

The



Kolkata **Gazette**

सत्यमेव जयते

Extraordinary
Published by Authority

KARTIKA 10]

WEDNESDAY, NOVEMBER 1, 2017

[SAKA 1939

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

**THE WEST BENGAL CLINICAL ESTABLISHMENT
REGULATORY COMMISSION
Kolkata - 700 001**

**The West Bengal Clinical Establishment Regulatory Commission (General)
Regulations, 2017**

NOTIFICATION

No. 442/WBCERC/2017

Dated, Kolkata, the 1st November, 2017

In exercise of the powers conferred by section 52 of the West Bengal Clinical Establishment (Registration, Regulation and Transparency) Act, 2017 (West Ben. Act IV of 2017) and in supersession of Notification No. HF/O/GA/2444/SPSRC/74/2017 Dated 04.08.2017 issued by the Department of Health & Family Welfare, Government of West Bengal, published in the Kolkata Gazette Extraordinary on 11th August, 2017, the West Bengal Clinical Establishment Regulatory Commission is hereby pleased to make the following regulations, namely:—

Regulations

1. Short title and commencement.—

- (1) These regulations may be called the West Bengal Clinical Establishment Regulatory Commission (General) Regulations, 2017.

2. Definitions.—

- (1) In these regulations, unless the context otherwise requires,—
- (a) “Act” means the West Bengal Clinical Establishments (Registration, Regulation and Transparency) Act, 2017 (West Ben. Act IV of 2017);
- (b) “Chairperson” means the Chairperson appointed under sub-section (2) of section 36 of the Act;
- (c) “Commission” means the West Bengal Clinical Establishment Regulatory Authority Commission established under sub-section (1) of section 36 of the Act;

- (d) "Media" includes newspapers, magazines, periodicals, journals, radio, cinema, television and internet;
- (e) "Party" includes a consumer or an enterprise or a person, or an information provider, or a consumer association or a trade association or the Adjudicating Authority defined in clause (a) of section 2 of the Act, or the Central Government or the State Government or any statutory authority, as the case may be, and shall include an enterprise against whom any inquiry or proceeding is instituted and shall also include any person permitted to join the proceedings or an intervener;
- (f) "reference" means,—
- (i) a complaint received in the Commission under clause (iii) of sub-section (1) of section 38 of the Act, or
- (ii) an appeal received in the Commission under section 41 of the Act, or
- (iii) direction in matter of policy involving public interest received in the Commission from the State Government under sub-section (1) of section 53 of the Act;
- (g) "Secretary" means an officer appointed by the State Govt under Section 43 of the Act who will function under the general direction of the Chairperson ;
- (h) "working day" for the office of the Commission at Kolkata or any other office of the Commission means the day on which it functions but does not include Saturday or Sunday or any other day which is declared to be a public holiday by the State Government under the Negotiable Instruments Act, 1881 (26 of 1881) for West Bengal.
- (2) Words and expressions used but not defined in these regulations shall have the same meanings respectively assigned to them in the Act.
3. **Powers to determine procedure in certain circumstances.**—In a situation not provided for in these regulations, the Commission may, for reasons to be recorded in writing, determine the procedure in a particular case.
4. **Seal.**—There shall be an official seal of the Commission as indicated by a drawing given in Annexure.
5. **Language of the Commission.**—The language of the Commission shall be English.
6. **Filing of documents in Bengali.**—Notwithstanding anything contained in these regulations, the parties may file documents drawn up in Bengali, if they so desire:
- Provided that no information, reference or other papers contained in any language other than English shall be accepted by the Commission unless the same is accompanied by a true translation thereof in English as stipulated in regulation 7.
7. **Translation of documents.**—Documents that are not filed in English shall be translated into English by a translator approved by the Commission, from time to time:
- Provided that a translation, which is agreed to by all the parties to the proceedings, may be accepted by the Commission, in appropriate cases, as a true translation.
8. **Holidays to be observed by the Commission.**—The Commission shall observe, besides Saturday and Sunday, holidays as declared by the State Government under the Negotiable Instruments Act, 1881 (26 of 1881).
9. **Computation of time.**—(1) Where a period of time dates from a given day, act or event is prescribed by or allowed under these regulations for doing an act or taking a proceeding, the time shall be reckoned exclusive of the said day, or of the day of the act or event, from which the time runs.
- (2) Where the time prescribed by or allowed under these regulations for doing an act or taking a proceeding expires on a Saturday or Sunday or on a day on which the office of the Commission is closed, the act may be done or the proceeding may be taken on the first day following the Saturday, Sunday or the day on which that office is closed.

