

Andhra Pradesh Lokayukta And Upa-Lokayukta (Investigation) Rules, 1984

CONTENTS

CHAPTER 1 :- Preliminary

1. Short title
2. Definitions

CHAPTER 2 :- CHAPTER

3. Complaint
4. Scrutiny of complaint

CHAPTER 3 :- CHAPTER

5. Preliminary Verification
6. Commencement of investigation
7. Procedure for conducting investigation
8. Reckoning of time limit for completing investigation
9. Refusal to investigate and discontinuance of investigation
10. Transfer of preliminary verification and investigation by Lokayukta
11. Furnishing copies of documents, affidavits and depositions
12. Place of sittings of Lokayukta and Upa Lokayukta
13. Completion of investigation
14. Death of complainant
15. Withdrawal of complaint
- 15A. Restoration and review
16. Interim report

CHAPTER 4 :- CHAPTER

17. Application of the Code of Criminal Procedure
18. Prosecution for false complaints
19. Transaction of business
20. Residuary Powers
21. Power to regulate proceedings and investigations
22. Power of Lokayukta to give directions
23. Application of rules to certain complaints

Andhra Pradesh Lokayukta And Upa-Lokayukta (Investigation) Rules, 1984

(INVESTIGATIONS) RULES, 1984

CHAPTER 1 Preliminary

1. Short title :-

These rules may be called the Andhra Pradesh Lokayukta and Upa Lokayukta (Investigations) Rules, 1984.

2. Definitions :-

(1) In these rules, unless the context otherwise requires,

(i) "Act" means the Andhra Pradesh Lokayukta and Upa Lokayukta Act, 1983 (Act No. 11 of 1983);

(ii) "complainant" means any person by whom a complaint is made under Section 9 of the Act;

(iii) "complaint" means a statement made in writing to the Lokayukta or Upa Lokayukta by a complainant containing an allegation against a public servant in respect of an action taken by such public servant;

(iv) "form" means a form appended to these rules;

(v) "governor" means the Governor of Andhra Pradesh; v-A Institution means the Institution of Lokayukta and Upa Lokayukta of Andhra Pradesh."

(vi) "investigation" means, any inquiry or other proceedings conducted by the Lokayukta or Upa Lokayukta in connection with the complaint, or on his own motion or under the orders of the Governor but shall not include preliminary verification:

(vii) "person aggrieved" means a person who sustained injustice; or undue hardship in consequence of any act of a public servant falling within the scope of sub clauses (i), (ii) or (iii) of clause (b) of Section 2 of the Act;

(viii) "preliminary" verification means any inquiry or other proceedings conducted by the Lokayukta or Upa Lokayukta in connection with a complaint or on his own motion for the purpose of satisfying himself as to whether there are any grounds for conducting an investigation into such complaint;

(ix) "Registrar" means the principal administrative officer of the establishment of the Lokayukta and Upa Lokayukta and appointed by the Lokayukta under sub section 14 of the Act;

(x) "state" means the State of Andhra Pradesh.

(2) words and expressions used in these rules but not defined

herein shall have the same meaning as assigned to them under the Constitution of India and the Act.

CHAPTER 2 CHAPTER

3. Complaint :-

(1) A complaint shall be signed by the complainant and shall be made in Form 1 accompanied by his own affidavit in Form II and affidavits of his witnesses, if any duly affirmed and attested by a Gazetted Officer, village munsif or patel, member of the State Legislature, Advocate , Notary Public, Sarpanch, or a Central Nazir or Deputy Nazir governed by the Andhra Pradesh Judicial Ministerial Service Rules.

Provided that the Lok Ayukta or the Upa Lok Ayukta, as the case may be, may in his discretion permit the filing of forms I and II on any day subsequent to the date of filling of the original complaint;

(2) Every complaint shall be accompanied by a Money Order, Banker s Cheque, or Demand Draft drawn in favour of the Registrar of the Institution on any Bank having a branch at Hyderabad for Rupee Twenty Five or cash of Rupee Twenty Five.

Provided that the Lok Ayukta or Upa Lok Ayukta may in his discretion extend time or making the payment as specified above or for sufficient cause to be recorded in writing may exempt the complainant from the requirement of this sub rule.

