

# **Bihar Lokayukta (Investigation) Rules, 1980**

BIHAR

India

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### **Rule BIHAR-LOKAYUKTA-INVESTIGATION-RULES-1980 of 1980**

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Bihar Lokayukta (Investigation) Rules, 1980Published vide Notification No. S.O 1055S.O 1055. - In exercise of the powers conferred by Section 20 of the Bihar Lokayukta Act, 1973 (Bihar Act VI of 1974), the Governor of Bihar is pleased to make the following Rules-

## **Chapter I**

### **1. Short title.**

- These Rules may be called the Bihar Lokayukta (Investigation) Rules,1980.

### **2. Definitions.**

- In these Rules unless there is anything repugnant in the context-(i)'Act' means the Bihar Lokayukta Act, 1973 (Bihar Act VI of 1974);(ii)'Article' means an Article of the Constitution of India;(iii)'Complaint' means an allegation or expression of grievance made orally or in writing to the Lokayukta with a view to his taking action under the Bihar Lokayukta Act;(iv)'Form' means the forms prescribed under these Rules;(v)'Investigation' means any enquiry or proceeding in connection with complaint but does not include a preliminary enquiry;(vi)'Schedule' means the Schedule appended to these Rules.

### **3. Interpretations of words and phrases.**

- Words and expressions used in these Rules but not defined herein, shall have the same meanings as are respectively assigned to them under the Constitution of India and the Act.

## Chapter II

### 4. Travelling Allowance.

- When a person not in the service of the Government is required by the Lokayukta to appear before him as a witness he shall be paid travelling allowance for journey calculated under the ordinary rules for the journey of a Government servant on tour and daily allowance, and for this purpose the Lokayukta may declare by special order the grade to which such persons shall be considered to belong according to his status in life, and his decision in this respect shall be final.

### 5. Competent Authority.

- For the purpose of item (ii) of clause (c) of Section 2 of the Act, other than in the case of a Minister or a Secretary-(i)where appropriate disciplinary action is recommended by the Lokayukta the Competent Authority shall be the Appointing Authority of the public servant; and(ii)where remedial action or redressal of grievance is recommended by the Lokayukta the Competent Authority shall be the head of the department or office in which the public servant has been working or had worked:Provided that if the said public servant is on deputation to a foreign service the head of the establishment in which he has been working or had worked shall be consulted, if the cause of the grievance or allegation arises out of the administrative action taken by or with the approval of the Public servant during the period of his deputation to foreign service.

### 6. Form and contents of complaint.

(1)Save as otherwise mentioned in these Rules, every complaint under this Act shall be made, as far as possible, in the forms prescribed in Schedule 'A' and shall contain the following particulars:-  
(a)Every complaint shall bear the heading title "before the Lokayukta of Bihar."  
(b)Name or names of the complainant with their full addresses.  
(c)Name or names of persons complained against with full address(es).  
(d)If the grievance is made after the expiry of twelve months from the date on which the action, complained against, became known to the complainant  
(2)All complaints made before the Lokayukta shall be duly signed by the complainant or, if he is illiterate, shall bear his left thumb impression duly attested by a literate person, clearly disclosing the name and full address of the attesting persons.  
(3)Every complaint shall be supported by an affidavit as prescribed in Rule 8.

### 7. Fees.

- A fee of Rs. 4.70 (rupees four and paise seventy) shall be paid in judicial stamps for filing a petition of complaint before Lokayukta:Provided that the Lokayukta may waive the levy of the fee, should it be deemed proper in any specific cases.

## **8. Contents of affidavit.**

(1) Every affidavit shall be drawn up clearly and legibly and, as far as possible in a language understandable to the person making the affidavit. It shall be drawn in the first person and shall be divided into paragraphs, if any, which should be numbered consecutively, and each paragraph, as far as possible shall be confined to a distinct subject or portion thereof, and it shall be sworn in before a judicial magistrate or an executive magistrate or before the Secretary to the Lokayukta or any Gazetted Officer duly authorised by the Lokayukta to administer oath. (2) Every person making an affidavit shall state his full name, or husband's name as the case may be, surname, age, profession or trade and place of residence and shall give such other particulars as will make it possible to identify or locate him clearly. (3) The Affidavit shall be signed by or bear the thumb impression of the complainant duly attested by a literate person, disclosing his father's name and full address. (4) (a) Every complaint and affidavit shall be legibly typed or written on foolscap paper, only on one side, leaving one-fourth of each page as a margin and be entitled as prescribed in Rule 6(a). (b) Every affidavit shall conclude as follows:-

"I do| hereby swear in the name of God solemnly affirm| that this is my name and signature thumb impression

and that the contents of this affidavit are true, I further swear that what is stated in the paragraph (give number) is true to my information and is believed by me to be true".