- 10. Contents of the reference.**—The reference shall, *inter alia*, separately and categorically state the following *seriatim*—
- (a) legal name of the person or the enterprise giving the information or the reference;
 - (b) complete postal address in India for delivery of summons or notice by the Commission, with Postal Index Number (PIN) code;
 - (c) telephone number, fax number and also electronic mail address, if available;
 - (d) mode of service of notice or documents preferred;
 - (e) legal name and address(es) of the enterprise(s) alleged to have contravened the provisions of the Act; and
 - (f) legal name and address of the counsel or other authorized representative, if any;
- (2) The reference referred to in sub-regulation(1) shall contain—
- (a) a statement of facts;
 - (b) details of the alleged contraventions of the Act together with a list enlisting all documents, affidavits and evidence, as the case may be, in support of each of the alleged contraventions;
 - (c) a concise narrative in support of the alleged contraventions;
 - (d) relief sought, if any;
 - (e) such other particulars as may be required by the Commission.
- (3) The contents of the information or the reference mentioned under sub- regulations (1) and (2), along with the appendices and attachments thereto, shall be complete and duly verified by the person submitting it.
- 11. Signing of reference.**—(1) A reference or a reply to a notice or direction issued by the Commission shall be signed by—
- (a) the individual himself or herself, including a sole proprietor of a proprietorship firm;
 - (b) the *Karta* in the case of a Hindu Undivided Family(HUF);
 - (c) the Managing Director and in his or her absence, any Director, duly authorized by the board of directors in the case of a company, -
 - (d) the President or the Secretary in the case of an association or society or similar body or the person so authorized by the legal instrument that created the association or the society or the body;
 - (e) a partner in the case of a partnership firm;
 - (f) the chief executive officer in the case of a co-operative society or local authority;
 - (g) in the case of any other person, by that person or by some person duly authorized to act on his behalf.
- (2) A reference shall be signed and authenticated by an officer not below the rank of a Joint Secretary or equivalent in the State Government or the Chief Executive Officer of the Statutory Authority if the same has been received from the Central Government or State Government or Statutory Authority.
- (3) Without prejudice to the provisions of this regulation, a legal practitioner may also append his or her signature to the reference.
- 12. Procedure for filing of reference.**—(1) Reference or responses thereto to the Commission shall be presented to the Secretary or to an officer authorized in this behalf by the Secretary, in person or sent by registered post or courier service or facsimile transmission addressed to the Secretary or to such authorized officer.
- (2) Any separate or additional document(s) that a party to the proceedings wishes to rely upon in support of its reference shall be filed in the form of a "Paper Book", at least seven days prior to the date of the ordinary meeting, after serving the copies of the said document(s) on the other parties to the proceedings, with documentary proof of such service. Such documents shall be serially numbered, prefaced by an index and shall be supported by a verification.

(3) A reference sent by post or courier service or facsimile transmission under sub-regulation (1) shall be deemed to have been presented to the Secretary or to the officer authorized by the Secretary, on the day on which it is received in the office of the Secretary or the authorized officer, as the case maybe.

- 13. Procedure for filing of reference in electronic form.**—Subject to the provisions of regulation 12, a reference to the Commission may be sent by a person or an enterprise to the Secretary in an electronic form duly authenticated with e-signature or digital signature by the subscriber as and when so desired by the Commission through a public notice.