(3) A complaint may be presented in person to the Registrar or any other officer on duty authorised by him in this behalf or be sent by registered post.

4. Scrutiny of complaint :-

(1) As soon as may be after presentation or receipt of the complaint, it shall be scrutinised by such member of staff of the Lokayukta as may be specially authorised in that behalf by the Lokayukta.

(2) If on scrutiny of the complaint, it is found to be defective or deficient in any of the required particulars, the complainant shall be called upon in Form III to rectify the defects or supply the omissions within ten days or such further time as may be granted in his discretion by the Lokayukta or Upa Lokayukta, as the case may, be.

(3) If the defects are not rectified and or the omissions are not supplied within the time specified or such further time as may be granted by the Lokayukta or Upa Lokayukta, as the case may be, the Lokayukta or Upa Lokayukta may reject the complaint and inform the complainant in Form IV.

(4) The complaint shall also be liable for rejection in limine by the Lokayukta, or Upa Lokayukta as the case may be for any of the following reasons, namely:

(a) that the complaint does not disclose an allegation which may be investigated by the Lokayukta or Upa Lokayukta, as the case may be;

(b) that the complaint is

(i) frivolous, or

(ii) vexatious, or

(iii) not made in good faith.

(c) that there are no sufficient grounds for investigating the complaint;

(d) that other remedies are available to the complainant and in the circumstances of the case, it would be more proper for the complainant to avail of such remedies;

(e) that the public servant against whom the complaint is made is not one in respect of whom a complaint can be entertained by the Lokayukta or Upa Lokayukta;

(f) that the complaint is made after the expiry of six years from the date on which the action complained against is alleged to have taken place;

(g) that an earlier complaint based on the same allegations as those made in the present complaint was previously disposed of by the Lokayukta or Upa Lokayukta or any other authority.

(5) The Lokayukta or Upa Lokayukta, as the case may be, may, in his discretion afford an opportunity to the complainant to show cause why the complaint shall not be rejected for any of the reasons mentioned in sub rule (4).

CHAPTER 3 CHAPTER

5. Preliminary Verification :-

(1) After the registration of the complaint the Lokayukta or Upa Lokayukta, as the case may be shall inform the complainant in Form V and may make such preliminary verification as he deems fit in regard to the allegation in the complaint and the action

complained of on the basis of the information furnished through the complaint and the affidavits, documents and copies thereof, if any, enclosed to the complaint and also on his own motion before he proposes to conduct any investigation.

(2) The Lokayukta or Upa Lokayukta may utilise the services of such Law Officers or other legally trained persons as may be attached to his establishment in the course of the preliminary verification.

(3) The Lokayukta or Upa Lokayukta may if felt necessary hear the complainant after giving him notice in Form VI before passing an order refusing to investigate his complaint at the stage of the preliminary verification.

(4) If the Lok Ayukta or Upa Lok Ayukta, as the case may be, does not reject a complaint under sub rule (3) or sub rule (4) or Rule 4: and if in his opinion, the complaint contains verifiable details justifying further action. he may.

(i) call for remarks, information or report after a confidential probe from the concerned departmental authority or officer about the truth or otherwise of the allegations made in the complaint and fix a time for submission of such remarks, information or report; and or

(ii) require any investigating agency or the Investigation Section attached to the Institution to make a confidential probe into the allegations contained in the complaint and submit a report within the time specified.

(5) The remarks, information or report referred to in sub rule (4) shall after its receipt in the Institution be examined by the Legal Section attached to the Institution and after such examination they shall submit their report along with the remarks, information and report referred to in sub rule (4) of the Lok Ayukta or Upa Lok Ayukta as the case may be.