## **9. True copy of the document.**

(1) If the complainant wants to rely upon a document or documents, the complainant should along with this complaint submit under his signature or thumb mark duly attested, a true copy of the document or documents on which he wants to rely. (2) All such documents filed should be accompanied by a list in the form prescribed in Schedule B attached to these Rules.

## **10. Documents dispensed with.**

- Nothing in these Rules shall apply to a complaint or communication falling under sub-section (3) of Section 9 of the Act or Section 7 which Provides for suo motu cognizance of grievance or allegations: Provided that the Lokayukta may, in such cases call for a formal complaint and/or an affidavit in the form prescribed in Schedule 'J'.

## **11. Registering of complaints.**

(1) After the complaint is received in the office of the Lokayukta, it shall be scrutinised by the Secretary to the Lokayukta or under his authority any officer of the Lokayukta's establishment; and if, after the scrutiny, the Secretary or the Officer so authorised by him is satisfied that the complaint is proper, he may direct the complaint to be registered in a register to be maintained for the purpose. (2) If the authority so authorised to pass order for making entry in the Register 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 the prescribed form in Schedule to rectify the defects within a specified time, and after such compliance, he may direct the complaint to be registered.

## **12. Effect of non-compliance.**

- If the necessary requirements are not complied with within one month from the date of receipt of information to rectify the defects, the complaint may be put up before the Lokayukta and the Lokayukta may summarily reject such complaint or pass such order as he may deem fit in the circumstances of the case.

## **13. Acknowledgement of complaint.**

- After the complaint is registered, the Secretary or any other officer empowered on his behalf by the Secretary shall send to the complainant an acknowledgement of the complaint in the form prescribed in Schedule 'C' informing him that his complaint is registered and giving him the number of his complaint.

## **14. Procedure to be adopted at the investigation.**

(1) If the Lokayukta decides to conduct any investigation under this Act, the procedure as provided under Section 10 of the Act shall be followed and a notice in the form prescribed in Schedule 'B' shall be sent to the public servant complained against along with a copy of the complaint, if it has not already been sent to him; or, if the inquiry or investigation is being conducted by the Lokayukta on his own motion or on inquiry report received after a preliminary inquiry with a statement setting out grounds for conducting inquiry or investigation on his own motion, and notice shall require the public servant concerned to send his reply and to offer his comments within the time specified therein or within such extended time, if any, as may be granted. (2) Notice under Rule (1) shall be served upon such public servant(s) concerned by-(i) registered post with acknowledgement due; or (ii) personal delivery after obtaining a receipt from him; or (iii) through the officer to whom the public servant is subordinate in service; or (iv) through the Competent Authority.

## **15. Manner of reply.**

(1) Such public servant shall send his reply and offer his comments within the time specified or granted. The reply shall be accompanied by an affidavit and also by a copy or copies of the document or documents, if any, on which the public servant desires to rely for his defence. (2) If such public servant 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, the complaint may be heard and decided in his absence.

## **16. Power to condone delay.**

- The Lokayukta may for valid reasons to be recorded in writing concerned to file his reply and to offer his comments after the time specified or granted.

## **17. Complaints filed prior to these Rules.**

- Complaint prior to enforcement of these Rules shall be deemed to have been filed under these Rules, if they are subsequently supported by affidavit, and substantively complied with the provisions of Rule 6.

## **18. Secretary of department to give notice.**

- The Secretary of department or Head of office shall be the authority to give notice in writing to the Lokayukta under sub-section (3) of Section 14 of the Act.

## **19. Application of the Criminal Procedure Code.**

- The procedure prescribed in sub-section (1) of Section 340 of the Criminal Procedure Code, 1973 (Act 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 complaint made under Section 340 of the said Code shall be signed by such Officer of the Lokayukta as he may appoint for the purpose.