Explanation – For the purpose of this regulation,—

- (a) “digital signature” means the digital signature as defined under clause (p) of section 2 of the Information Technology Act, 2000 (21 Of 2000);
- (b) “electronic form” with reference to an information or a document means the electronic form as defined under clause (r) of section 2 of the Information Technology Act, 2000 (21 Of 2000);
- (c) “subscriber” means the subscriber as defined under clause (zg) of section 2 of the Information Technology Act, 2000 (21 of 2000).

- 14. Meetings for transaction of business and their procedure.** – (1) The Commission may hold as many meetings and at such places as may be required for the purpose of discharging its functions under the Act.

- (2) The meetings of the Commission shall ordinarily be held at its head office situated in Kolkata:

.. Provided that the Commission may also hold meetings at its other offices or at any other place in the state, whenever, in the opinion of the Commission, it is expedient to do so.

- (3) The Commission may conduct the following types of meetings,—

- (a) ordinary meetings relating to a statutory inquiry or investigation, or other proceeding, to be conducted by the Commission, as per provisions of the Act, or the rules or regulations made there under; and
- (b) special meetings relating to all other functions not covered by the ordinary meeting.

- (4) The Chairperson shall decide in advance, the date, time and place and the agenda for each meeting of the Commission:

Provided that an item not included in the agenda of an ordinary meeting may be taken up for consideration, on grounds of urgency shown by an applicant in writing, with the approval of the Chairperson.

- (5) Procedure for ordinary meetings,—

- (c) the meeting hours of an ordinary meeting shall normally be from 10.30 AM to 1.00 PM and from 2.30PM to 4.30 PM, unless the Commission decides to extend the same in a particular matter;
- (d) the Secretary and such other officers and persons as permitted by the Chairperson shall attend an ordinary meeting;
- (e) subject to sub-regulation (4), the duration of each ordinary meeting shall be as directed by the Chairperson. Each party to the proceeding may be granted such opportunity to present its case as deemed appropriate by the Commission. The Commission may direct any party to file written submissions, which shall be considered along with replies thereto of the other parties to the proceeding. The Commission may also grant oral hearing to any party if it deems necessary;
- (f) the Commission may, for reasons to be recorded in writing, adjourn the meeting;
- (g) any Member unable to be present in a meeting for any reason, may if feasible, choose to participate in the said meeting, through video conferencing and this shall be considered as attendance by the Member for the purpose of casting vote during the meeting;
- (h) subject to sub-regulation (4), the Commission shall hold, as far as practicable, an ordinary meeting once every month to review compliance of its orders and the Secretary shall report all matters of non-compliance for information or for further orders of the Commission, as the case maybe;

- (i) the proceedings of each ordinary meeting of the Commission shall be recorded under the superintendence and guidance of the Secretary or by any other officer authorized by the Chairperson. The minutes of each matter taken up during an ordinary meeting shall be given continuous serial number for a particular financial year.
- (6) Procedure for special meetings,—
- (a) all special meetings of the Commission shall be attended by the Secretary and such other officers as directed by the Chairperson;
- (b) subject to the provisions of the Act and these regulations, the Secretary shall notify the date, time and place and the agenda for each meeting of the Commission to the Members and other concerned officers, as far as practicable, in advance;
- (c) the Secretary, for all special meetings, shall —
- (i) arrange to prepare and record the minutes of every meeting of the Commission and after obtaining the approval of the Chairperson circulate them amongst the Members, the Inquiring authority and the senior officers. The minutes of such meetings shall be given a continuous serial number for a particular financial year;
- (ii) communicate the decisions taken on each item of the agenda to all concerned for compliance of the orders and shall report action taken in the next meeting;
- (d) any Member unable to be present in a meeting for any reason, may if feasible, choose to participate in the said meeting, through video conferencing and this shall be considered as attendance by the Member for the purpose of casting vote during the meeting;
- (e) the Chairperson may, without prior notice, convene a special meeting at any time to consider any item, which in his opinion requires urgent consideration;
- (f) any matter to be considered in a special meeting, other than those requiring statutory approval of the Commission, may, with prior approval of the Chairperson, be decided on file by circulation.
- 15. Power to regulate procedure in certain circumstances.**—In a situation not provided for in these regulations, the Commission may, for reasons to be recorded in writing, determine the procedure in a particular case.
- 16. Effect of any irregularity of procedure.**—No act or proceedings of the Commission shall be invalid merely by reason of any irregularity in the procedure of the Commission not affecting the merits of the case.
- 17. Powers and functions of the Secretary.**— (1) The Secretary shall have the custody of records of the Commission and shall exercise such other functions as may be assigned by the Chairperson.
- (2) The Secretary shall circulate to all concerned, the date, time and place of each meeting, as per the directions of the Chairperson.
- (3) The Secretary shall be the nodal officer on behalf of the Commission for,—
- (a) making or receiving all statutory communications;
- (b) entering into any formal relationships, including signing of any memorandum or arrangement, with any authority or any agency of any foreign country, with the prior approval of the Commission and the State Government.
- (4) The Commission may sue or be sued in the name of the Secretary and the Commission shall be represented in the name of the Secretary in all legal proceedings, including appeals before the High Court.
- (5) Subject to the provisions of section 48 of the Act, the Secretary shall assist the Commission for,—
- (a) preparation and approval of the annual budget of the Commission;
- (b) administration of the fund of the Commission.
- (6) The Secretary shall keep in custody the official seal of the Commission. The official seal of the Commission shall not be affixed to any document including the certified copies of the orders of the Commission, save and under the authority in writing of the Secretary.

