

# **The M.P. Vibhagiya Janch (Sakshiyon Ka Hazir Karaya Jana Tatha Dastavejon Ka Pesh Karaya Jana) Niyam, 1981**

MADHYA PRADESH

India

## **The M.P. Vibhagiya Janch (Sakshiyon Ka Hazir Karaya Jana Tatha Dastavejon Ka Pesh Karaya Jana) Niyam, 1981**

### **Rule**

### **THE-M-P-VIBHAGIYA-JANCH-SAKSHIYON-KA-HAZIR-KARAYA-JANA- of 1981**

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The M.P. Vibhagiya Janch (Sakshiyon Ka Hazir Karaya Jana Tatha Dastavejon Ka Pesh Karaya Jana) Niyam, 1981Published vide Notification No. F. 6-2-81-3-1, dated 5-2-1981, M.P. Rajpatra (Asadharan), dated 7-2-1981 at page 226In exercise of the powers conferred by sub-section (1) of Section 7 of the Madhya Pradesh Vibhagiya Janch (Sakshiyon Ka Hazir Karaya Jana Talha Dastavejon Ka Pesh Karaya Jana) Adhiniyam, 1979 (No. 14 of 1979), the State Government hereby makes the following rules, namely :-

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

- These rules may be called the Madhya Pradesh Vibhagiya Janch (Sakshiyon Ka Hazir Karaya Jana Tatha Dastavejon Ka Pesh Karaya Jana) Niyam, 1981.

#### **2. Definitions.**

- In these rules, unless the context otherwise requires,-(a)"Act" means the Madhya Pradesh Vibhagiya Janch (Sakshiyon Ka Hazir Karaya Jana Tatha Dastavejon Ka Pesh Karaya Jana) Adhiniyam, 1979 (No. 14 of 1979);(b)"Form" means a form appended to these rules;(c)"Section" means a section of the Act.

### **3. Procedure for summoning and enforcing attendance of witness.**

- The inquiring authority who is vested with the powers of a Civil Court under sub-section (1) of Section 5 of the Act shall follow in a departmental inquiry the procedure laid down in Order XVI of the Code of Civil Procedure, 1908, which shall apply mutatis mutandis for the purpose of summoning and enforcing attendance of a witness and for matters ancillary thereto.

### **4. Form of order under Section 4 (1).**

- An order under sub-section (1) of Section 4 shall be in Form I.

### **5. Form of notification under Section 4 (2).**

- A notification under sub-section (2) of Section 4 shall be in Form II.

### **6. Mode of service of summons.**

- Every summons issued under the Act shall be served through the District Judge concerned and for that purpose the summons shall be forwarded to the District Judge with a letter in Form III.

### **7. Contents of summons under Section 5 (1)(a).**

- Every summons issued under the Act shall, - (a) be in duplicate; (b) be signed by the enquiring authority; (c) be sealed with the official seal of the enquiring authority; (d) specify the date, time and place at which the person summoned is required to attend and also whether his attendance is required for the purpose of giving evidence or to discover and produce a document or other material, or for both the purposes; and (e) be endorsed and signed by enquiring authority and be sent by post to the District Judge within the local limits of whose jurisdiction the specified person, on whom such summons is to be served, actually resides or carried on business or personally works for gain, for service to enable the District Judge to take cognizance of the summons, a copy of the notification issued under Section 4 of the Act authorising the enquiring authority to exercise the powers specified in Section 5 of the Act, may also be enclosed.

### **8. Process to be served on the witness in person or by Process Server or by postal dak.**

(1) Every process issued by the authorised inquiring authority for the attendance of any witness or for the production of any document under sub-section (3) of Section 5 of the Act may be served on the person named therein either by post or as if it were a summons issued by a Court under the Code of Civil Procedure, 1908 (No. 5 of 1908). (2) Subject to the provisions of sub-section (3) of Section 5 of the Act, the process should ordinarily be first served by registered post, acknowledgment due. (3) If the process served in accordance with sub-rule (2) is returned undelivered by the post, then the process shall be served either by Revenue Police or by Process Server through the District

Judge, as may be considered suitable by the inquiring authority, as provided in clause (2) of Rule 4.

## **9. Procedure for seeking permission to invoke the provisions of the Act by the inquiry officer.**

- Attendance of witnesses and production of documents before a departmental inquiry shall ordinarily continue to be secured in the manner as hitherto provided. Where in the case of a departmental inquiry, the inquiring authority is satisfied that it is necessary to summon a person as a witness or to call for a document from him and that the attendance of such person as a witness or production of such document may not otherwise be secured, it may, after recording the reason for doing so, make a reference to the State Government seeking authorisation under Section 4 of the Act to exercise the powers specified in Section 5 in relation to such person.