(6) After consideration of the remarks, information and or reports referred to in sub rules (4) and (5) and after hearing the complainant if and when available and necessary and also the officers of the Section, the Lok Ayukta or Upa Lok Ayukta, as the case may be, shall decide whether or not there are any sufficient grounds for ordering investigation, and if he finds that there are no sufficient grounds for conducting investigation, he shall pass an order rejecting the complaint;

Provided that if the Lok Ayukta or Upa Lok Ayukta, as the case may be, is of the opinion after a consideration of the material referred to in sub rules (4) and (5), that the injustice complained of or the

grievance alleged can be remedied or redressed at the departmental level, he may close the complaint and send the relevant records to the concerned departmental authority with suitable directions and for appropriate action,

(7) If after such consideration of the reports etc., mentioned above the Lok Ayukta or Upa Ayukta, as the case may be, is satisfied that there is a prima facie case for conducting an investigation into the allegations in the complaint, he may pass an order to that effect and direct the concerned officers of the Institution to take the necessary steps in that behalf.

(8) Nothing prevents the Lok Ayukta or Upa Lok Ayukta from closing a complaint at any stage and referring it to the concerned departmental authorities for appropriate action"

6. Commencement of investigation :-

(1) If the Lokayukta or Upa Lokayukta, after making necessary preliminary verification, proposes to conduct an investigation into the complaint, he shall inform the complainant accordingly and forward a copy of the complaint together with list of the witnesses whom the complainant proposes to examine and also the affidavits if any, produced by the complainant to the public servant concerned and the competent authority concerned. Provided that the Lok Ayukta or Upa Lok Ayukta, as the cases may be, any for reasons to be recorded in writing, permit the examination of any witnesses in addition to those cited in the Statement of allegations communicated to the public servant concerned".

(2) Where the Lokayukta or Upa Lokayukta proposes to conduct an investigation on his own motion against a public servant he shall forward to the public servant concerned and the competent authority concerned, a statement containing details of the action attributed to such public servant or the allegation against him regarding which information has been received by the Lokayukta or Upa Lokayukta otherwise than through a complaint together with a list of witnesses whom the Lokayukta or Upa Lokayukta proposes to examine. If any.

(3) Where the Governor makes an order under sub section(3) of Section 18 of the Act requiring the Lokayukta to investigate any action, the detailed grounds therefor together with a list witnesses, if any, shall be stated in the said order and a copy of the same shall be forwarded to the public servant concerned and the

competent authority concerned by the Lokayukta or Upa Lokayukta, as the case may be.

(4) The Public Servant concerned shall be afforded an opportunity in Form VII to offer his comments and also produce affidavits of his witnesses and the documents he desires to be examined and considered before further steps in the investigation are ordered, within a fortnight or before the expiry of such further time as may be granted in his discretion by the Lokayukta or Upa Lokayukta on the complaint referred to in sub rule (1) or such portions thereof as may be specified or on the statement referred to in sub rule (2) or the order and grounds referred to in sub rule (3).

(5) If no comments are received from the public servant concerned in response to the opportunity afforded to him under sub rule (4), the Lokayukta or Upa Lokayukta may proceed further with the investigation on the basis of the material available.

(6) If after receipt of the comments of the public servant concerned and on a consideration thereof, the Lokayukta or Upa Lokayukta comes to a provisional conclusion that the case does not warrant further investigation the Lokayukta or Upa Lokayukta may discontinue further investigation: Provided that before discontinuing further investigation, the complainant shall be heard in the matter.

(7) If inquiry into the conduct of an officer holding a post carrying a minimum scale of pay of rupees one thousand one hundred and fifty or below becomes necessary for conducting the investigation in regard to an allegation relating to a public servant falling within item (iii) of clause (k) of Section 2 of the Act, the Lokayukta or Upa Lokayukta may inquire into the conduct of such officer also; Provided that in so inquiring into conduct of such officer the Lokayukta or Upa Lokayukta shall to the extent necessary follow the procedure laid down in this Chapter.

7. Procedure for conducting investigation :-

(1) When the Lokayukta or Upa Lokayukta decides to conduct any investigation under the Act, notices shall be sent to the complainant and the public servant concerned in Form VIII informing them about the proposed investigation and directing them to appear in person on the date therein.

(2) In an investigation conducted on a complaint if the complainant so chooses, he may be permitted to engage a legal practitioner to

present the the case on his behalf. The public servant concerned shall also be informed that the may take the assistance of any other public servant or a legal practitioner to defend him.