## **Chapter III**

## **20. Authentication of order passed by the Lokayukta.**

- Any order passed by the Lokayukta under the provisions of these Rules and executed in the name of the Lokayukta shall be authenticated in such manner as the Lokayukta may, by general or special order, from time to time, specify.

## **21. Transaction of business.**

- The Lokayukta may from time to time by general or special order provide for the convenient and efficient transaction of business arising out of the administration of these Rules and the procedure to be followed for the purpose: Provided that such order may also specify a matter or a class of matters which shall be brought to the personal notice of the Lokayukta before any orders are issued.

## **22. Residuary powers.**

- All matters not specially provided for in these Rules whether incidental or ancillary to the provisions of these Rules or otherwise, shall be regulated in accordance with such orders as the

Lokayukta may from time to time make.

### **23. Powers to regulate proceedings and investigation.**

- The Lokayukta shall have the powers, subject to the provisions of the Act, to regulate the conduct of proceedings, investigations and enquiries in all matters not provided for in these Rules.

### **24. Procedure to be adopted at the investigation.**

- When the Lokayukta conducts an investigation under the Act he shall after a copy of the complaint or the statement of the grounds of the investigations has been served on the public servant concerned, afford reasonable opportunity to him or his authorized representative to inspect or copy the affidavit of the complaint, and other documents which may have been filed in support of such complaint, affidavit or statement. Explanation. - "Copy" includes preparation of a copy in manuscript or typewriting machine.

### **25. Direction by the Lokayukta.**

- The Lokayukta may, by order not inconsistent with these Rules, provides for matters for which no provisions have been made or insufficient provisions have been made in these Rules and may give such directions as may be necessary for giving effect to the provisions of the Act, the Rules and such orders.

### **26. Notice of hearing.**

(1) During the course of conducting the investigation, the Lokayukta may serve, on both the parties, a notice, prescribed in the form in Schedule 'E' to appear before him for a hearing with or without witnesses or for any other purpose. (2) Such notices may be sent through the Block Development Officer of the area in which the complainant or the public servant complained against resides; or through the police-station, or through the District Magistrate of the District concerned, or through the Head of the Department in which the public servant is serving, or through registered post with acknowledgement due, or in any manner which the Lokayukta may think fit.

### **27. Administering oath and recording of evidence.**

(1) The Lokayukta or any officer duly empowered by the Lokayukta, may administer oath to every person examined by him during investigation. (2) The Lokayukta may record, in English or Hindi the substance of the evidence given by each person examined by him.

### **28. Interpreters.**

(1) The Lokayukta may in special cases, appoint an interpreter(s), who will be paid at such rate as fixed by the State Government from time to time. (2) The interpreter shall take oath in the following

form:-

"I do| swear in the name of Godsolemnly affirm| that I will tell and truly interpret explain all questions put to and evidence given by witnesses and translate correctly and accurately all documents given to me for translation."

## **29. Summons to witnesses and manner of service.**

- Save as otherwise provided, or in the absence of any other specified order in this behalf, summons to witnesses may be issued in the form prescribed in Schedule 'E' and may be served through police-station or the Block or Anchal Office within whose jurisdiction the witness resides.

## **Chapter IV**

### **30. Furnishing of Information and Production of Documents.**

(1)Where the Lokayukta requires any public servant or any other person to furnish information or to produce documents under Section 11(1) of the Act, the Secretary or any Officer authorized by the Secretary shall issue a notice in the form prescribed in Schedule 'G' to the officer or authority in whose custody the file or document is stated to be or in whose custody that file would ordinarily be.(2)If the file is not produced or sent within the period prescribed by Government or the officer or authority concerned, the Secretary shall write to the Head of the Department concerned and should wait for 15 days thereafter.(3)If the file is not received within 15 days after the Secretary's letter referred to under Rule (2) above, the complaint shall be put up before the Lokayukta.

### **31. Consequences of refusal of a party to produce documents.**

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

## **Chapter V**

### **32. Time-limit for certificate under Section 11 of the Act.**

(1)The certificate as required under Section 11 (5) of this Act, shall be issued by the Secretary, as defined in Section 2(k) of the Bihar Lokayukta Act, 1973 within a period of 30 days from the date on which 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 period as he thinks fit.(2)If the certificate is not issued during this period, it will be deemed that for the purpose of the investigation no such objection exists.

