

GUJARAT LOKAYUKTA RULES, 1989

CONTENTS

CHAPTER 1 :- PRELIMINARY

1. Short title
2. Definitions.

CHAPTER 2 :-COMPETENT AUTHORITY, OPINION OF THE CHIEF JUSTICE OF HIGH COURT, AND FORM AND CONTENTS OF COMPLAINTS, AFFIDAVITS AND DEPOSIT

3. Competent Authority under sub-clause (b) of clause (3) of section 2.
4. Manner of obtaining opinion of Chief Justice of the High Court under sub-section (3) of section 8.
5. Form and contents of complaint.
6. Signature or thumb impression below complaint.
7. Copies of complaint.
8. Affidavit to accompany complaint.
9. Contents of affidavit.
10. Manner of submission of complaint or affidavit.
11. Copies of documents to be relied upon.
12. Deposit under sub-section (4) of section 9.

CHAPTER 3 :-PRELIMINARY ACTION ON RECEIPT OF COMPLAINT ETC.

13. Registering of complaints.
14. Defects in complaints.
15. Effects of non-compliance.
16. Acknowledgment of complaint.

CHAPTER 4 :- INVESTIGATION AND PROCEDURE

17. Notice to public functionary in case of investigation
18. Manner of service of notice.
19. Manner of reply.
20. Failure to reply.
21. Power to condone delay.
22. Safe custody of documents etc.
23. Appearance of Advocate Pleader, etc.
24. Notice of hearing.
25. Examination and cross-examination of witnesses.
26. Administering oath and recording of evidence.

- 27. Interpreters.
- 28. Witness summons and process.
- 29. Witness summons and manner of service.

CHAPTER 5 :- ACCOUNTS

- 30. Issue of receipt.
- 31. "I" Register.
- 32. "J" Register.
- 33. Cash Book.
- 34. Balance over one year.

CHAPTER 6 :- CLOSURE OF A CASE

- 35. Procedure after closure of case under section 10.

CHAPTER 7 :-FURNISHING OF INFORMATION AND PRODUCTION OF DOCUMENTS ETC.

- 36. Furnishing of information and production of documents.
- 37. Consequences of refusal of party to produce documents.

CHAPTER 8 :- MISCELLANEOUS

- 38. Time limit for certificate under sub-section (8) of section 11.
- 39. Rehearing of a complaints.
- 40. Powers of Lokayukta under clause (f) of sub-section (2) of section 11.
- 41. Certified copy.
- 42. Destruction of record.
- 43. Attendance of witnesses.

GUJARAT LOKAYUKTA RULES, 1989

In exercise of the powers conferred by section 23 of the Gujarat Lokayukta Act. 1986 (31 of 1986). the Governor of Gujarat hereby makes the following rules namely: -

CHAPTER 1 PRELIMINARY

1. Short title :-

- (1) These rules may be called the Gujarat Lokayukta Rules. 1989 .
- (2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions. :-

In these rules, unless the context otherwise requires-

- (a) "The Act" means the Gujarat Lokayukta Act, 1986.

(b) "Civil Manner means the Civil Manual issued by the High Court of Judicature, Bombay Appellate side. and adopted by the High Court of Gujarat for the Guidance of the Civil Courts and Officers subordinate to it. as amended from time to time:

(c) "Code" means the code of Civil Procedure 1908 in its application to the State of Gujarat;

(d) "Criminal Manual" means the Criminal Manual issued by the High Court of Gujarat for the guidance of the Criminal Courts and officers subordinate to it as amended from time to time;

(e) "Form" means a form appended to these rules;

(f) "Registrar" means a person appointed to be the Registrar under section 15:

(g) "Secretary" means a Secretary to the Government of Gujarat and includes the Chief Secretary, Principal Secretary, Additional Chief Secretary and Special Secretary:

(h) "Section" means a section of the Act.

(2) Words and expressions used but not defined in these rules and defined in the Act, shall have the meanings respectively assigned to them in the Act.

CHAPTER 2

COMPETENT AUTHORITY, OPINION OF THE CHIEF JUSTICE OF HIGH COURT, AND FORM AND CONTENTS OF COMPLAINTS, AFFIDAVITS AND DEPOSIT

3. Competent Authority under sub-clause (b) of clause (3) of section 2. :-

The competent authority, in relation to a public functionary other than a Minister shall be the Secretary to the Government of Gujarat of the Department, controlling or concerned with a Government Company, a Corporation or a University referred to in sub-clause (b), (c) or (d) of clause (7) of section 2 respectively, as the case may be.

4. Manner of obtaining opinion of Chief Justice of the High Court under sub-section (3) of section 8. :-

(1) If any dispute arises under sub-section (3) of section 8, the Governor shall forward a copy of the application made to him by the party aggrieved in this behalf to the Lokayukta calling upon him to offer his views thereon within a period of fifteen days from

the date of receipt of the application by the Governor or within such further period, if any, as may be extended by the Governor on the request of the Lokayukta.

