

Haryana Lokayukta Functions Inquiry and Investigation Rules, 1999

HARYANA

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Rule

HARYANA-LOKAYUKTA-FUNCTIONS-INQUIRY-AND-INVESTIGATION- of 1999

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Haryana Lokayukta Functions Inquiry and Investigation Rules, 1999Published vide Haryana Government Notification No. GSR 57/H.A.21/1998/S/99, dated 4th June, 1999General Administration Department (Political Branch)No. GSR 57/H.A. 21/1998/S/99. - In exercise of the powers conferred by sub- section (1) of section 23 of the Haryana Lokayukta Act, 1997 (Act 21 of 1998), the Governor of Haryana hereby makes the following rules regulating the functions, inquiry and investigation by the Lokayukta, namely :-

1. Short title and commencement.

(1)These rules may be called the Haryana Lokayukta Functions Inquiry and Investigation Rules, 1999.(2)They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.

(1)In these rules, unless the context otherwise requires, -(a)"Act" means Haryana Lokayukta Act, 1997 (Act 21 of 1998);(b)"Commissioner" means Commissioner and Secretary to Lokayukta;(c)"Form" means a form appended to these rules;(d)"Investigation" includes any inquiry or other proceedings in connection with the complaint, but not a preliminary inquiry;(e)"Section" means the section of the Act.(2)The words and expression used in these rules, but not defined herein, shall have the same meaning as are respectively assigned to them in the Act.

3. Complaint.

Sections 10, 11 and 23(1). - (1) Save as otherwise provided in these rules, every complaint under the Act shall be made, as far as possible, in Form I and shall be accompanied by an affidavit in Form II, in support of its contents 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 the complaint involving grievances or allegation is made;(c)the details of the content of the action complained of/and of the allegations.(2)A complaint may be presented to the Commissioner.

4. Procedure in respect of inquiry.

Sections 12 and 23(1). - While conducting inquiry or investigation the Lokayukta may associate various agencies viz. subject experts, professional, engineers, chartered accountants etc.

5. Fees.

Sections 12 and 23(1). - A fee of Rs. 1,000 shall be paid in judicial stamps for filing a complaint against any Minister or Secretary to the Government before the Lokayukta. In case of complaint against other categories of public servants the complainant is required to pay a fee of Rs. 500 in judicial stamps unless exempted by the Lokayukta.

6. Attendance of witnesses.

Section 23(1). - (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 to give evidence or, to produce any document in his possession, and if such person is in private service, he shall be entitled to a certificate from the office of the Lokayukta, in Form III, that he has attended the office of Lokayukta for the purpose of evidence, etc.Explanation. - For the purpose of these rules, "private service" means any employment other than that of a public servant.(2)If a person produces such a certificate before his employer, he shall not be deemed to be absent from duty for the purpose of any action/penalty which would otherwise have followed in consequence of such absence.(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 the office of Lokayukta, upon production of such certificate, he shall be treated as on duty on the day or dates on which he attended the office of the Lokayukta.(4)If such person is in private service or is not employed in any service, such person may be paid actual travelling allowances and subsistence allowances at the rates specified by general or special orders of the Lokayukta.

7. Annual report.

Sections 16(3) and 23(1). - With a view to ensure transparency and minimise the scope of misuse or abuse of office by a public servant the Lokayukta may give suggestions in his report while

presenting a consolidated annual report on the administration of the Act.

8. Authentication of orders passed by Lokayukta.

Section 23(1). - 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.

9. Transfer of staff of Lokayukta.

Sections 17 and 23(1). - No officer or other staff of Lokayukta appointed under the Act shall be transferred without the consent of the Lokayukta.

10. Financial powers of Lokayukta.

Section 23(1). - The Lokayukta shall be competent to incur any expenditure from his allotted budget to facilitate an efficient and proper working of his institution.

11. Inspection of record.

Section 23(1). - The Lokayukta may direct and authorise any of its officers or staff to visit any public office and to inspect any document and other relevant record for the purposes of enquiry or investigation.

