CHAPTER XVII

Fianance Department

General

284. Authority :—Under Article 154 of the Constitution of India, the executive power of the State shall be vested in the Governor and shall be exercised by him either directly or through officers subordinate to him in accordance with the Constitution. Such executive power includes financial authority in so far as raising revenue, or sanctioning expenditure, borrowing money, increase or reduction of taxation, raising of public loans control of the Public debt etc. are concerned.

285. Cases in which consultation with F.D. is necessary.—Rules 7 and 31 to 34 of the Rules of Business of the Government of Haryana, 1977, issued under Article 166 of the Constitution of India further provide as follows :—

" (1) No department shall, without previous consultation with the Finance Department, authorise any orders (other than orders pursuant to any general delegation made by the Finance Department) which :—

(a) either immediately or by their repercussion, will affect the finances of the State, or which in particular :—

(i) involve any grant of land or assignment of revenue or concession, grant, lease, or licence of mineral or forest rights or a right to water power or any easement or privillege in respect of such concession; or

(ii) in any way involve any relinquishment of revenue, or (b) relate to the number or grading or cadre of posts or the emoluments or other conditions of service or posts.

(2) No proposal which requires the previous consultation of the Finance Department under this Rule, but in which the Finance Department has not concurred, may be proceeded with unless a decision to that effect has been taken by the Council.

(3) No reappropriation shall be made by any Department other than the Finance Department, except in accordance with such general delegation as the Finance Department may have made.

(4) Except to the extent that power may have been delegated to the Departments under rules approved by the Finance Department every order of an administrative department conveying a sanction to be enforced in audit shall be communicated to the audit authorities by the Finance Department.

(5) Nothing in this Rule shall be construed as authorising any Department including the Finance Department to make reappropriations from one grant specified in the Appropriation Act to another such grant.

"31 The Finance Department shall be consulted before the issue of orders upon all proposals which affect the finances of the State and in particular:—

(a) proposals to add any post to the public service or to vary the emoluments of any post;

(b) proposals to sanction an allowance or special or personal pay for any post or class of posts or to any servant of the Government of the State;

(c) proposals involving abandonment of revenue or involving an expenditure for which no provision has been made in the Appropriation Act."

"32. The views of the Finance Department shall be brought to the permanent record of the Department to which the case belongs and shall form part of the case."

"33. The Finance Department may, by general or special order, prescribe cases in which its concurrence may be presumed to have been given".

"34.(1) The Finance Minister may call for any papers in a case in which any of the matters referred to in Rule 7 or Rule 31 is involved and the Department to whom the request is addressed shall supply the papers.

(2) On receipts of papers called for under sub-rule(1) the Finance Minister may request that the papers with his note on them shall be submitted to the Council.

(3) The Finance Department may make rules to govern financial procedure, in general, in all Departments and to regulate the business of the Finance Department and the dealings of other Departments with the Finance Department."

286. Functions of Finance Department :—

(*a*) *In regard to expenditure.*—Finance Department is the custodian of economy. Its first and foremost function in this sphere is to consider and judge any proposal made by another department which will have the effect of imposing a new or increased charge on the public revenue (e.g. creating a new post or raising the salary of an existing one) or which will involve relinquishment of revenue. Such proposals may arise for examination either at the time of the preparation of the budget or in the course of a financial year. The Heads of Departments submitting the proposals are required to indicate the order of urgency in respect of the various proposals submitted by them and also to give full details of the estimated additional expenditure or loss of revenue, except in the case of building schemes for which sketch plans and approximate estimates are generally considered sufficient. The Finance Department is entitled to examine and advise on all such proposals and to decline to provide funds in the budget or otherwise, for any proposal which has not been so examined. Proposals involving recurring expenditure, such as increase in establishments, are examined with great care in the Finance Department. The Government then decide, with reference to the Funds available, which of the new schemes examined by the Finance Department should be provided for, One of the important financial principles on which the Finance Department acts is that a departure from financial rules and regulations is not allowed, except in very exceptional cases so as to avoid the creation of embarassing precedents.

Another important function of Finance Department in relation to expenditure is that of a coordinating authority. While the Administrative Departments are apt to examine financial cases entirely from their own stand-point, the Finance Department is in the best position to examine such proposals keeping in view similar demands from other departments. For example, one department of Government may think that they have a good case for the revision of scale of pay of certain posts, the Finance Department has to consider the repercussions of such a proposal in other departments, before reaching a conclusion.

(*b*) *In regard to Revenue.*—Owing to the variety and magnitude of the problems involved, the administration of Revenue is entrusted to the Administrative Department concerned; and the control of Finance Department in this respect is limited. The Finance Department receives periodical reports of progress of the collection of revenue and is entitled to advise the Administrative Department responsible for the collection of revenue regarding the progress of collection and the methods of collection employed. Finance Department, however, retains its control in regard to the issue of any orders involving grant of land or assignment of revenue or concession, grant, lease or licence of mineral or forest rights or a right to water power or any casement or privilege in respect of such concession, or any relinquishment of revenue for which credit has been taken in the budget.

(c) In regard to other matters :—

(i) The Finance Department is consulted in all proposals for increase or reduction of taxation in whatever department they may arise. The policy of a tax is the concern of the Administrative Department but its financial implications are scrutinised by the Finance Department.

(ii) The raising of public loans or the control of public debt are the concern of the Finance Department.