- (7) Subject to sub-regulation (1), to ensure a timely and efficient disposal of the matters brought before the Commission and for achieving the objectives of the Act, the Secretary shall have the following powers and functions,—
- (a) to receive, endorse and categorize all the information, references, applications or documents including miscellaneous applications and other documents for transfer of proceedings and application for adjournment, etc.;
 - (b) to check the amount of fee received where applicable and to ensure the timely deposit of the same in the bank account of the Commission;
 - (c) to scrutinize all information, references, applications or documents so received to find out whether they are in conformity with the rules and regulations;
 - (d) to point out defects in such information(s), references, applications or documents to the parties requiring them to rectify such defects;
 - (e) to serve copy of the information, reference, application or document along with the enclosures to the concerned parties including the Inquiring authority, within a reasonable time;
 - (f) to serve the notice of the date of the ordinary meeting of the Commission to consider the information or reference or document to decide if there exists a prima facie case and to convey directions of the Commission for investigation or to issue notice of inquiry after receipt and consideration of the report of the Inquiring authority;
 - (g) to bring on record executors, administrators or other legal representatives, in case of death of any party or adjudication of a party as insolvent, upon an application by any party to the proceedings;
 - (h) to verify the service of notice or other processes and to ensure that the parties are properly served;
 - (i) to requisition records on the direction of the Commission from the custody of any authority;
 - (j) to allow inspection of records of the Commission;
 - (k) to return the documents filed by any party or authority on orders of the Commission;
 - (l) to certify and issue copies of the orders of the Commission to the parties;
 - (m) to grant certified copies of documents filed in the proceedings to the parties, in accordance with these regulations;
 - (n) to grant certified copies of the orders of the Commission for publication, in accordance with these regulations;
 - (o) to dispose of all matters relating to the service of notices or other related processes, applications for issue of fresh notice or for extending the time for or ordering a particular method of service on a party including a substituted service by publication of notice by way of advertisement in the newspaper or putting it on the website, as the case maybe;
 - (p) to compile and preserve record of any proceeding during an ordinary meeting including:-
 - (i) the chronology of events;
 - (ii) the initiating document;
 - (iii) the notice of the meeting;
 - (iv) report of the Inquiring authority, if any;
 - (v) opinion of expert, if any;
 - (vi) any interim order made;
 - (vii) all documentary evidence filed;
 - (viii) the transcript, if any, of the oral evidence given;
 - (ix) the final order or decision of the Commission;