## **10. Power to authorise an inquiring officer under Section 5.**

- The power to authorise an inquiring officer under Section 5 of the Act shall be exercised by the State Government if it is of the opinion that for the purposes of any departmental inquiry it is necessary to do so in relation to any employee or class or category of employees specified in clauses (a) and (b) of Section 2 of the Act.

Form I[See Rule 4]Government Of Madhya Pradesh..... Department Order No..... Bhopal, Dated the..... Whereas the State Government is of opinion that for the purposes of the departmental inquiry in relation to Shri ..... it is necessary to summon..... as witnesses and/or call for document from..... Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 4 of the Madhya Pradesh Vibhagiya Janch (Sakshiyon Ka Hazir Karaya Jana Tatha Dastavejon Ka Pesh Karaya Jana) Adhiniyam, 1979 (No. 14 of 1979), the State Government hereby authorises Shri..... the inquiring authority to exercise the powers specified in Section 5 of the said Adhiniyam in relation to the above named person.

Form II[See Rule 5]Government of Madhya Pradesh..... Department No..... Bhopal, Dated the.....

Notifications In exercise of the powers conferred by sub-section (2) of Section 4 of the Madhya Pradesh Vibhagiya Janch (Sakshiyon Ka Hazir Karaya Jana Tatha Dastavejon Ka Pesh Karaya Jana) Adhiniyam, 1979 (No. 14 of 1979), the State Government hereby specifies that [.....] [Specify the name of the authority.] to exercise the powers conferred on it by sub-section (1) of Section 4 of the said Act for purposes of the departmental inquiry held against [.....] [Specify the name of the person against whom departmental inquiry is being held.]

Form III[See Rule 6]To, (Name and address of the Judge concerned). Sir, Under the provisions of sub-section (3) of Section 5 of the Madhya Pradesh Vibhagiya Janch (Sakshiyon Ka Hazir Karaya Jana Tatha Dastavejon Ka Pesh Karaya Jana) Adhiniyam, 1979 (No. 14 of 1979), a summons in duplicate is herewith forwarded for service on the witness..... (Name)..... (address). You are requested to cause a copy of the said summons to be served upon the said witness and return the original to me duly signed by the said witness, with a statement of service endorsed thereon by you.

(2) A copy of the notification No..... dated..... issued by the State Government in..... the Department under sub-section (1) of Section 4 of the Madhya Pradesh Vibhagiya Janch (Sakshiyon Ka Hazir Karaya Jana Tatha Dastavejon Ka Pesh Karaya Jana) Adhiniyam, 1979 (No. 14 of 1979), conferring on the undersigned the powers specified in Section 5 of the said Act, is

enclosed. Signature..... Designation..... Rubber Stamp bearing name and designation. Summon To Witness [Under sub-section (3) of Section 5 of the Madhya Pradesh Vibhagiya Janch (Sakshiyon Ka Hazir Karaya Jana Tatha Dastavejon Ka Pesh Karaya Jana) Adhiniyam, 1979]. Departmental inquiry held against Shri/Smt./Kumari..... (name)..... (designation), working in the..... (Department/Office). To, (Name and address of the Witness). Whereas, your attendance is required to ..... (give evidence/produce documents) on behalf of ..... (name of the defendant/Department/concerned) in the above departmental inquiry, you are hereby required personally to appear day of before this inquiring authority on the ..... (name of the month) 19....; at ..... O'Clock in the forenoon/at afternoon, and to bring with you (or to send to this inquiring authority) (description of the documents required). \*\*Your travelling allowance and daily allowances will be paid by this inquiring authority on the conclusion of your evidence. If you fail to comply with this order without lawful excuse, you will be subject to the consequences of non-attendance laid down in Rule 12 of Order XVI of the Code of Civil Procedure, 1908. Given under my hand and seal of the inquiring authority this day of (name of the month), 19..... Inquiring Authority Note. - (i) If you are summoned only to discover and produce a document or other material and not to give evidence, you shall be deemed to have complied with the summons if you cause such document or other material to be discovered and produced before this Inquiring Authority on the day and hour aforesaid. (ii) Rates of "Ravelling Allowance :- The witness summoned to the departmental inquiry shall be paid travelling and daily allowance according to the end.