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To
The Accountant General (A&E/Audit), Kerala, Thiruvananthapuram.
All Heads of Departments.
The Secretary, K.P.S.C., Thiruvananthapuram (with C.L.)
The Registrar of High Court, Ernakulam, (with C.L.)
The Advocate General, Kerala (with C.L.)
The Stock File.

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