- (q) to disclose information;
 - (r) to ensure confidentiality of documents or evidences or statements or any analysis as per these regulations, by keeping them in safe custody;
 - (s) to undertake maintenance of records including weeding out of records in accordance with retention schedule in force and in accordance with directions of the Chairperson issued from time to time.
- 18. Opinion on existence of *prima facie* case.**—(1) The Secretary, after scrutiny and removal of defects, if any, in an information or reference, as the case may be, shall place the same before the Commission to form its opinion on existence of a *prima facie* case.
- (2) In cases of alleged anti-competitive agreements and/or abuse of dominant position, the Commission shall, as far as possible, record its opinion on existence of a *prima facie* case within sixty days.
 - (3) The Commission shall, as far as possible, hold its first ordinary meeting to consider whether *prima facie* case exists, within fifteen days of the date of placement of the matter by the Secretary under sub -regulation(1).
- 19. Preliminary conference.**—(1) The Commission may, if it deems necessary, call for a preliminary conference to form an opinion whether a *prima facie* case exists.
- (2) The Commission may invite the information provider and such other person as is necessary for the preliminary conference.
 - (3) A preliminary conference need not follow formal rules of procedure.
 - (4) Where the Commission is of the opinion that a *prima facie* case exists, the Secretary shall convey the directions of the Commission within seven days to any Investigating agency or authority including a Police Officer not below the rank of Inspector (hereinafter referred to as the inquiring authority) to investigate the matter and submit a report thereof.
- 20. Mode of service of notice, etc.**—Every notice or other document required to be served on or delivered to any person, under these regulations, may be served personally or sent by registered post, or by speed post or by courier service at the address furnished by him or her or it for service, or at the place where the person ordinarily resides or carries on business or occupation or works for gain.
- (2) Additionally, this may also be sent through facsimile transmission or by electronic mail. The facsimile transmission shall contain a cover page giving details of the sender, the subject, date of transmission, and the recipient's name and telephone number.
 - (3) An endorsement made by a postal or courier employee that the addressee or his agent has refused to take delivery of the notice shall be deemed to be proof of service by way of refusal.
 - (4) In case, the postal or courier employee reports that the addressee has since left or is not available at the given address, the Commission relying on the information so furnished, may take a view as it may deem appropriate and may proceed to take steps for substituted service.
 - (5) Where summons or notice was properly addressed, prepaid and duly sent by registered post acknowledgement due, and the acknowledgement having been lost or mislaid or for any other reason, has not been received by the Commission within thirty days from the date of issue of summons, the Commission may deem the service to be sufficient and may make a declaration accordingly.
 - (6) Where the service of notice is not possible under the above referred modes and where the addressee cannot be found or is not traceable, the service may be effected by way of affixing a copy of summons or notice on the conspicuous part of the house in which the recipient ordinarily resides, the service maybe deemed to be sufficient in view of Rule 20 of Order V of the Code of Civil Procedure, 1908 (5 of 1908).
 - (7) Where the Commission is satisfied that the recipient of the notice is avoiding service or that for any other reason notice cannot be served in the ordinary way, it shall order service by an advertisement in the daily newspaper circulated in the locality where the recipient is last known to have resided.