(3) The Lok Ayukta or Upa Lok Ayukta, as the case may be, may utilise the services of any Legal Practitioner or an Officer of the Legal Section of the Institution or other legally trained person to assist him in any investigation by leading oral and documentary evidence in support of the allegations contained in the Statement of Allegations communicated to the public servant by cross examining the witnesses, if any, examined by or on behalf of the public servant and by addressing arguments.

(4) On the date fixed for appearance, the public servant concerned shall appear and he may also bring his defence assistant to represent him, In a case where investigation has been initiated on a complaint, the complainant and his legal counsel, if any, shall also be present.

(5) The Lokayukta or Upa Lokayukta shall ask the public servant concerned whether he admits or denies the allegations contained in the complaint or statement or grounds communicated to him earlier and his plea shall be recorded. If he admits, the Lokayukta or Upa Lokayukta as the case may be, shall communicate his findings and recommendations to the competent authority and if he denies, the Lokayukta or Upa Lokayukta as the case may be, shall conduct the investigation.

(6) If the public servant concerned requests permission to inspect the documents proposed to be relied upon in support of the allegations, he may be allowed such reasonable time as the Lokayukta or Upa Lokayukta deems fit for such inspection. If the public servant wishes to summon for any documents which are relevant for the purpose of his defence, he may file a written request for the same giving particulars of the documents and the relevancy and purpose for which they are required and thereupon, after satisfying himself about the relevancy and admissibility of the documents the Lokayukta or Upa Lokayukta may issue summons for production of such documents and adjourn the investigation to another date.

(7)

(i) For the purpose of conducting any investigation under the Act, the Lokayukta or Upa Lokayukta may utilise the services of:

(a) any officer or investigation agency of the State Government or the Central Government with the concurrence of that Government.

(b) any other person or agency; and such officer, investigation

agency, other person or agency shall act under the directions of the Lokayukta or Upa Lokayukta as the case may be.

(ii) The Lokayukta or Upa Lokayukta may appoint one or more assessors to assist and advise him on any matter connected with the investigation; Provided that the advice tendered by the assessors shall not be binding on the Lokayukta or Upa Lokayukta.

(iii) The Lokayukta or Upa Lokayukta may utilise the services of any technical person in any investigation under the Act.

(iv) The Lokayukta or Upa Lokayukta may accept as evidence in the case, the affidavits produced by the complainant and the public servant concerned and consider the documents produced by them as evidence without formal proof of the contents thereof, unless the genuineness or handwriting or contents of any document is challenged by either side, in which case he may permit necessary oral evidence to be adduced in proof of such documents.

(v) The officers of the Investigation Section while making a confidential probe into the allegations referred to them by the Lokayukta or the Upa Lokayukta, as the case may be, and submitting a report after such confidential probe, and the officers of the Legal Section while submitting reports after examining the remarks, information or report referred to in sub rules (4) and (5) of Rule 5, and the documents and records, if any, secured in the course of the preliminary verification, while leading evidence or cross examining the witnesses, if any, examined by or on behalf of the public servant and addressing arguments, shall act independently and on their own responsibility.

(8)

(i) For the purpose of any preliminary verification or investigation under the Act, the Lokayukta or Upa Lokayukta may issue summons in Form IX to any public servant or any other person whose attendance is required either to give evidence or produce documents.

(ii) Every summons issued by the Lokayukta or Upa Lokayukta shall be in duplicate and shall be signed by the Registrar and sealed with the seal of the Lokayukta or Upa Lokayukta as the case may be, and it shall specify the time and place at which the person summoned is required to attend and also whether his personal attendance is required for the purpose of giving evidence or to produce a document or for both the purposes.

(iii) A person may be summoned merely to produce a document without being summoned to give evidence: Any person summoned merely to produce a document shall be deemed to have complied

with the summons if he causes such document to be produced instead of attending personally to produce the same.

(iv) Every such summons shall be served generally by sending it by registered post or, where felt necessary, through a messenger to the person for whom it is intended.

(v) When a person, not in the Service of Government is required by the Lok Ayukta or by the Upa Lok Ayukta to appear before him to give evidence as a witness for the complainant or defence or to assist the Court, he being the complainant and having filed the compliant in public interest he shall be paid travelling allowance and daily allowance for the journey calculated under the ordinary rules for the journey of a Government Servant on tour and actual conveyance charges in the case of local persons and for this purpose the Lok Ayukta or Upa Lok Ayukta may declare by special order the grade to which such person shall be considered to belong according to his status in life and his decision in this respect shall be final.