### **33.**

The Information to be given to the complainant, to the public servant concerned and to the Competent Authority concerned as per clause (5) of Section 12 of the Act shall, subject to the specific written order of the Lokayukta, be given in the form prescribed in Schedule 'H'.

### **34. Information under Section 12 of the Act.**

- The information to be given to the complainant regarding special report under Section 12(5) of the Act shall, subject to the specific written order given by the Lokayukta in that behalf, be given in the form prescribed in Schedule T.

### **35. Rehearing of a complaint.**

- If a case is closed for default of complainant or if it is ordered to be filed, or is decided ex-parte against the public servant, the Lokayukta may, if sufficient cause is shown to him, reopen the case and may rehear it on merit.

### **36. Certified copy.**

(1) No person shall be entitled to a certified copy of any record of the proceedings before the Lokayukta: Provided the Lokayukta may, subject to the provisions of Sections 10(2) and 14(1) of the Act, permit certified copy of the final order or of such part thereof as he may deem fit. (2) The Section Officer of the Office of the Lokayukta may authenticate such copies for issue, if the Lokayukta orders for supply of such a certified copy or copies. (3) The party concerned will have to deposit necessary cost for the supply of such certified copy as may be fixed by the State Government.

### **37. Notice of refusal to investigate or non**

- continuance of investigation. - When the Lokayukta refuses to investigate or ceases to investigate a complaint under Section 10(4) of the Act, a notice prescribed in the form in Schedule 'F' may be issued to the complainant.

### **38. Repeal and savings.**

(1) Bihar Lokayukta (Investigation) Rules, 1974 are hereby repealed. (2) Notwithstanding such repeal any action taken under the said Rules, shall be deemed to have been done or taken in exercise of powers conferred by these Rules as if these Rules were in force when the action was taken.

### **'A'**

(See Rule 6) Before the Lokayukta of Bihar at Patna Complaint No..... of 19 ..... A.B. (Add description and residence)-Complainant versus C D. (Add description and residence)-Public Servant,



complained against. Herein the complainant complains as follows: (Here give a brief substance of the action complained against and the grievance or allegation). (Lengthy statement should be avoided). If a complaint involving a grievance is made after the expiry of 12 months from the date of the order complained against, give the date on which the action complained against became known to the complainant and a statement of grounds showing sufficient cause for not making the complaint within the period specified in Section 8(4) (a) of the Act. A duly sworn in/affidavit supporting the averments in the complaint is filed herewith. This.....day of (month and year). Signature or thumb impression of the complainant.

## 'B'

[See Rule 9(2)] Office of the Lokayukta of Bihar Complaint No.....of 19.....Name of parties-(1) Complainant-.....Versus Persons complained against-(1).....(2).....(3).....List of documents filed on behalf of-

Serial No.	Number of documents.	Brief description of the documents.	Original/certified copy of true copy.	Remarks.
1	2	3	4	5
Verified.....		Date.....		
Signature of the Officer.		Signature of the party filing.		

## 'C'

(See Rule 13) To (Give name and address of complainant) Your complaint addressed to the Lokayukta of Bihar, dated.....is received in this office on.....It is registered as Com.....No.....of 19 ..... In all further correspondence this number should be invariably mentioned. Your complaint is defective on account of the following defects:-(a)(b)(c) It will not be registered unless the defects are rectified. They should be rectified on or before (date) .....Date: Section Head, Office of the Lokayukta of Bihar.

## "D"

(See Rule 14) Before the Lokayukta of Bihar at Patna Com. No.....of.....Complainant versus..... Public servant. To Take notice that the aforesaid complaint is fixed for hearing at.....(place) on..... (date). You are, therefore, required to remain present there with your witnesses, if any, at.....(A.M./P.M.). Herein fail not. Take notice that if you fail to attend in accordance with this notice, the matter may be decided in your absence. Given under my hand and seal of the office. Secretary/Deputy Secretary, Office of the Lokayukta of Bihar, Patna. Dated.....

