

Mahatma Gandhi National Rural Employment Guarantee (Appointment, Powers and Duties of the Ombudsman) Madhya Pradesh Rules, 2013

MADHYA PRADESH

India

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Rule

MAHATMA-GANDHI-NATIONAL-RURAL-EMPLOYMENT-GUARANTEE- of 2013

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Mahatma Gandhi National Rural Employment Guarantee (Appointment, Powers and Duties of the Ombudsman) Madhya Pradesh Rules, 2013Published vide Notification No. 5381Last Updated 13th February, 2020No.5381. - In exercise of the powers conferred by sub-section (1) of Section 32 of the Mahatma Gandhi National Rural Employment Guarantee Act, 2005 (42 of 2005) and according to the Order No. J-11011/21/2008 NREGA dated 7th September, 2009 of the Government of India, Ministry of Rural Development issued under sub-section (1) of Section 27 of the said Act, the State Government, hereby, makes the following rules the same having been previously published in the Madhya Pradesh ordinary Gazette, Part 4, dated 17th May, 2013 as required by sub-section (1) of Section 32 of the said Act, namely :-

Chapter I Preliminary

1. Short title and commencement.

(1)These rules may be called the Mahatma Gandhi National Rural Employment Guarantee (Appointment, Powers and Duties of the Ombudsman) Madhya Pradesh Rules, 2013.(2)They shall come into force from the date of their publication in the Madhya Pradesh Gazette.

2. Application.

- These rules shall apply for the grievances received under rule 7 and shall apply to the territorial jurisdiction of the State of Madhya Pradesh.

3. Definitions.

- In these rules, unless the context otherwise requires, -(a)"Act" means the Mahatma Gandhi National Rural Employment Guarantee Act, 2005 (42 of 2005);(b)"Award" means an award passed by the Ombudsman appointed under these rules;(c)"Competent representative" means such a person who is duly authorized by the complainant and who is his representative for proceedings before the Ombudsman;(d)"Divisional headquarter" means the headquarters of a revenue division;(e)"Divisional Vigilance Committee" means a committee constituted under section 13A of the Madhya Pradesh Lokayukt Evam Up-Lokayukt Adhiniyam, 1981 (No. 37 of 1981);(f)"Grievance" means an oral or written grievance under rule 7 which includes claims of any person due to result of maladministration of Scheme worker or authority, fatal injustice or casual grief's;(g)"Office bearer" means a panch, sarpanch or up-sarpanch of any Gram Panchayat under the Madhya Pradesh Panchayat Raj Avam Gram Swaraj Adhiniyam, 1993 (No. 1 of 1994);(h)"Ombudsman" means a person acting as Ombudsman under sub-rule (1) of rule 4;(i)"Scheme worker or authority" means a person or person entrusted with powers and duties under the Scheme;(j)"State Government" means the Panchayat and Rural Development Department of the Government of Madhya Pradesh;

Chapter II

Ombudsman of the Scheme

4. Jurisdiction, tenure, autonomy, remuneration, office, technical and administrative support to Ombudsman of the Scheme.

(1)Members of the Divisional Vigilance Committee notified by the State Government under section 13A of the Madhya Pradesh Lokayukt Evam Up-Lokayukt Adhiniyam, 1981 (No. 37 of 1981) shall act as Ombudsman of the Scheme.(2)The State Government shall appoint a member of the Divisional Vigilance Committees as ex-officio Ombudsman of the Scheme for one or more than one districts under his jurisdiction.(3)The State Government may also appoint Ombudsman of the Scheme by designation of the Chairman or Members. Members may be addressed as number 1 and number 2.(4)A member of the Divisional Vigilance Committee shall hold the office of Ombudsman of the Scheme until they are member of the Divisional Vigilance Committee.(5)Ombudsman of the Scheme shall be independent of the jurisdiction of the State Government.(6)Ombudsman of the Scheme shall be paid rupees 500/- per sitting or as fixed by the State Government from time to time, as honorarium.(7)The office of the Ombudsman of the Scheme shall be located in the office of the Divisional vigilance Committee at the divisional headquarters.(8)Technical and administrative support to the Ombudsman of the Scheme shall be given by the concerned office of the Zila Panchayat. The services of one steno and one peon shall be provided to each Ombudsman of the

