

Appendix 2

(Rule 5)

Bihar Contingency Fund Act and Bihar Contingency Fund Rules.

THE BIHAR CONTINGENCY FUND ACT, 1950.

[BIHAR ACT XIX OF 1950.]

An Act to provide for the establishment and maintenance of a contingency Fund in the State of Bihar.

WHEREAS it is expedient to provide for the establishment and maintenance in the State of Bihar of a Contingency Fund to be placed at the disposal of the Governor of Bihar so as to enable him to make advances out of such Fund for the purpose of meeting unforeseen expenditure of the State pending authorization of such expenditure by the Legislature of the State under appropriations made by law;

AND WHEREAS the Legislature of the State, by clause (2) of Article 267 of the Constitution of India, has been empowered by law to establish such Fund;

It is hereby enacted as follows:-

1. Short title, extent and commencement:-

1. This Act may be called the Bihar Contingency Fund Act, 1950.
2. It extends to the whole of the State of Bihar.
3. It shall come into force on the 1st day of April, 1950.

2. Interpretation - In this Act, "the Fund" means the Bihar Contingency Fund established under Section 3.

3. Establishment of the Bihar Contingency Fund - On the commencement of this Act, the Stat Government shall establish in and for the State of Bihar a fund called the Bihar Contingency Fund.

4. Withdrawal out of the Consolidated Fund of the State and credit thereof to the Bihar Contingency Fund - The State Government shall, on the commencement of this Act, withdraw a sum of Three Hundred and Fifty core¹ of rupees out of the Consolidated Fund of the State and Place it to the credit of the Fund.

¹ Amendment vide Bihar Contingency Fund (Amendment) 1987

4A. Temporary Corpus- Starting from the date of commencement of Bihar Contingency Fund (Amendment) Act 2015 every year till the 30th March, if it requires to increase the permanent corpus of Contingency Fund beyond Rs 350 crore (three hundred fifty crore), the same may be enhanced temporarily by the Cabinet up to the maximum of 4 (four) percent of the expenditure budget of that year up, for the period ending on 30th March of that financial year. One third of the total amount so enhanced may be used only for relief and rehabilitation measures due to natural calamities.²

5. Purpose for which the Bihar Contingency Fund may be utilized - The Fund shall be placed at the disposal of the Governor of Bihar who shall not expend it except for the purpose of making advances from time to time for meeting unforeseen expenditure of the State pending authorization of such expenditure by the Legislature of the State under appropriations made by law & immediately after the coming into operation of such law; an amount equal to the amount or amounts advanced by the Governor for the purpose aforesaid shall be deemed to have been placed to the credit

of the Fund and the amount so transferred shall for all purposes be deemed to be a part of the Fund:

[Provided that if advance made from the Contingency Fund in any financial year is authorized by the State Legislature in the current financial year or in succeeding financial year and the amount of such authorization exceeds the permanent corpus of the Fund, the amount in excess of the permanent corpus shall be placed to the credit of the consolidated Fund of the State and not to the Contingency Fund.]³

6. Power to make rules - (I) The State Government may, by notification, make rules to carry out all or any of the purpose of the Act.

(II) "Every Rule made by the State Government under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature, while it is in session, for a total period of fourteen days which may be comprised in one session or in two or more successive session, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be no effect, as the case may be; that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule II.

² Inserted by Act 4 of 2015

³ Inserted by Act 17 of 1987

BIHAR CONTINGENCY FUND RULES

[Issued with notification No. 2803-F, dated the 4th March 1953.]

In exercise of the powers conferred by section 6 of the contingency fund of Bihar Act, 1950 (XIX of 1950), the Governor of Bihar is pleased to make the following rules:-

1. These Rules may be called the Contingency Fund of Bihar Rules.
2. The Contingency Fund of Bihar shall be held on behalf of the Governor of Bihar by the Secretary to the Government of Bihar, Finance Department.
3. All applications for advance from the Fund shall be made to the Secretary to the Government of Bihar, Finance Department (The form is given in **B.M. Form 8**).

The application shall give -

- i. brief particulars of the additional expenditure involved.
- ii. the circumstances in which provision could not be included in the budget,
- iii. why its postponement is not possible,
- iv. the amount required to be advanced from the Fund with full cost of the proposal for the year or part of the year, as the case may be, and
- v. the grant or appropriation under which supplementary provision will eventually have to be obtained.

4. Advances from the Fund shall be made for the purpose of meeting unforeseen expenditure.

5. A copy of the order sanctioning the advance, which shall specify the amount, the grant or appropriation to which it relates and give brief particulars by sub-heads and unit of appropriation of the expenditure for meeting which it is made, shall be forwarded by the Finance Department to the Accountant - General, Bihar.

6.(1) Supplementary estimates for all expenditure so financed shall be presented to the State Legislature at the first session meeting immediately after the advance is sanctioned unless such advance has been resumed to the Contingency fund in accordance with the provision of sub-rule (2).]⁴

Note 1- While presenting to the State Legislature estimates for expenditure financed from the Bihar Contingency Fund a note to the following effect shall be appended to such estimates.

⁴ Subs. by notif. No. B.T. 81167-7109 dated 10-10-1967 published In Bihar Gazette dated 2-12-1967

A sum of Rs. _____ has been advanced from the Bihar Contingency Fund in _____ and an equivalent amount is required to enable repayment to be made to the Fund.

Note 2 - If the expenditure on a new service not contemplated in the annual financial statement can be met wholly or partly, from savings available within authorized appropriation, the full amount will be advanced from the fund and the note appended to the estimate submitted shall be in the following form:

'The expenditure is on a new service, A sum of Rs _____ has been advanced from the Contingency Fund, and an equivalent amount is required to enable repayment to be made to that Fund.'

'The amount viz. Rs _____ / A part of that amount viz. Rs _____ can be found by re-appropriation of saving within the grant and a token vote only is now required/a vote is required for the balance, viz. for Rs _____ only.'

6(2) As soon as the State Legislature has authorized the additional expenditure by means of a Supplementary Appropriation Act, the advance or advance made from the Contingency Fund, whether for meeting the expenditure incurred before the Supplementary Estimate were presented, to the State Legislature or after they were so presented, shall be resumed to the Fund to the full extent of the appropriation made in the Act.

6-A If in any case, after the order sanctioning an advance from the contingency fund has been issued in accordance with rule 5, and before action is taken in accordance with Rule 6, it is found that the advance sanctioned will remain wholly or partly unutilized, an application shall be made to the sanctioning authority for cancelling or modifying the sanction, as the case may be.

6-B All advances sanctioned from the contingency fund to meet expenditure in excess of the provision for the service included in an Appropriation (Vote on Account) Act shall be resumed to the Contingency fund as soon as the Appropriation Act in respect of the expenditure on the service for the whole year, including the excess met from the advance from the Contingency Fund, has been passed.

7. A copy of the order resuming the advance, which shall give a reference to the number and date of the order in which the original advance, was made and to the Supplementary Appropriation Act, referred to in rule 6, shall be forwarded by the Finance Department to the Accountant General, Bihar, with a copy to the department concerned.

8. An account of the transactions of the Fund shall be maintained by the Finance Department in Form A annexed to these rules.

[The form is given in **B.M. Form 7.**]

9. Actual expenditure incurred against advances from the Bihar Contingency Fund shall be recorded in the account relating to the Bihar Contingency Fund in the same detail as it-would have been shown if it had been paid out of the Consolidated Fund.
