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

**HIGH COURT AT CALCUTTA
APPELLATE SIDE**

NOTIFICATION

No. 3116-G - dated 8th September, 2017 — In exercise of the rule-making power under Part X of the Code of Civil Procedure, 1908 (5 of 1908), read with clause (d) of sub-section (2) of Section 89 of the said Code, the High Court at Calcutta hereby makes the following amendments to the existing Rules 2, 4, 6, 10, 18 and 26, contained in Part-II under the heading 'CIVIL PROCEDURE MEDIATION RULES, 2006', promulgated under Court's Notification No. 4679-G dated 06.12.2006.

AMENDMENTS

Sr. No.	RULE AMENDED/MODIFIED	AMENDED/MODIFIED PROVISIONS IN THE SAID RULE
1.	Rule 2. (Appointment of Mediators)	Clause (a) of Rule 2 is amended in the following manner : <i>(a) Parties to a suit and all other proceedings may all agree on the name of the sole mediator from the panel of mediators for mediating between them.</i> Clauses (b), (c) and (d) of Rule 2 are deleted and in their place Rule 2(b) is inserted as under : <i>(b) In exceptional cases, the Court may also appoint a mediator who is not necessarily from the pannel of Mediators referred to in Rule 3 nor bear the qualifications referred to in Rule 4 but should not be a person who suffers from the disqualifications referred to in Rule 5.</i>
2.	Rule 4. (Qualifications of Mediators)	A sub-clause (iv) is inserted in clause (a) of Rule 4 in the following manner : <i>(iv) District and Sessions Judges including Additional District and Sessions Judges and officers not below the rank of Civil Judge Senior Division.</i>

SL. No.	RULE AMENDED/MODIFIED	AMENDED/MODIFIED PROVISIONS IN THE SAID RULE
		Rule 4(b) is amended in the following manner: <i>Legal Practitioners with at least 10 years' standing at the Bar at the level of the Supreme Court or the High Court or the District Courts or the Courts of equivalent status.</i>
3.	Rule 6. (<u>Venue for conducting Mediation</u>)	A new clause after clause (i), is inserted as clause (ii), to the following effect: (ii) <i>Any of the rooms situated in the ADR Buildings of the Districts.</i> The clauses numbering (ii) to (iv), are renumbered as clauses (iii) to (v).
4.	Rule 10. (<u>Removal or deletion from panel</u>)	Sub-Rules (1) and (2) are incorporated in Rule 10 to the following effect: (1) <i>"A person, whose name is placed in the panel referred to in Rule 3, may be removed or his name may be deleted from the panel by the High Court or the District & Sessions Judges with the prior approval of the High Court Mediation and Conciliation Committee, if :-</i> (i) - (vii) : No Changes; <i>Provided that, before removing or deleting his name, under clauses (vi) and (vii), the Member Secretary of the Mediation and Conciliation Committee or the Secretary DLSA, as the case may be, shall hear the mediator whose name is proposed to be removed or deleted from the panel and shall make a detailed report which is to be forwarded to the Mediation and Conciliation Committee, High Court, Calcutta, for final decision.</i> (2) <i>Notwithstanding anything contained hereinbefore, the Mediation and Conciliation Committee of the High Court, shall have the absolute power to remove any Mediator from the panel, in the event, the Committee is of the opinion that it is not possible or desirable to retain the name of that person in the panel. No reasons are required to be recorded in such cases."</i>
5.	Rule 18. (<u>Time-limit for completion of mediation</u>)	The following paragraph is inserted after the existing paragraph in the Rule 18: <i>"However, the Referral Judge may permit a further extension of time beyond the extended period of thirty days, provided both parties agree to it. Upon expiry of the extended period of thirty days period or the further period of extended time, as permitted by the Referral Judge, as the case may be, the case record shall be sent back immediately with the report that the matter could not be settled."</i>
6.	Rule 26. (<u>Fees of the mediator and costs</u>)	The existing provisions as contained in Rule 26 is deleted and a new rule is inserted in the following manner: Rule 26: Fees of the Mediator,

SL. No.	RULE AMENDED/MODIFIED	AMENDED/MODIFIED PROVISIONS IN THE SAID RULE	
		The mediator shall be paid honorarium as under:	
		Sl. No.	Honorarium
		a.	On settlement of a matrimonial case through mediation [including criminal], custody, guardianship, probate, partition and possession
			Rs. 3000/- per case and a maximum of Rs. 4000/- for two or more connected cases.
		b.	Other matters
			Rs. 2000/- per case and a maximum of Rs. 3000/- for two or more connected cases.
		c.	Connected Cases
			Rs. 500/- per case subject to a maximum of Rs. 1000/- [regardless of the number of connected cases].
		d.	No settlement
			No honorarium.
		A new rule, namely, Rule 26-A, is inserted after Rule 26, as under:	
		Rule 26 A : Mode of payment of Fees of the mediator and costs,	
		(1) (a) At the time of referring the disputes to mediation, the Court shall fix the fees of the mediator in terms of Rule 26.	
		Provided that the Court may, in cases where no amicable settlement is reached, upon the application of the mediator, recommend the matter to the Mediation and Conciliation Committee, High Court, Calcutta for payment of a consolidated honorarium to the mediator from the fund to be maintained by the State Legal Services Authority, West Bengal earmarked for its utilization by the Mediation and Conciliation Committee.	
		(b) All expenses of the mediation, shall be borne from the allocated fund provided by the State Government.	
		(c) Where a settlement had been arrived at through mediation in a case referred on it under Part I, Rule 5(e) (ii) of the said Rules, the Court fee paid in such case shall be refunded in the manner provided under the Court Fees Act, 1870.	
		(2) Notwithstanding anything contained in Rule 26, the Court may, in an exceptional case, fix the fees of the mediator as it may deem fit in respect of that particular case.	

By order of the High Court,
Sd/-
SUGATO MAJUMDAR
Registrar General.