## 'E'

(See Rules 26 And 29) Summons to witness In the Office of the Lokayukta of Bihar at Patna Com. No of .....Complainant versus..... Public Servant. To Whereas your attendance is required as a witness before the Lokayukta of Bihar on behalf of.....in the above complaint, you are hereby required to appear personally before him on the.....at 11 O'

clock in the forenoon and to bring with you the following document(s) or to send them through your servant or agent able to prove them. A sum of Rs.....being your travelling allowance, other expenses and subsistence allowance for one day is deposited in this office and will be paid to you after your appearance here. Should you require the amount prior to your appearance you should inform this office accordingly so that the amount will be sent to you by money-order. If you fail to comply with this order without lawful excuse, you will be subject to consequences of non-attendance as laid down in Rule .....order.....in the Schedule 'O' of the Code of Civil Procedure, 19.....Given under my hand and seal of the office. Secretary/Deputy Secretary, Office of the Lokayukta of Bihar, Patna. Dated.....

**'F'**

(See Rule 37) In the Office of the Lokayukta of Bihar at Patna. Com.

No.....of.....Complainant versus.....Public Servant To, Take notice that under Section 10(4) of the Act, the Lokayukta has refused to investigate/or ceased to investigate, this complaint as-(a) the complaint is frivolous or vexatious, or is not made in good faith; or (b) there are no sufficient grounds for investigating or, as the case may be, for continuing the investigation; or (c) 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. Given under my hand and seal of the office. Secretary/Deputy Secretary, Office of the Lokayukta of Bihar, Patna. Dated .....

**'G'**

(See Rule 30) Summons to produce a document under Section 11(1) of the Act In the Office of the Lokayukta of Bihar at Patna. Com. No.....of.....Whereas a complaint has been made before the Lokayukta of Bihar by.....(name and address of the complainant), against (public servant's name and designation) containing a grievance/all allegations in respect of .....and it appears to the Lokayukta desirable for the purpose of inquiry/investigation that the following document(s) should be produced, before him by.....(date period), if any:-(1)(2)(3) You are hereby summoned to attend and produce or cause to be produced through your servant, clerk or agent, the said document(s) before him in his office on.....next at 11 O' clock in the forenoon. Herein fail not. Given under my hand and seal of the office. Secretary/Deputy Secretary, Office of the Lokayukta of Bihar, Patna. Dated.....

**'H'**

(See Rule 33) In the Office of the Lokayukta of Bihar at Patna. Com

.....of.....Complainant versus.....Public Servant. To, Where as the Lokayukta is satisfied with the action taken or proposed to be taken on his recommendations or findings referred to in sub-section (5) of Section 12 of the Act, the case is hereby closed. Given under my hand and seal of the office. Secretary/Deputy Secretary, Office of the Lokayukta of Bihar, Patna. Dated.....

I

(See Rule 34) In the Office of the Lokayukta of Bihar at Patna Com.

No.....of..... Complainant.versus.....Public Servant.To,Whereas the Lokayukta is not satisfied with the action taken or proposed to be taken on his recommendations and findings referred to in sub-sections (1) and (3) of Section 12 of the Act and whereas he considers that special report deserves to be made to the Governor as per Section 12 of the Act, he has accordingly made such special report upon this case to the Governor of Bihar.Given under my hand and seal of the office.Secretary/Deputy Secretary,Office of the Lokayukta of Bihar, Patna.Dated.....

J

(See Rule 10) In the Office of the Lokayukta of Bihar at Patna Complaint No.....of 19.....Complainant.versus.....Public Servant complained against.(Give name and address of the public servant) Upon considering the material before him the Lokayukta has decided to conduct an investigation under the Bihar Lokayukta Act, 1973 (Act, VI of 1974) in respect of the complaint made by.....(name and address of complainant) on his own against you and a copy of the complaint/statement setting out the grounds therefore, is appended. Take notice that you are hereby required on or before.....(date) to file a statement in reply and to offer your comments and explanation supported by an affidavit and to produce true copies under your signature of the documents (if any) on which you want to rely in your defence. Take further notice that if, on or before the date aforesaid you fail to appear in person to file the reply and offer your comments and explanation or fail to send to the reply, etc., by post or otherwise, the matter may be decided in your absence. Given under my hand and the seal of the office, dated.....the day of.....19.....Secretary/Deputy Secretary, Office of the Lokayukta of Bihar, Patna.