(2) On receipt of the views of the Lokayukta under sub-rule (1), the Governor shall draw up a statement of the case and, along with a copy of the application of the aggrieved party and a copy of the views thereon of the Lokayukta, refer the statement to the Chief Justice of the High Court for his opinion within such period as may be specified in the statement or such further period as may be specified in the statement or such further period as may be extended by the Governor.

5. Form and contents of complaint. :-

Save as otherwise provided in these rules, every complaint under the Act shall be made, as far as possible, in Form A and shall contain the following particulars namely-

(a) The name and address of the complainant.

(b) The name, official designation and address of the public functionary against whom a complaint stating the allegation is made.

(c) The details of the content of the action complained and of the allegation.

(d) A Statement that the complainant has not for the same matter resorted to any other remedy by way of proceedings before any tribunal or court of law or any other authority empowered to decide that matter. If the complainant has resorted to any such remedy, the designation of the tribunal or court or authority, as the case may be, before which such proceedings were instituted, the date on which they were instituted, the number given to such proceedings, if the proceedings are disposed of the result of such proceedings and if the proceedings are pending, the stage at which pending should be stated.

6. Signature or thumb impression below complaint. :-

Every complaint shall be duly signed by the complainant, or if he is illiterate it shall bear his thumb impression duly attested by a literate person under his signature, and such person shall give his full name. designation, if any. and complete address below his signature.

7. Copies of complaint. :-

Every complaint shall be accompanied by as many spare copies thereof and the documents relied upon or referred to and forwarded alongwith the complaint as there are public functionaries complained against.

8. Affidavit to accompany complaint. :-

Every complaint shall be accompanied by an affidavit as provided for in Rule 9 and Rule 10 and shall also be accompanied by a copy of the document as evidence of payment of the amount of deposit under rule 12.

9. Contents of affidavit. :-

Every affidavit shall be drawn up clearly and legibly and, as far as possible, in a language which the person making it understand. It shall be drawn in the first person and shall be divided into paragraphs, if any, which should be numbered consequently. Each paragraph shall, as far as possible be confined to a distinct subject or portion thereof. The affidavit shall be sworn in before the Registrar or any officer authorised in this behalf by the Lokayukta or before a person legally authorised to administer oath.

(2) Every person making an affidavit shall state his name, father's or husband's name as the case may be surname, if any age profession or trade and place of residence and give such other particulars as will make it possible to identify him clearly.

(3) Every affidavit shall be duly signed by the person making it. or if he is illiterate it shall bear his thumb impression duly attested by a literate person under his signature and such literate person shall give his full name, designation, if any, and complete address below his signature.

(4) Every affidavit shall also include averments consistent with clause (c) of Rule 5.

10. Manner of submission of complaint or affidavit. :-

(1) Every complaint or affidavit shall be legibly typed or written on full scape paper only on one side, leaving one-fourth of each page as margin and shall be entitled "Before the Lokayukta, Gujarat."

(2) Every affidavit shall conclude as follows:- "I do swear in the name of God that this is my name and solemnly affirm, thumb impression/Signature and that the contents of this affidavit are

true. I further swear/solemnly affirm that what is stated in paragraph (give numbers) is true to my personal knowledge and what is stated in paragraphs (give numbers) is (true to my information and is believed by me to be true."

11. Copies of documents to be relied upon. :-

(1) If a complainant wants to rely upon any document, he shall alongwith his complaint. submit under his signature or thumb impression duly. attested, a true copy of the document on which he wants to rely.

(2) All such documents filled shall be accompanied by a list in Form-B.

12. Deposit under sub-section (4) of section 9. :-

The complainant shall deposit an amount of one thousand rupees by a demand draft. or by an account payee cheque, which is good for payment on any Nationalised Bank drawn in favour of the Registrar, or by making payment in cash in the civil deposits account of the Registrar maintained in the Government Treasury or in the Office of the Lokayukta and obtain the receipt for the same in Form C.

CHAPTER 3

PRELIMINARY ACTION ON RECEIPT OF COMPLAINT ETC.

13. Registering of complaints. :-

After any complaint is received in the office of the Lokayukta it shall be scrutinized by the Registrar or any officer authorised in this behalf by the Lokayukta and if the Registrar or the authorised officer as the case may be (hereinafter in this chapter referred to as "the registering authority"), is satisfied that the complaint is proper, he may direct the complaint to be registered in a register maintained for that purpose.

14. Defects in complaints. :-

If the registering authority finds that the complaint is not according to the rules or is otherwise defective, he may postpone the registration of the complaint and inform the complainant in Form-D to rectify the defects within a specified time and after such compliance he may direct the complaint to be registered.