12. Procedure in respect of investigation.

Sections 8, 12 and 23(1). - (1) Where the Lokayukta decides to conduct any investigation under these rules, he -(a)shall forward 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, to the public functionary concerned and the competent authority.(b)shall afford to the public functionary concerned an opportunity to offer his comments on such complaint or statement; and(c)may make such orders as to the safe custody of documents relevant to the investigation, as he deems fit.(2)Every such investigation shall be conducted in private and, in particular the identity of the complainant and of the public functionary affected by the investigation shall be disclosed to the public or the press or published in any manner whether before, during or after the investigation :Provided that, the Lokayukta may conduct any investigation relating to a matter of public importance, if he, for reasons to be recorded in writing, thinks fit to do so.(3)Save as aforesaid, the procedure for conducting any such investigation shall be such as the Lokayukta considers appropriate in the circumstances of the case.(4)The Lokayukta may, in his discretion, refuse to investigate or cease to investigate any complaint if in his opinion -(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.(5)In any case where the Lokayukta decides not to entertain complaint or to discontinue any investigation in respect of a complaint, he shall record his reasons therefor and communicate the same to the complainant and the public functionary concerned.

Form I[See rule 3(1)]Form of ComplaintBefore the Lokayukta, HaryanaComplainant _____ son of d/o, w/o _____ (add description of profession, residence etc.)In the matter of allegation against _____ S/o, d/o, w/o _____ holding the office of _____ at _____.

The above named complainant is satisfied that the aforesaid public servant :-(i)has knowingly and intentionally abused his position as such to obtain any undue gain _____ or favour to himself or to any other person or to cause undue harm to any other person; and/or(ii)was actuated in the discharge of his functions as such public servant by corrupt motives; and/or(iii)is guilty of corruption; and/or(iv)is in possession of pecuniary resources of property disproportionate to his known source of income and such pecuniary resources or property is held by the public servant personally or by any member of his family or by some other person on his behalf.(Strike out the clause or clauses not relevant to the complaint.)To support the allegations the complainant relies on the following facts and is also filing an affidavit :-(1)(2)(3)(4)The complainant has/has not for the same matter resorted to a remedy by way of proceeding before a tribunal/a court of law/an authority empowered to decide the matter particulars of which are as under :-(Give particulars and result, if any)It is, therefore, prayed that an inquiry be made against the public servant.

Signature/right hand thumb mark of the applicant.Verification :I, _____ s/o, d/o, w/o Shri _____, r/o _____ hereby verify that the facts stated by me in paras _____ to _____ in the complaint are true to my personal knowledge and/or the facts stated by me in paras _____ to _____ are based on information received from _____ (give the name) and/or documents, and the same are believed by me to be true.

Signature/right hand thumb mark of the applicant.

Form II[See rule 3(1)]Note - This Affidavit should be got prepared on a non-judicial stamp paper worth Rs. 3/- and then it should be got attested from a Magistrate 1st Class.

Form of AffidavitI, _____, age _____, s/o, d/o, w/o Shri _____, Profession _____, resident of _____ tehsil _____ District _____ do hereby solemnly affirm and state as follows :-(1)that I am the complainant in this case;(2)that the statements of this complaint have been read by/read over to me and understood heard by me and these are true to the best of my knowledge and belief;(3)that the facts stated by me in paras _____ to _____ are true to the best of my personal knowledge and facts stated in paras _____ to _____ are based on the information given to me by Shri _____ and/or documents which, I believe to be true.

Signature of right thumb mark of the deponent.Place _____ Dated _____

_____ Affidavit sworn before me.Certified that the above averment was declared before me on oath/affirmation this _____ day of _____ 199. at _____ in the District of _____ by Shri/Smt./Miss _____ who was identified by Shri/Smt./Miss _____ who is personally known to me. The contents of the above affidavit have been read over and explained to the deponent who admitted the same to be correct and true.

_____ Designation of the authority before whom affidavit is sworn.Place _____ Dated _____

Form III[See rule 6(1)]Form of certificate to be given by the office of the lokayukta to a person for tendering evidence before LokayuktaBefore the Lokayukta, Haryana _____

1. Certified that _____ was summoned to give evidence before the Lokayukta in his public/private capacity in case of _____ and was required to attend for a period of _____ days i.e. from _____ to _____.

2. He was paid the following amounts in accordance with rules for attending the office of the Lokayukta for the purpose :

3. The amount of Rs. _____ as his travelling allowance and subsistence allowance has been/will be paid on (date _____).

Place _____ Date _____ Lokayukta, Haryana. Paragraph 2 is only required in the following cases, namely :- In cases in which government servants, have to give evidence before the Lokayukta, situated not more than 8 kms. from their headquarters or in their private capacity actual travelling expenses incurred by them, when the Lokayukta considers it necessary, be paid to them.