

Bihar Lokayukta (Investigation) Rules, 2013

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Rule BIHAR-LOKAYUKTA-INVESTIGATION-RULES-2013 of 2013

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8/Lok-05-02/2012Gad-7123. - In exercise of the power conferred under section 55 of the Bihar Lokayukta Act, 2011, the Governor of Bihar is pleased to make the following Rules :-Chapter - 1 1. Short title, extent and commencement.(1) These Rules may be called as The Bihar Lokayukta (Investigation) Rules, 2013(2) It shall extend to the whole of the State of Bihar.(3) It shall come into force at once.

2. Definitions.

(1)In these Rules unless there is anything repugnant in the context-(i)'Act' means the Bihar Lokayukta Act, 2011 ;(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 by the Lokayukta under the Bihar Lokayukta Act ;(iv)'Form' means the forms prescribed under these Rules ; and(v)'Schedule' means the Schedule appended to these Rules.(2)Words and expressions used in these Rules but not defined herein, shall have the same meanings as are assigned to them in The Bihar Lokayukta Act, 2011 and the Prevention of Corruption Act, 1988.Chapter - 2

3. 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 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 person shall be considered to belong according to his status, and his decision in this respect shall be final.

4. 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' in 5 (five) copies 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 address(es) : - (c) Name or names of persons complained against with full address(es) : - (d) Whether the complaint is being filed after expiry of twelve months from the date of action in question ? (2) All complaints made before the Lokayukta shall be duly signed by the complainant(s) 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 6.

5. Fees.

- A fee of Rs. 100 (rupees one hundred) 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 case.

6. 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 authorized by the Lokayukta to administer oath. (2) Every person making an affidavit shall state his/her full name, father's 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/her father's/husband'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 titled as prescribed in rule 4(a). (b) Every affidavit shall conclude as follows:-

hereby swear in the name of God

"I

do-----

this

solemnly affirm

is my name and

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

7. True copy of the document.

(1) If the complainant wants to rely upon a document or documents, he 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.

8. Documents dispensed with.

- Nothing in these Rules shall apply to a complaint or communication falling under the provisions of the Act which provides for suo motu cognizance of grievances or allegations : Provided that the Lokayukta may, in such cases call for a formal complaint and / or an affidavit.

9. Registering of complaints.

(1) After the complaint is received in the office of the Lokayukta, it shall be scrutinized by an officer authorized by the Lokayukta; and if, after the scrutiny, the officer so authorized 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 authorized 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 'C' to rectify the defects within a specified time, and after such compliance, he may direct the complaint to be registered.

10. 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.

11. Acknowledgment of complaint.

- After the complaint is registered, the officer empowered by the Secretary shall send to the complainant an acknowledgment 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.

12. Procedure to be adopted at the investigation.

(1) Where the Lokayukta proposes (after making such preliminary inquiry, as he deems fit) to conduct any investigation under this Act, it-(a) shall forward a copy of the complaint or, in the case

of any investigation which it proposes to conduct on his own motion, a statement setting out the grounds therefore, to the public servant concerned and the competent authority concerned;(b)shall afford to the public servant concerned an opportunity to offer his comments on such complaint or statement;(c)may make such order as to the safe custody of documents relevant to the investigation, as it deems fit; and(d)For serving the notices, the following procedure will be adopted: a notice in the form prescribed in Schedule 'D' 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 its own motion or on inquiry report received after a preliminary inquiry, with a statement setting out grounds for conducting inquiry or investigation, on its own motion, and notice shall require the public servant concerned to send his reply end 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 acknowledgment/speed post ; 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.(3)Every such investigation shall be conducted in private and in particular, the identity of the complaint and of the public servant affected by the investigation shall not be disclosed to the public or the press whether before, during or after the investigation:Provided that the Lokayukta may conduct any investigation relating to a matter of definite public importance in public if it, for reasons to be recorded in writing, thinks fit to do so.(4)Save as aforesaid the procedure for conducting any such investigation shall be such as the Lokayukta considers appropriate in the circumstances of the case.(5)The Lokayukta may, in its discretion, refuse to investigate or cease to investigate any complaint involving a grievance or an allegation , 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.(6)The Lokayukta shall not proceed with any investigation under this Act where the Supreme Court or the High Court issues any direction, order or write in respect of the matter mentioned in the complaint under investigation.(7)In any case where the Lokayukta decides not to entertain a complaint or to close any investigation in respect of a complaint, it shall record, his reasons therefore and communicate the same to the complainant and the public servant concerned.(8)The conduct of an investigation under this Act in respect of any action shall not affect such action, or any power or duty of any public servant to take further action with respect to any matter subject to the investigation.

13. 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.

14. Power to condone delay.

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

15. Complaints filed prior to these Rules.

- Complaint filed 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 4.

16. 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 344 of the said code shall be signed by such officer of the Lokayukta as may be appointed for the purpose. Chapter - 3

17. 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 and shall also be put on the website.

18. 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 order are issued.

19. 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.

20. Powers to regulate proceedings and investigations.

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

21. Inspection of complaint by the concerned public servant.

- 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 complainant and other documents which may have been filed in support of such complaint, affidavit of statement. Explanation. - "Copy" includes preparation of a copy in manuscript or typewriting machine or computerized print.

22. Direction by the Lokayukta.

- The Lokayukta may, by order not inconsistent with these Rules, provide 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.

23. 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 due acknowledgment, or in any manner which the Lokayukta may think fit.

24. Administering oath and recording of evidence.

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

25. Interpreters.

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

Swear in the name of God

"I

do-----

this I will tell and truly

solemnly affirm

interpret and explain all questions put to and evidence given by witnesses and translate correctly and accurately documents given to me for translation.