Chapter III

Powers and Duties

5. Powers of the Ombudsman.

(1)The Ombudsman of the Scheme shall have the following powers, namely :-(a)to receive grievances from Scheme workers and other person on any one or more issues specified in rule 7;(b)to consider the grievances and facilitate their disposal in accordance with these rules.(2)The Ombudsman of the Scheme shall have the powers namely :-(a)summoning and enforcing the attendance of any person the from any part of the State and examining him on oath;(b)requiring the discovery and production of any document;(c)receiving evidence on affidavits;(d)receiving any public record or copy thereof from any office;(e)issuing commission for examination of witnesses and documents.(3)The Ombudsman may require the Scheme authority to provide any information and to furnish certified copies of any document relating to the subject matter of the grievance which is or is alleged to be in his possession:Provided that in the event of failure of such authority to comply with the requisition without any sufficient cause, the Ombudsman of the Scheme may, if he deems fit, draw the inference that the information, if provided, or copies, if furnished, would be unfavorable to the concerned Scheme Authority.(4)The Ombudsman may issue direction for conducting spot investigation.(5)The Ombudsman may Initiate proceedings suo motu in the event of any circumstances arising within his jurisdiction that may cause any grievance.(6)The Ombudsman may engage experts for facilitating the disposal of grievance.(7)The Ombudsman may investigate into a complaint and report its finding to the State Government and may also recommend disciplinary and punitive action, if deems appropriate.

6. Duties of the Ombudsman.

- The Ombudsman shall have the following duties, namely:-(a)he shall be responsible for the conduct of business in his office;(b)he shall maintain confidentiality of any information or document coming into his knowledge or possession in the course of discharging his duties and not disclose such information or document to any person except with the consent of the person furnishing such information or document:Provided that nothing in this clause shall prevent Ombudsman from disclosing information or documents furnished by a party in a grievance to the other party or parties, to the extent considered by him to be reasonably required to comply with the principles of natural justice and fair play in the proceedings;(c)he shall send a report to the State Government after making an inquire recommending appropriate action. The report shall specially highlight cases where action needs to be taken against erring Scheme functionaries. The report will be accompanied with primary evidence needed to initiate action against the delinquent person;(d)he shall furnish a report every year containing a general review of activities of the office of the Ombudsman during the preceding financial year to the State Government along with such other information as may be considered necessary by him. In the annual report, the Ombudsman, on the basis of grievances handled by him, will review the quality of the working of the Scheme Authorities

and make recommendations to improve implementation of the Scheme. The report shall be put on the Scheme website;(e)he shall compile a list of reports sent by him between April and March of each financial year in respect of every Scheme Authority complained against and report it to the State Government. This report shall also be kept on the Scheme website.(f)if he finds fatal injustice or grief to a person, due to maladministration he may pass an award in favour of the complainant.

Chapter IV

Procedure For Redressal of Grievances

7. Subjects of the grievances.

- A grievance pertaining to any one or more of the following subjects alleging deficiency in the implementation of the Scheme may be filed with the Ombudsman:-(i)The Gram Sabha;(ii)Registration of households and issue of job cards;(iii)Custody of job cards;(iv)Demand for work;(v)Issue of dated acknowledgment against submission of application for work;(vi)Payment of wages;(vii)Payment of unemployment allowance;(viii)Discrimination on the basis of gender;(ix)Work-site facilities;(x)Measurement of work;(xi)Quality of work;(xii)Use of machines;(xiii)Engagement of contractors;(xiv)Operation of accounts in the bank or post offices;(xv)Registration and disposal of grievances;(xvi)Verification of muster rolls;(xvii)Inspection of documents;(xviii)Use of funds;(xix)Release of funds;(xx)Social audit;(xxi)Maintenance of record.

8. Procedure of filing of grievance and disposal.

(1)Any person who has a grievance against the Scheme Authority or worker may, himself or through his authorised competent representative, make a grievance against the Scheme Authority or worker in writing or oral to the Ombudsman.(2)A complaint may be filed as far as possible by a person or persons themselves or through such competent representative for whom Ombudsman permits.(3)The grievance shall be duly signed by the complainant or his authorised competent representative, if any, and shall state clearly the name and address of the complainant, the name of the office and official of the Department against whom the grievance is made, the facts giving rise to the grievance supported by documents, if any, relied on by the complainant and the relief sought from the Ombudsman.(4)A grievance made through electronic means shall also be accepted by the Ombudsman and a print out of such grievance shall be taken on the record of the Ombudsman(5)A printout of the grievance made through electronic means shall be signed by the complainant at the earliest possible opportunity before the Ombudsman takes steps for disposal.(6)The signed printout shall be deemed to be the grievance and it shall relate back to the date on which the grievance was made through electronic means.(7)No grievance to the Ombudsman shall lie if the grievance is in respect of the same subject matter which was disposed by the Office of the Ombudsman in any previous proceedings whether or not received from the same complainant or along with any one or more complainants or any one or more of the parties concerned with the subject matter.(8)No grievance shall be made to the Ombudsman on an issue which has been or is the subject matter of any proceeding in an appeal, revision, reference or writ before any Tribunal or Court.(9)On receipt

of the grievance, the Ombudsman may refer the grievance to the appropriate Scheme Authorities for disposal within 7 days. In the event of failure of the Scheme Authority to dispose the grievance within the said time limit, the matter may be taken up by the Ombudsman for disposal.(10)The Ombudsman shall cause to serve a notice to Scheme worker or the Scheme Authority against whom complaint is made along with a copy of the grievance.(11)When facts of the case are admitted by the Scheme Authority, the Ombudsman shall dispose the case in accordance with law.(12)On receiving of complaint the Ombudsman shall adopt such procedure for disposal of complaint that appears to him to be fair and proper, but during this process the Ombudsman shall follow the principles of natural justice.