(vi) For the purpose of investigation under the Act, the Lokayukta or Upa Lokayukta shall have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matter, namely:

(a) Summoning and enforcing the attendance of any person and examining him on oath:

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commission for the examination of witness and documents.

(9) On the receipt of the document summoned, a date shall be fixed for recording the evidence. As far as possible the witness shall be examined from day to day. Oral and documentary evidence shall be adduced in support of and against the allegation subject to the provisions of sub rule (10). The parties to the investigation shall have an opportunity to examine or cross examine or re examine the witnesses. The Lokayukta or Upa Lokayukta or his legal assistant may also put such questions as may be necessary to the witnesses.

(10) After the closure of the evidence in support of the allegation the public servant concerned shall be called upon to file a list of witnesses to be examined on his behalf and the documents to be filed in support of his defence.

(11) After the closure of the defence evidence, the Lokayukta or

Upa Lokayukta as the case may be, may hear oral arguments on both sides if he thinks it necessary. Both sides may file written briefs of their respective cases if they so desire.

(12) Whenever the Lokayukta or Upa Lokayukta considers that it is not expedient to follow the above procedure he may regulate the procedure for conducting the investigation in such manner as he deems fit in the circumstances of each case. Including the appointment of a Gazetted Officer of the Institution as Commissioner to receive documentary evidence and record oral evidence in the investigations conducted under this Act, alinude the powers conferred on a Civil Court under Order XXVI of the Code of Civil Procedure and putting such questions to any witness examined in the course of the Investigations conducted under the Act as may be necessary for purposes of elucidation of any points in issue, provided however that such procedure shall conform to the principles of natural justice and shall not be repugnant to the rules and other conditions of service, if any applicable to the public servant concerned.

8. Reckoning of time limit for completing investigation :-

The time limit mentioned in clause (b) of sub section (2) of Section 10 of the Act shall be reckoned from the date on which the Lokayukta or Upa Lokayukta, as the case may be, orders a copy of the complaint or statement to be forwarded to the public servant concerned and the competent authority concerned under clause (a) of sub section (1) of Section 10 of the Act.

9. Refusal to investigate and discontinuance of investigation :-

(1) The Lokayukta or Upa Lokayukta shall not investigate any allegation for any of the reasons mentioned in clauses (a) and (d) of sub section (1) of Section 8 of the Act.

(2) The Lokayukta or Upa Lokayukta as the case may be, may at any time after the commencement of any investigation under the Act order discontinuance of further investigation of any complaint involving an allegation for any of the reasons mentioned in clauses (a) to (c) of sub section (4) of Section 10 of the Act.

10. Transfer of preliminary verification and investigation by Lokayukta :-

The Lokayukta may make over any preliminary verification or investigation under the Act to the Upa Lokayukta for reasons to be recorded in writing, if, in his opinion, it would be consistent with principles of natural justice and fair play so to do.

11. Furnishing copies of documents, affidavits and depositions :-

Furnishing Copies of documents, affidavits and depositions the complainant and the public servant shall be entitled to be supplied with copies of the documents exhibited, affidavits relied upon and depositions recorded in the Course of any investigation under the Act at their own cost. The fee for the supply of such copies is fixed as follows

12. Place of sittings of Lokayukta and Upa Lokayukta :-

The Lokayukta or Upa Lokayukta may, in his discretion, conduct any preliminary verification or any investigation under the Act either partly or wholly either at his principal seat at Hyderabad or at such other place or place in the State as may be notified by him from time to time.

13. Completion of investigation :-

(1) After completion of investigation of any allegation in respect of any action under the Act, the Lokayukta or Upa Lokayukta, as the case may be, if satisfied that the allegation is substantiated either wholly or partly, shall by a report in writing communicate his finding and recommendations along with the relevant documents, materials or other evidence the competent authority concerned.

(2) If after investigation if any allegation in respect of any action under the Act, the Lokayukta or Upa Lokayukta, as the case may be, is satisfied that the allegation is not substantiated even partly, he shall inform the complainant and the public servant concerned and competent authority concerned accordingly.