Chapter - 4

26. 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 the Act, the Secretary or any officer authorized by the Secretary shall issue a notice in the form prescribed in Schedule 'F' 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 the 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 sub-rule (2) above, the complaint shall be put up before the Lokayukta.

27. 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 the complaint or defence, as the case may be, or may make such other order as he thinks fit. Chapter - 5

28. Information of the complaint.

- The information to be given to the complainant, to the public servant concerned and to the competent authority concerned as per provision of the Act shall, subject to the specific written order of the Lokayukta.

29. Information under the Act.

- The information to be given to the complainant regarding special report under the Act shall, subject to the specific written order given by the Lokayukta in that behalf, be given in the form prescribed in Schedule 'G'.

30. Rehearing of a complaint.

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

31. 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 provision of sub-rule (3) of Rule 12, permit certified copy of the final order or of such part thereof as it 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 fee for the supply of such certified copy as may be fixed by the Lokayukta.

32. Notice of refusal to investigate or non-continuance of investigation.

- When the Lokayukta refuses to investigate or ceases to investigate a complaint, a notice prescribed in the form in Schedule 'H' may be issued to the complainant.

33. Manner of Provisional attachment under sub-section (1) (c) of Section 33.

(1) Where the Lokayukta or any Investigation Officer authorized by it in this behalf, has reason to believe, the reason for such belief to be recorded in writing, on the basis of material in his possession, that the process of offence are likely to be concealed, transferred or dealt with in any manner, by the person accused of having committed any offence, which may result in frustrating any proceeding relating to confiscation of such proceeds of offence, it may, by order in writing, provisionally attach such property for a period not exceeding ninety days from the date of the order. (2) The Lokayukta or any Investigation officer authorized in this behalf, with a view to take possession of the money or property or both, may requisition the service of a Police Officer for assistance and it shall be binding duty of such Police Officer to comply with such requisition. (3) After such provisional attachment the movable or immovable property in question, shall be deemed to be under possession of the Lokayukta of Bihar for the specified period.

34. Manner of sending the order of attachment along with the material to the Special Court under sub-section (2) of Section 33 and section 34.

- Immediately after attachment under section 33 and 34 of the Act, the order of the Lokayukta along with the list of specified property/properties under possession of the Lokayukta shall be forwarded to the Special Court in sealed cover by the office of the Lokayukta by registered post (with acknowledgement)/speed post or by Peon Book.

35. Manner of transmitting the letter of request under sub-section (2) of Section 40.

- The request letter under sub section (2) of section 40 of the Act to any Court or Authority in other State, shall be sent by registered post (with acknowledgment) / speed post.

36. Use of Information and Communication Technologies.

- The Lokayukta may, by making provision in regulation, introduce appropriate information and Communication Technology measures to ensure transparency and wider dissemination of its functions.

37. Repeal and savings.

(1)The Bihar Lokayukta (Investigation) Rules, 1980 is hereby repealed.(2)Notwithstanding such repeal anything done or 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 anything or any action was taken.

'A'

(See Rule 4)Form of Complaint Before The Lokayukta of Bihar At PatnaComplaint No..... of 20.....A.B. (Add description and residence) - Complainant.VersusC.D. (Add description and residence) - Public servant, complained against. Here in 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 or which the action complained against became known to the complained and a statement of grounds showing sufficient cause for not making the complaint within the period specified section-29 (5) (a) of the Act.A duly sworn in affidavit supporting the averments in complaint is filed herewith.This day of (month and year).Signature or thumb impression of thecomplainant.

'B'

(See Rule 7)Before The Lokayukta of BiharComplaint No..... of 20.....

Name of parties -

(1) Complainant -

.....

.....

Versus

Persons complained against -

(1)

(2)

(3)

List of documents filed on behalf of -

Remarks

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

'C'

(See Rule 9[2] & 11) Form of Acknowledgment of Complaint/to Rectify The Defects To, (Give name and address of complainant). Your complaint address to the Lokayukta of Bihar, dated..... is received in this office on..... It is registered as Complaint No..... of 20..... 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). Section Officer, Office of the Lokayukta of Bihar.

'D'

(See Rule 12) Before The Lokayukta of Bihar At Patna Complaint No..... of Complainant Versus 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 you witnesses, if any, at (A.M./P.M.) 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.

Dated Secretary/Deputy Secretary, Office of the Lokayukta of Bihar, Patna.

'E'

(See Rule 23) Notice of witness In The Office of The Lokayukta of Bihar At Patna Comp. 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 and to bring with you the following document (s) or to send them through your servant of 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 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' the Code of Civil Procedure, 1908. Given under my hand and seal of the office.

Dated Secretary/Deputy Secretary, Office of the Lokayukta of Bihar, Patna.

'F'

(See Rule 26) Notice of produce a document In The Office of The Lokayukta of Bihar At Patna Comp.

No..... of

.....To,.....Wherea

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/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 required to produce or cause to be produced through your servant, clerk or agent, the said document (s) before him in his office on Do not fail in doing this. Given under my hand and seal of the office.

Dated Secretary/Deputy Secretary, Office of the Lokayukta of Bihar, Patna.

'G'

(See Rule 29) In The Office of The Lokayukta of Bihar At Patna Comp. No..... of

.....

Complainant. Versus..... Public

Servant To,.....Where as the Lokayukta is not satisfied with the action taken or proposed to be taken on his recommendations and findings referred in the Act and whereas he considers that special report deserves to be made to the Governor or as provision 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.

Dated Secretary/Deputy Secretary, Office of the Lokayukta of Bihar, Patna.

'H'

(See Rule-32) In The Office of The Lokayukta of Bihar At Patna Comp. No..... of

..... Complainant. Versus..... Public

Servant To,.....Take notice that 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.

Dated Secretary/Deputy Secretary, Office of the Lokayukta of Bihar, Patna.