Chapter V

Procedure to Serve Notice and Document

9. Service of notice.

(1)Any notice or other documents shall be served on a person through following ways:- (a)By giving or presenting said notice or document to such person; or (b)If such person is not available, then by giving or presenting to a servant or any adult member of his family; or (c)By sending through post under postal certificate; or (d)By sending through registered post with acknowledgment: Provided that if the officer instructing for issuance of notice or document satisfied that recipient is avoiding to receive notice or document and the same is impossible to serve according to above mentioned procedure, then the said officer shall serve such notice or document to concerned person by pasting a copy on easily visible part of the last known residence or business spot of the person and such service shall be as effective as if it is served personally to the addressee.(2)When any notice or other document is to be served on owner of a building or land then it will not be necessary to write the name of the owner and user in the same and in such cases notice or document shall be served in following manner- (a)By giving or presenting notice or document to the owner or user, or by giving or presenting to one of the owners or user if there are more than one owner or users; (b)If such owner or user is not available, by giving notice or document to any adult member or servant of the family of owner or user; or (c)If any of the above mentioned medium is not available then by pasting notice or document on any easily visible part of land or building to which it is concerned.(3)When any notice or document is to be given or present to the addressee by an employee of the office of the Ombudsman then he will receive acknowledgment duly signed by recipient and shall present it to the issuing officer.(4)When notice or document is to be served under proviso to sub-rule (1) or clause (c) of sub-rule (2) by pasting a copy, then employee serving shall return second copy by endorsing or enclosing a report, to the officer who issued the notice or document, the said employee shall receive signatures of two persons as evidence for recognition of residence or business spot of the addressee.(5)Notice or document shall be deemed as served if posted with actual address written and receipt of payment of post obtained and such receipt shall be deemed effective evidence of receiving of such notice or document by post.

Chapter VI

Award

10. Award.

(1) If the facts are not admitted by the parties in a case, the Ombudsman may pass an award, after affording the parties reasonable opportunity to present their case. He shall be guided by the evidence placed before him by the parties, the reports of social audits, if any, the provisions of the Act and Scheme and practice, directions and instruction issued by the State Government or the Central Government from time to time and such other factors which in his opinion are necessary in the interest of justice. (2) The award passed under sub-rule (1) shall be specific consisting of the following components, namely :-(i) Details of the parties of the case; (ii) Brief facts of the case; (iii) Issues for consideration; (iv) Findings against issues along with reasons; (v) Cost, if any. (3) If a complaint is found to be false, malicious or vexatious, the Ombudsman shall, for reasons to be recorded in writing, dismiss the complaint and make an order that the complainant shall pay to the opposite party cost as deemed appropriate by the Ombudsman. (4) A copy of the award shall be sent to the complainant and the Scheme Authority. (5) There shall be no appeal against the award passed by the Ombudsman and the same shall be final and binding on the parties. (6) A representative of Programme Officer or District Programme Coordinator may appear in the cases before the Ombudsman where the Programme Officer or District Programme Coordinator is a party. Programme Officer or District Programme Coordinator shall appear before the Ombudsman only when a proceeding is taken up before the Ombudsman, in which case he or they are accountable and they shall be provided the opportunity of hearing. (7) All cases not involving complicated question of fact or law shall be disposed within 15 days, other cases shall be disposed within 45 days. (8) In any proceeding before the Ombudsman, if the facts reveal a case of illegal gratification, bribery or misappropriation the same shall be referred by him to the State Government for further action in accordance with law.

Chapter VII

Miscellaneous

11. Power to issue directions.

- The State Government, may, issue from time to time such orders, directions and suggestions to the Ombudsman and concerned officials, which are not against the Act and these rules, for smooth implementation of these rules.

12. Reporting of cases disposed.

- The summary report of cases disposed by the Ombudsman will be reported to the Madhya Pradesh State Employment Guarantee Council in its meetings and will also form part of the Annual Report and such report shall be laid before the Legislative Assembly.

13. Deposition of amount received.

- All sums payable by the parties to the Ombudsman and received by him shall be deposited in the account of the Madhya Pradesh State Employment Guarantee Fund.