15. Effects of non-compliance. :-

If the necessary requirements are not complied with within the time specified under rule 14 or such further time as the registering

authority may allow, the complaint may be put up by the registering authority before the Lokayukta and the Lokayukta may summarily reject such complaint or pass such other order as he deems fit in the circumstances of the case.

16. Acknowledgment of complaint. :-

After any complaint is registered, the registering authority or any other officer empowered in that behalf by the Registrar, shall send to the complainant an acknowledgment of the complaint in Form (D) informing him that his complaint is registered and giving him the number of his complaint.

CHAPTER 4

INVESTIGATION AND PROCEDURE

17. Notice to public functionary in case of investigation :-

(1) Where the Lokayukta proposes (after making such preliminary inquiry as he deems fit) to conduct any investigation under the Act. he shall send a notice in Form-E to the public functionary concerned. alongwith a copy of the complaint or in the case of any investigation which he proposes to conduct on his own motion, a statement setting out the grounds therefor. The notice shall require the public functionary to submit his reply within the time specified therein or within such further time, if any as may be granted.

(2) A copy of such notice and of its accompaniments shall also be sent to the competent authority concerned.

18. Manner of service of notice. :-

A notice under rule 17 shall be served upon the public functionary concerned by registered post acknowledgment due or by hand delivery after obtaining a receipt from him.

19. Manner of reply. :-

Such public functionary shall send his reply and offer his comments within the time specified or granted under sub-rule (1) of rule 17. The reply shall be accompanied by an affidavit and also by true copy or copies of the document or documents, if any. on which the public functionary desires to rely for his defence.

20. Failure to reply. :-

If such public functionary fails to appear personally to file his reply and to offer his comments or fails to file his reply and to offer his comments, within the time specified or granted under sub-rule (1) of rule 17 the complaint may be heard and decided in his absence.

21. Power to condone delay. :-

The Lokayukta may for sufficient cause shown to his satisfaction allow the public functionary concerned to the his reply and to offer his comments after the time specified or granted under sub-rule (1) of rule 17 has elapsed.

22. Safe custody of documents etc. :-

If any party to the investigation files a document or documents in his support or if any file is called for from the public record, and if the Lokayukta considers it necessary in the interest of safety or security, he may specially direct any officer subordinate to him to take the documents or the file in his charge and safe custody, subject to further orders in that behalf.

23. Appearance of Advocate Pleader, etc. :-

Ordinarily, no Advocate. Pleader, Muktyar or oilier legal representative shall be allowed to appear before the Lokayukta in the investigations under this Act:

Provided that the Lokayukta may in specific cases allow the parties to appear through any such person if the Lokayukta is satisfied that such appearance is necessary in the interest of the proper disposal of the complaint.

24. Notice of hearing. :-

(1) During the course of conducting an investigation, the Lokayukta may serve both parties with notice in Form F to appear before him for a hearing, with or without witnesses, or for any other purpose.

(2) Such notice may be seat through the police station of the area in which the complainant or public functionary complained against ordinarily resides or through the Head of the Department in which the public functionary is serving or by registered post acknowledgment due or in such other mariner as the Lokayukta thinks fit.

25. Examination and cross-examination of witnesses. :-

During the course of hearing, each party shall have a right to examine himself and his witnesses and to cross-examine the opposite party and the witnesses examined by that party:

Provided that if the Lokayukta is satisfied that the cross-examination is not relevant to the subject matter of the complaint, or is unduly lengthy or is otherwise improper, he may disallow it or

any part. of it after recording the reasons thereof.

26. Administering oath and recording of evidence. :-

(1) The Lokayukta or an officer duly empowered by the Lokayukta in this behalf may administer oath to every person examined during investigation under the Act.

(2) The Lokayukta may record in English the substance of the evidence given by each person examined by him.

27. Interpreters. :-

(1) The Lokayukta may in special cases appoint an interpreter or interpreters, who shall be paid remuneration at such rate as may be fixed by the Lokayukta.

(2) The interpreter shall take oath in the following form:- "I do swear in the name of God that I will well and truly interpret and explain all questions put to, and evidence given by, witnesses and translate correctly all documents given to me for translation."

28. Witness summons and process. :-

If either party wants his witnesses to be summoned he shall pay in the form of court-fee stamps and process fee at the rate of 50 paise per witness and he shall deposit in the Office of the Lokayukta subsistence allowance at the rate prescribed in the Criminal Manual and obtain a receipt as prescribed by Rule 30:

Provided that the members of the Scheduled Tribes and Scheduled Castes shall be exempted from the payment of the process fee.

29. Witness summons and manner of service. :-

Save as otherwise provided or in the absence of any other specific order in that behalf. summons to witnesses may be issued in Form G and may be served through the police station within the jurisdiction of which the witness resides.

