

(2) It shall be the duty of every director or every officer of the Financial Corporation to produce to any officer making an inspection under sub-section (1) all such books, accounts and other documents in his custody or power and to furnish him with any statement and information relating to the affairs of the Financial Corporation as the said officer may require of him within such time as the said officer may specify.

(3) Notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872) or in any other law for the time being in force, no court, tribunal or other authority shall have power to require the ¹[Small Industries Bank] or any of its officers to produce before such court, tribunal or other authority the report of the inspection made by it under sub-section (1) or any copy thereof.

(4) The State Government may, after considering any report sent to it under sub-section (1), give such instructions to the Board as it considers necessary and it shall be the duty of the Board to comply with such instructions.]

38. Returns.—²[(1) The Financial Corporation shall furnish to the State Government, the ³[Small Industries Bank] and the Reserve Bank such statements and returns in such form as the State Government, the ³[Small Industries Bank] or the Reserve Bank may require from time to time.]

(3) The Financial Corporation shall furnish ⁴[to the State Government, the ³[Small Industries Bank] and the Reserve Bank] within ⁵[four months] of the close of each financial year a statement in the prescribed form of its assets and liabilities as at the close of that year, together with a profit and loss account for the year, the auditors' report and a report of the working of the Financial Corporation during the year and copies of the said statement, account and reports shall be published in the Official Gazette and shall also be laid before the Legislature of the State.

CHAPTER V

MISCELLANEOUS

39. Power to give instructions to Financial Corporation on questions of policy.—

(1) In the discharge of its functions, the Board shall be guided by such instructions on questions of policy as may be given to it by the State Government ⁶[in consultation with ⁷[and after obtaining the advice of,] the ⁸[Small Industries Bank]].

(2) If any dispute arises between the State Government and the Board as to whether a question is or is not a question of policy, the decision of the State Government shall be final.

1. Subs. by Act 52 of 1975, sec. 37, for "Reserve Bank" (w.e.f. 16-2-1976) and against subs by Act 39 of 2000, sec. 26, for "Development Bank" (w.e.f. 5-9-2000).
2. Subs by Act 43 of 1985, sec. 25, for sub-sections (1) and (2) (w.e.f. 21-8-1985).
3. Subs. by Act 39 of 2000, sec. 27, for "Development Bank" (w.e.f. 5-9-2000).
4. Subs. by Act 52 of 1975, sec. 38, for "to the State Government and to the Reserve Bank" (w.e.f. 16-2-1976).
5. Subs. by Act 56 of 1956, sec. 22, for "three months" (w.e.f. 1-10-1956).
6. Ins. by Act 56 of 1956, sec. 23 (w.e.f. 1-10-1956).
7. Ins. by Act 77 of 1972, sec. 26 (w.e.f. 30-12-1972).
8. Subs. by Act 52 of 1975, sec. 37, for "Reserve Bank" (w.e.f. 16-2-1976) and again subs by Act 39 of 2000, sec. 28, for "Development Bank" (w.e.f. 5-9-2000).

¹[(2A) Nothing contained in sub-section (1) and sub-section (2) shall apply in a case where a State Government holds less than fifty-one per cent. of the equity shares in the Financial Corporation.

(2B) Notwithstanding the equity share holding of a Financial Corporation by a State Government, the State Government may advise the Financial Corporations on the matters of policy.]

(3) If the Board fails to carry out the instructions on the question of policy laid down by the State Government ²[under sub-section (1) of this section or the instructions given to the Board under sub-section (4) of section 37A], the State Government shall have the power to supersede the Board and appoint a new Board in its place to function until a properly constituted Board is set up, and the decision of the State Government as to the grounds for superseding the Board shall not be questioned in any court.

40. Declaration of fidelity and secrecy.—³[(1) The Financial Corporation shall not, except as otherwise required by this Act or any other law for the time being in force, divulge any information relating to, or to the affairs of, its constituents except in circumstances in which it is, in accordance with the law or practice and usage, customary among bankers, necessary or appropriate for the Financial Corporation to divulge such information.

(2) The Financial Corporation may, for the purpose of efficient discharge of its functions under this Act, collect from, or furnish to—

- (a) the Central Government;
- (b) the State Bank of India constituted under section 3 of the State Bank of India Act, 1955 (23 of 1955), any subsidiary bank within the meaning of the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), any corresponding new bank constituted under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970) or under section 3 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980 (40 of 1980) any other scheduled bank, any ⁴[State Co-operative Bank, the Small Industries Bank or the Development Bank],

such credit information or other information as it may consider useful for the purpose, in such manner and at such time as it may think fit.

Explanation.—For the purposes of this sub-section, the expression "credit information" shall have the same meaning as in clause (c) of section 45A of the Reserve Bank of India Act, 1934 (2 of 1934) subject to the modification that the banking company referred to therein shall mean a bank referred to in clause (b) of this sub-section.]

⁵[(3)] Every director, auditor, officer or other employee of the Financial Corporation shall, before entering upon his duties, make a declaration of fidelity and secrecy in the form set out in the Schedule.

⁶[(4) Nothing contained in this section shall apply to the credit information disclosed under the Credit Information Companies (Regulation) Act, 2005.]

1. Ins. by Act 39 of 2000, sec. 28 (w.e.f. 5-9-2000).
2. Ins. by Act 56 of 1956, sec. 23 (w.e.f. 1-10-1956).
3. Ins. by Act 48 of 1983, sec. 6 (w.e.f. 30-12-1983).
4. Subs. by Act 39 of 2000, sec. 29, for "State Co-operative Bank or the Development Bank" (w.e.f. 5-9-2000).
5. Section 40 renumbered as sub-section (3) thereof by Act 48 of 1983, sec. 6 (w.e.f. 30-12-1983).
6. Ins. by Act 30 of 2005, sec. 34 and Sch., Pt. III.