21. **Amendment of reference.**—The Commission may permit amendment of any information, upon an application made in this regard but such amendment shall not be allowed if it substantially changes the nature and scope of the information.
22. **Manner of making submissions or arguments by parties before Commission.**—(1) The parties to the proceedings or their authorized representatives, as the case may be, shall declare to the Commission at the earliest opportunity whether they would make oral submissions or file written arguments:
- (2) Subject to sub-regulation (1), the Commission may fix or limit the time during which the oral submissions or written arguments shall be addressed or filed by the parties or their authorized representatives, as the case may be, before it and may proceed to decide a matter in the absence of the party which does not abide by such timings as per regulation 32.
23. **Power of the Commission to continue proceedings in absence of party.**— (1) Where on the day fixed for any particular matter during an ordinary meeting, including the day of the meeting re-fixed on adjournment, if any party or parties to the proceeding do not appear even after service of notice or having noted the date, the Commission may decide to continue proceedings in the absence of party or parties, as the case maybe, and pass appropriate orders as it deems fit.
- (2) If any party refuses access to or otherwise does not provide necessary information within the stipulated time or significantly impedes investigation, the Commission may pass such order as it may deem fit on the basis of available facts.
- (3) Where an order has been passed by the Commission under sub-regulation (1) or sub-regulation (2) and the party shows that it was prevented from participating in the proceeding before the Commission and/or furnishing the information required, for reasons beyond its control, the Commission, on being satisfied, may recall the order.
24. **Interim order.**— (1) Where the Commission, during an inquiry, has, by an order, temporarily restrained any party from carrying on any act in contravention of the Act, until the conclusion of such inquiry or until further orders, which shall be signed and dated by the Members, including a dissenting note by the dissenting Member, if that be the case, and shall be made at the earliest.
- (2) Where during an inquiry, the Commission has passed interim order, referred to in sub-regulation (1), it shall hear the party against whom such an order has been made thereafter, as soon as possible.
- (3) Where in a case an interim order has been passed, a final order, as far as possible, shall be passed by the Commission, within ninety days from the date of interim order.
25. **Final order.**— Every order of the Commission shall be signed and dated by the Members including a dissenting note by the dissenting Member, if that be the case.
- (2) Every order or decision of the Commission shall, as far as practicable, be made within twenty-one working days from the date of conclusion of final arguments.
- (3) A copy of the order duly certified by the Secretary or such other officer authorized by the Secretary shall be served on the parties to the proceeding as provided in regulation 22 within four weeks of the date of the order.
26. **Compliance of orders of Commission.**—The Commission shall have power to direct the parties concerned to file an affidavit of compliance of its order or such other documents in the manner specified in its order.
27. **Inspection and certified copies of documents.**— (1) A party to any proceeding of an ordinary meeting of the Commission may on an application in writing in that behalf, addressed to the Secretary, be allowed to inspect or obtain copies of the documents or records submitted during proceedings on payment of fee as specified in regulation 36.

Provided further that no request for inspection or certified copies of internal documents shall be allowed.

- (2) The Commission may, on an application of a person, who is not a party to the proceedings, on sufficient cause demonstrated, allow such person inspection of documents or records mentioned in sub-regulation (1) on payment of fee as specified in regulation 36.

- (3) An inspection shall be allowed only in the presence of an officer so authorized by the Secretary:
- Provided that the inspection of documents or copying thereof as per sub-regulation (1) or sub-regulation (2) shall be allowed under the supervision of and subject to the time limits to be specified by the Secretary or an officer authorized by him in this behalf.
- (4) An officer of the Central or State Government or the Inquiring authority or a statutory authority shall be allowed inspection and obtain copies of documents or records mentioned in sub-regulation (1) on making written request to the Secretary for the purpose.
- 28. Continuation of proceedings after death of a party or adjudication of a party as insolvent.**— Where a party to a proceeding in an ordinary meeting of the Commission dies or is adjudged insolvent or, in the case of a company, being wound up, the proceeding shall not abate and may be continued by or against the executor, administrator or other legal representative of the parties or by or against the assignee, receiver or liquidator, as the case maybe.
- 29. Effect of non-compliance.**—Failure to comply with any requirement of these regulations shall not invalidate any proceeding, merely by reason of such failure, unless the Commission is of the view that such failure has resulted in miscarriage of justice.
- 30. Taking of evidence.**—(1) Subject to the provisions of the Act, the Commission may determine the manner in which evidence may be adduced in the proceedings before them.
- (2) The Commission may call for the parties to lead evidence by way of affidavit or lead oral evidence in the matter.
- (3) If the Commission directs evidence by a party to be led by way of oral submission, the Commission or the Inquiring authority, as the case may be, if considered necessary or expedient, grant an opportunity to the other party or parties, as the case may be, to cross examine the person giving the evidence.
- (4) The Commission may, if considered necessary or expedient, direct that the evidence of any of the parties to be recorded by an officer or person designated for the said purpose.
- (5) The Commission may direct the parties to file written note of arguments or submissions in the matter.
- 31. Supporting of facts by filing of affidavit.**—(1) The Commission may at any time, for sufficient reason, order that any particular fact or facts may be supported by affidavit.
- (2) Every affidavit shall clearly state the cause or matter in which it is sworn.
- (3) Where a specific time is given for filing affidavits, no affidavit filed after that time shall be used except by leave of the Commission or the Inquiring authority, as the case maybe.
- (4) In these regulations, 'affidavit' includes a document required to be sworn, affirmed or verified. In the verification of petitions and other proceedings, statements based on personal knowledge shall be distinguished from statement based on information and belief.
- (5) The Commission may, during the course of the proceedings, where considered necessary and expedient, in the interest of justice, relax any or all of the above provisions in this regulation.
- 32. Power of Commission to call for information etc.**—(1) The Commission may, at any time before passing orders in a proceeding, require any of the parties or any other person whom the Commission considers appropriate, to produce such documents or other material objects as evidence as the Commission may consider necessary for the purpose of enabling it to pass orders.
- (2) The Commission or the Inquiring authority, as the case may be, may direct the summoning of the witnesses, discovery and production of any document or other material objects producible in evidence, requisition of any public record from any office, examination by an officer of the Commission the books, accounts or other documents or information in the custody or control of any person which the Commission considers relevant for the purpose.
- (3) The Commission or the Inquiring authority, as the case may be, at any time, summon and enforce the attendance of any person and examine him, or cause him to be examined on oath.