CHAPTER 5
ACCOUNTS

30. Issue of receipt. :-

Party depositing witness subsistence allowance under Rule 28 shall be given a receipt in Form H.

31. "I" Register. :-

Such amounts shall be entered in Form-1.

32. "J" Register. :-

All amounts paid to a wit-ness or wit-nesses or repaid to the party concerned, shall be entered in Fonn J.

33. Cash Book. :-

The daily total of I and J. registers shall be carried to the daily Cash Book, (i.e. Form-K).

34. Balance over one year. :-

The balances unclaimed within one year from the close of the case shall, after the close of March next year, be credited to Government.

CHAPTER 6

CLOSURE OF A CASE

35. Procedure after closure of case under section 10. :-

If the Lokayukta refuses to investigate or ceases to investigate any complaint for reasons stated in sub-section (4) of section 10, the finding shall be communicated to the complainant and, if necessary, to the public functionary concerned in Form-L.

CHAPTER 7

FURNISHING OF INFORMATION AND PRODUCTION OF DOCUMENTS ETC.

36. Furnishing of information and production of documents.

:-

(1) Where the Lokayukta requires any public functionary or any other person to furnish information or to produce documents under sub section (1) of Section 11, the Registrar or the officer authorised by him in this behalf, as the case may be shall issue a notice in Form M to the officer or authority in whose custody that document or file would ordinarily be.

(2) If the file is not produced or sent within one month from the date of receipt of the notice by the officer or authority concerned, the Registrar or the authorised officer, as the case may be. shall write to the Head of the Department or, as the case may be. the administrative Department concerned and wait for 10 days thereafter.

(3) If the file is not received within 15 days of the letter referred to in sub rule (2). the complaint shall be put up before the Lokayukta for disposal.

37. Consequences of refusal of party to produce documents.

:-

Where any party to an investigation before the Lokayukta refuses without valid excuse, to produce a document or documents in his custody or power, the Lokayukta may proceed to decide the matter against him in the absence of those documents and may also strike off the complaint or defence, as the case may be. or may make such other order as he thinks fit.

CHAPTER 8 MISCELLANEOUS

38. Time limit for certificate under sub-section (8) of section 11. :-

The certificate as required by sub section (8) of section 11 shall be issued by the Chief Secretary within a period of sixty days from the day on which the information is required to be furnished, the question is required to be answered, or the document is required to be produced:

Provided that this period may be extended by the Lokayukta for such further period as he thinks fit.

39. Rehearing of a complaints. :-

If the case is closed for default of complainant or if it is ordered to be filed or if it is decided ex-parte against the Public functionary, the Lokayukta if sufficient cause is shown to him. may restore the complaint to file and may re-open the case and re-hear on merit.

40. Powers of Lokayukta under clause (f) of sub-section (2) of section 11. :-

(1) While conducting a preliminary inquiry or an investigation under the Act, the Lokayukta shall have all the powers of a Civil Court as contained in Order XI. rules 12, 13, 14 and 21. Order XII rule 3-A, Order XIII rule 10, Order XVI. rules 1 to 7. 10. 11.12 regarding imposition of fine only, 14, 15 and 16 in the First Schedule to the Code, with such variations as circumstances may required -

(2) Any amount of fine imposed in accordance with Order XVI rule 12 aforesaid, shall be recovered from the party as an arrear of land revenue.

41. Certified copy. :-

No person shall be entitled to a certified copy of any record of the proceeding before the Lokayukta:

Provided that, subject to the Provisions of sub-section (2) of section 10 and sub-section (1) of section 16. the Lokayukta may permit a certified copy to be granted of the final order passed in a case. or of such part thereof, as he may deem fit.

42. Destruction of record. :-

Subject to the general or special order issued by the Lokayukta in this behalf, the record of a case may be destroyed after a period of three years from the date of close of the case:

Provided that. the original complaint and the final order passed or the finding given shall be preserved permanently.

43. Attendance of witnesses. :-

(1) If while making any preliminary inquiry or while conducting any investigation under the Act. or at any time, the Lokayukta on his own motion examines any person as a witness, whether as a witness to give evidence or to produce any document in his possession, and if such person is in any private service, such person shall obtain from the office of the Lokayukta a certificate that he has attended the office of the Lokayukta for the purpose of giving evidence. The certificate shall state the date of his appearance and the period for which he had been detained.

Explanation.-For the purpose of this rule, "Private service" means any employment other than that of a public servant.

(2) If the person produces such a certificate before his employer, he shall be deemed to have been on duty on such date or dates and he shall not be marked absent from duty on such date or dates or be penalized in any manner.

(3) If such person is a public servant to whom Civil Services Rules or Regulations apply, he shall obtain a similar certificate that he was so summoned and has attended that office of the Lokayukta. Upon production of such a certificate, he shall be treated as on duty on the date or dates on which he attended the office of the Lokayukta.