14. Death of complainant :-

When the complainant after making a complaint either dies or is incapacitated from taking or does not take further steps for substantiating the allegation, the Lokayukta or Upa Lokayukta, as

the case may be, for reasons to be recorded in writing, proceed further with the complaint on the basis of the material available.

15. Withdrawal of complaint :-

No complaint shall be permitted to be withdrawn unless the Lokayukta or Upa Lokayukta, as the case may be, is satisfied that the complaint was made under a bona fide mistake or that the grievance complained of, has been adequately redressed.

15A. Restoration and review :-

(1) Where a complaint is rejected under sub rule (3) of Rule 4 or for non appearance of the complainant before the Lok Ayukta or Upa Lok Ayukta, in response to the notice issued under sub rule (5) of Rule 4, the complainant shall be precluded from bringing a fresh complaint on the same set of facts. But he may apply for an order to set the rejection aside and if he satisfies the Lok Ayukta or Upa Lok Ayukta, as the case may be, that there was sufficient cause for not rectifying the defects and or not supplying the omissions within the time specified or for not appearing before the Lok Ayukta or Upa Lok Ayukta, as the case may be, in response to a notice issued under sub rule (5) of Rule 4, the Lok Ayukta or Upa Lok Ayukta, as the case may be, shall make an order setting aside the rejection of the complaint upon such terms as he thinks fit and shall appoint a day for proceeding further with the matter.

16. Interim report :-

(1) The Lokayukta or Upa Lokayukta as the case may be, may forward an Interim report to the competent authority recommending grant of interim relief to complainant if he is satisfied, at the stage of preliminary verification or investigation, that the complainant has sustained injustice or undue hardship in consequence of any act of a public servant and that the grievance complained of shall be redressed expeditiously.

(2) The competent authority shall intimate the Lokayukta or Upa Lokayukta, as the case may be, within one month from the date of receipt of the interim report referred to in sub rule (1), the action taken in pursuance thereof.

CHAPTER 4 CHAPTER

17. Application of the Code of Criminal Procedure :-

The procedure prescribed in Sub section (1) of Section 340 of the Code of Criminal Procedure, 1973 (Act No.2 of 1974) shall be followed in respect of offences referred to in clause (b) of sub section (1) of Section 195 of the said Code and the complaint made under Section 340 of the said Code shall be signed by the Registrar.

18. Prosecution for false complaints :-

When upon an application made by a person against whom a complaint was made, the Lokayukta or upa Lokayukta, as the case may be, is satisfied after such enquiry as he deems necessary, that a false complaint has been wilfully or maliciously made against such person under the Act and that it is expedient and in the interests of justice to accord sanction to such person to prosecute the complainant for wilfully or maliciously making a false complaint against him under the Act, sanction may be accorded to such person to lay a complaint against the complainant before a Court of the Judicial Magistrate of the First Class.

19. Transaction of business :-

The Lokayukta may, from time to time, by general or special order provided for the convenient and efficient transaction of business arising on the administration and implementation of these rules and the procedure to be followed for the purpose:

Provided that such order may also specify a matter or class of matters which shall be brought to the personal notice of the Lokayukta or Upa Lokayukta before any orders are issued.

20. Residuary Powers :-

All matters not specifically provided for in these rules, whether incidental or ancillary to the provisions of these rules or otherwise, including the fixation of vacations for the Lokayukta and Upa Lokayukta and holidays and vacations for their office and establishment, shall be regulated in accordance with such orders as the Lokayukta may, from time to time, make.

21. Power to regulate proceedings and investigations :-

The Lokayukta or Upa Lokayukta shall have the power, subject to

the provisions of the Act and these rules, to regulate the conduct of proceedings, preliminary verifications, investigations and inquiries in all matters not provided for in these rules.

22. Power of Lokayukta to give directions :-

The Lokayukta may by order not inconsistent with these rules, provide for matters for which no provision has been made in these rules, and may give such directions as may be necessary for giving effect to the provision of the Act, and such orders.

23. Application of rules to certain complaints :-

The complaints received by the Lokayukta before the making of these rules shall also be disposed of in accordance with these rules.