33. **Authorizing a representative to appear.**—(1) In any proceeding, where the pleading is also signed by an authorized representative, the party shall append a letter in the manner specified authorizing the representative to appear for him or her or it, as the case maybe.
- (2) The authorized representative shall not be allowed to represent the party unless such authorization letter is filed before the Secretary before commencement of the ordinary meeting.
34. **Proceedings before Commission not to be open to public.**—Except where the Commission may so direct, for reasons to be recorded, the proceedings before the Commission, during an ordinary meeting, shall not be open to public. In taking the decision to open the proceedings to public, the Commission may take into account all or any of the following matters namely: —
- whether disclosure to public does not cause significant harm to a party;
 - degree of inhibition or encouragement in providing information in public;
 - efficient and proper conduct of proceeding;
 - resources of the Commission.
35. **Procedure for imposition of penalty under the Act.**—(1) Notwithstanding anything to the contrary contained in any regulations framed under the Act, no order or direction imposing a penalty under Chapter IV of the Act shall be made unless the person or the enterprise or a party to the proceeding, during an ordinary meeting of the Commission, has been given reasonable opportunity to represent his case before the Commission.
- (2) In case the Commission decides to issue show cause notice to any person or enterprise or a party to the proceedings, as the case may be, under sub- regulation (1), the Secretary shall issue a show cause notice giving not less than seven days asking for submission of the explanation in writing within the period stipulated in the notice.
- (3) The Commission shall, on receipt of the explanation, and after oral hearing if granted, proceed to decide the matter of imposition of penalty on the facts and circumstances of the case.
36. **Inspection and copying charges.**—(1) A party to the proceedings, on application, may be allowed inspection of records relating to its case by the Secretary, on such conditions as may be specified, on payment of rupees one thousand per day per case.
- (2) Copying charges for the parties to the proceedings shall be rupees twenty per page.
37. **Publication.**—(1) The Commission may cause publication of a brief summary or the full text of its orders or decisions in the media, if it so desires in the interest of public, but shall have regard to the business secrets of the persons concerned and may direct deletion of such portions of the orders or decisions as it deems fit.
- (2) A summary of all orders or decisions made by the Commission shall be published on the web site of the Commission.
- (3) It shall be the duty of the Secretary to publish the orders or decisions referred to in this regulation.
38. **Interpretation.**—In the matter of implementation of these regulations, if any, doubt or difficulty arises, the same shall be placed before the Commission and the decision of the Commission thereon shall be binding.

Annexure

(See regulation 4)

1. Seal

By order,

ARSHAD HASAN WARSI
Secretary to the West Bengal Clinical Establishment
Regulatory Commission.