(iii) This department has also to see that (a) a minimum balance is maintained with the Reserve Bank on account of the transactions of the Government conducted by the Bank's offices and branches and (b) that adequate cash is available at treasuries the business of which is not conducted by the Bank. In order to provide adequate funds for these purposes the Finance Department may have to arrange for taking ways and meaas advances from the Reserve Bank to float treasury bills, to raise a loan from the general public or to obtain a loan from the Central Government.

(iv) The Finance Department is further responsible for the safe custody of all funds of State.

(v) It is the duty of the Finance Department to prepare the budget and to arrange for its presentation to the Legislature.

(vi) The Finance Department is responsible for seeing that the recommendations of the Committee on Public Accounts and of the Legislative

Assembly are duly considered and that the orders passed on them are communicated to the Accountant-General. A statement showing the action taken each year on such recommendations will be prepared by the Finance Department and placed before the Committee for consideration and incorporation in its next report.

(vii) The Finance Department will bring up-to-date the "Epitome of the reports of the Committees on Public Accounts" at intervals ordinarily of five years.

(viii) The Secretary to Government in the Finance Department is the controlling Authority for watching the progress of expenditure against the grant for Loans and Advances bearing interest as a whole.

(ix) The Finance Department is also the Administrative Department for Local Audit Department, Lotteries Deptt., Treasury & Accounts organisation and Small Savings Deptts.

287. *Relation of Finance Department with Administrative Departments* :— The Finance Department being an advisory depattment has to put before the Government the possible financial implications, to enable Government to come to a right decision.

In matters of policy, however, the ultimate decision must be of the Government as a whole. For instance, if the Government proposes to introduce a certain scheme the Finance Department can only invite their attention to the diminution in revenue and increase in expenditure, if any, that it will entail. But in the last resort considerations of public policy must prevail and the decision of the Government as a whole must be given effect to.

Where, however, no consideration of public policy is involved it is generally found advisable to give the Finance Department a special position of authority or primacy vis a-vis other departments of Government.

In cases where the advice tendered by Finance Department is not acceptable to the Administrative Department the proposal should not be proceeded with, unless a decision to that effect has been taken by the Council of Ministers.

288. *Powers of the Union to confer powers etc, on States in certain cases*:— Under Article 258 of the Constitution of India, the President may, with the consent of the Government of a State, entrust either conditionally or unconditionally to that Government or its officers, functions in relation to any matter to which the executive power of the Union exixts or by a law made by Parliament may confer powers and impose duties or authorise the conferring of powers and the imposition of duties upon the States or officers and authorities thereof.

Where by virtue of the said Article powers and duties have been conferred or imposed upon the State or officers or authorities thereof there shall be paid by the Government of India to the State such sums as may be agreed or in default of agreement as may be determined by an arbitrator appointed by the Chief Justice of India in respect of any extra costs of administration incurred by the State in connection with the exercise of those powers and duties.

If any question arises in connection with the administration of such subjects, the Finance Department should be consulted in any particular case or class of cases under rule or custom in connection with a subject included in the State List (vide list II in the Seventh Schedule in the Constitution of India).

289. *How references should be made to the Finance Department by other departments of Government:*—(1) When a reference is made to the Finance Department the nothing of the Administrative Department should state clearly the points on which advice, concurrence or sanction is required. Such phrases as "F.D. should see" without specifying what they should see, or whether it is only to be seen for information or for concurrence in some suggested line of action, should be avoided. In simple cases it will suffice to indicate the paper under consideration and the noting which should be read in order to understand the reference. In more complicated cases, the final note in addition either (a) explicitly state the points or (b) give a clear reference to previous noting in which the points are explicitly stated. In lengthy cases the Finance Department have the right to demand a self contained note.

(2) All U.O. references to the Finance Department should be marked by the Secretary concerned to the "F.D." simply. Only in important cases such references may be marked to "F.S." but in no case should they be sent direct to the Finance Minister.

(3) Where a case is submitted with a self-contained note it should be accompanied with a duplicate copy thereof.

(4) *Submission by outside department of self-contained references for advice.*—All departments working outside the Civil Secretariat, must observe the principle that the Finance Department is entitled to demand self-contained references in duplicate from departments who seek its advice. This avoids the labour of reading through a great mass of correspondence, which is often unnecessary. If the Finance Department should require to see any files, it will ask for them, but in most cases this will not be necessary. It is of course not intended to adopt this procedure with absolute unformity, obvious cases may be sent up to the Finance Department at any time.

(5) Cases requiring previous consultation with the Finance Department should not be submitted by the Secretary in the Admn. Deptt. concerned for the final orders of Minister-in-charge until the advice of the Finance Department has been taken. This order is not intended to preclude a Secretary taking the orders of the Minister at any earlier stage as to whether a proposal is so administratively desirable as to require further examination . This order is intended to prevent the Ministers being asked to commit themselves to definite orders until they have before them the advice of the Finance Department.

(6) In the course of audit an audit officer has occasion at times to point out to heads of offices or departments that the sanction or concurrence of the Finance Department is necessary. In such cases the head of the office or department concerned should not enter into correspondence with the audit officer or question that officer's decision but should, if the requirements of the audit officer are not accepted, forward the papers to the Finance Department with any observations as he may have to make in the matter.

(7) The Finance Department office notes will not go outside the Finance branch and a single Finance Department note will be attached,