

HIGH COURT OF DELHI: NEW DELHI

NOTIFICATION

No. 63/Rules/DHC

Dated: 16.07.2024

In exercise of the powers conferred by proviso to sub – section (1) of Section 11 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (46 of 2023) and in supersession of the Rules made earlier under section 18 of *Code of Criminal Procedure 1973 (No. 2 of 1974)* by this Court, Hon'ble the Acting Chief Justice and Hon'ble Judges of the High Court of Delhi at New Delhi, hereby make the following Rules, namely:-

1. Short title, extent and commencement :-
 - (1) These Rules shall be called the Delhi Petty Offences (Trial by Special Judicial Magistrates) Rules, 2024.
 - (2) They shall extend to the whole of the National Capital Territory of Delhi.
 - (3) They shall come into force from the date of their publication in the official Gazette.

 2. Definitions :- In these Rules, unless the context otherwise requires :-
 - (1) "Sanhita" shall mean the Bharatiya Nagarik Suraksha Sanhita, 2023.
 - (2) "Offence" shall have the same meaning as assigned to it in the Sanhita.
 - (3) (a) "Petty Offence" means an offence listed in the following provisions:-
 - (i) Section 359, Tables I & II, of the Sanhita, excluding offences under Section 79, 82(1), 88, 117(2), 122(2), 125(b), 127(3), 127(4), 127(6), 303(2), 306, 316(2), 316(3), 316(4), 317(2), 317(5), 318(2), 318(3), 318(4), 319(2), 322, 323, 325, 326(a), 347(2) and 351(3) of the Bharatiya Nyaya Sanhita, 2023;
 - (ii) Section 194 and 125 of the Bharatiya Nyaya Sanhita, 2023;
 - (ii) All offences under any other Act which are punishable upto two years' imprisonment.
 - (b) The Chief Justice of the High Court may from time to time assign any other type of cases to be decided by the Special Judicial Magistrates.
 - (4) Definitions given in Section 2 of the Sanhita shall hold good for these Rules.
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3. Qualification :- A person shall not be qualified for appointment as Special Judicial Magistrate unless he/she is a law graduate and
 - (1) has been a District Magistrate or a Judicial Officer; or
 - (2) has for a period of not less than one year exercised the powers of Sub-Divisional Magistrate; or
 - (3) has for a period of not less than two years exercised the powers of an Executive Magistrate; or
 - (4) has held, for a period of not less than five years, a Group 'A' post on the Establishment of the High Court of Delhi or that of the Courts Subordinate thereto; or
 - (5) has held, for a period of not less than five years, a Group 'A' post under the department of the Government of NCT of Delhi or the Central Government or State Government (Preference will be given to those persons who have been dealing with legal affairs or have been working in the department dealing with legal affairs); and

(6) has not attained the age of 65 years on the date of conferment of power of Special Judicial Magistrate on him/her.

Explanation : -

For the purpose of these rules a “law graduate” is a person who is eligible to be enrolled as an advocate.]

4. Disqualification : A person –
- (1) Who does not hold or has not held a post under the Govt./ High Court of Delhi and the Courts subordinate thereto of the rank and status and does not possess the qualification, if any, attached thereto, as mentioned in the just preceding Rule; or
 - (2) Who having held an office under the State or the Union Government or the High Court and the Courts subordinate thereto, has been dismissed or removed or compulsorily retired from service or subjected to any other major penalty for misconduct’ or
 - (3) Who having held an office as mentioned in sub –rule (2) has been convicted and sentenced by a Court for an offence involving moral delinquency or is charged of any offence constituting moral turpitude and proceedings against him are pending; or
 - (4) Who having held an office as mentioned in sub – rule (2), is of unsound mind or who is deaf or mute or blind or suffering from leprosy or any other contagious disease; or
 - (5) Who having held an office as mentioned in sub – rule (2) has been adjudicated as an insolvent or an undischarged insolvent; or
 - (6) Who having held an office as provided in sub – rule (1), (2), (3), (4) and (5) of Rule 3, is a practicing advocate;
- shall not be eligible for conferment of powers of Special Judicial Magistrate.

Provided that a practicing advocate as mentioned in sub –rule (6), shall not be disqualified for conferment of powers of Special Judicial Magistrate, if he, before he is considered for such conferment, undertakes that he shall have his license as an advocate suspended immediately on conferment of power of Special Judicial Magistrate and does so before assumption of charge as such.

5. The High Court shall appoint only such persons as Special Judicial Magistrate who possess the qualification mentioned above and are found suitable by it.
6. The Special Judicial Magistrate shall exercise the same powers as conferred by the Sanhita on Judicial Magistrates.
7. Revocation of powers – The powers of Special Judicial Magistrate conferred on a person by the High Court are liable to be revoked without any notice or hearing to the person concerned, if the High Court is satisfied that such revocation is in public interest.
8. (1) A Special Judicial Magistrate, before entering upon his office, shall take oath as has been prescribed for a Judicial Magistrate. The oath shall be administered by the Sessions Judge.

- (2) Every Special Judicial Magistrate shall be imparted 15 day's training to familiarize himself with the working of Courts by the Sessions Judge/Chief Judicial Magistrate provided that the High Court may exempt any such Special Judicial Magistrate from training.
- (3) Special Judicial Magistrate shall be under the control of Sessions Judge and the Chief Judicial Magistrate, as per the scheme of the Sanhita.
9. (1) The term of the office of the Special Judicial Magistrate shall be one year which may be renewed by the High Court, subject to sub –rule (6) of Rule 3.
- (2) A Special Judicial Magistrate shall be entitled to such honorarium and out of pocket expenses, as may be fixed by the High Court from time to time.
10. (1) The State Government shall provide court accommodation, conveyance and ancillary staff through the Sessions Judge to the Special Judicial Magistrate in consultation with the Chief Justice of the High Court.
- (2) A Special Judicial Magistrate shall be entitled to only casual leave as may be permissible to a Judicial Magistrate.
11. (1) All petty offences shall be tried by Special Judicial Magistrates unless the High Court otherwise directs.
- (2) All petty offences shall be tried in a summary way as per procedure laid down in Section 283 of the Sanhita.
- (3) When in the course of summary trial it appears to the Special Judicial Magistrate that the nature of the case is such that it is undesirable to try it summarily, he shall refer the case to Chief Judicial Magistrate for entrusting it to any Judicial Magistrate competent to decide the same.
12. Special Judicial Magistrates, in relation to petty offences mentioned above, shall have the same powers as to bails and bonds as are provided in the Sanhita.
13. Repeal and Savings:-
- (i) Delhi Petty Offences (Trial by Special Metropolitan Magistrates) Rules, 1998 are hereby repealed.
- (ii) Notwithstanding such repeal, anything done or any action taken under the Rules, 1998 shall be deemed to have been done or taken under the Rules, 2024.

BY ORDER OF THE COURT
Sd /-
(KANWAL JEET ARORA)
REGISTRAR GENERAL