

Maharashtra Division Level Police Complaint Authority (Administration and Procedure) Regulations, 2018

MAHARASHTRA

India

Maharashtra Division Level Police Complaint Authority (Administration and Procedure) Regulations, 2018

Rule

MAHARASHTRA-DIVISION-LEVEL-POLICE-COMPLAINT-AUTHORITY- of 2018

- Published on 31 July 2018
- Commenced on 31 July 2018
- [This is the version of this document from 31 July 2018.]
- [Note: The original publication document is not available and this content could not be verified.]

Maharashtra Division Level Police Complaint Authority (Administration and Procedure) Regulations, 2018 Published vide Notification No. DPCA-0118/CR-12/Pol-14, dated 31.7.2018 No. DPCA-0118/CR-12/Pol-14. - In pursuance of rule 10 of the Maharashtra Divisional Police Complaint Authority (Condition of Service) Rules, 2017, the Government of Maharashtra makes the following regulations for regulating the conduct of business of Division Level Police Complaints Authority, namely :-

1. Short Title and Commencement.

- These Regulations may be called Maharashtra Division Level Police Complaint Authority (Administration and Procedure) Regulations, 2018.

2. Definitions.

(1) In these Regulations, unless the context otherwise requires, -(a) "Act" means the Maharashtra Police Act, 1951 ;(b) "Authority" means the Division Level Police Complaints Authorities as established at Nashik, Pune, Aurangabad, Nagpur, Amravati and Konkan under section 22 S of the Act ;(c) "Chairperson" means the Chairperson of the Division Level Police Complaint Authority appointed under sub-section (2) of section 22 S of the Act ;(d) "Code" means the Code of Civil Procedure, 1908 (V of 1908), in its application to the State of Maharashtra ;(e) "complainant" means

a victim or a person by whom or on whose behalf a complaint is made under this Act ;(f)"complaint" means a complaint about misconduct, taken cognizance by the Division Level Police Complaint Authority under the Act ;(g)"Division Bench" means a Bench consisting of two members of the Division Level Police Complaints Authority as constituted by the Chairperson ;(h)"Enquiry" means an enquiry instituted as per procedure specified in Regulation 7 of these Regulations ;(i)"Full Bench" means a Bench consisting of three or more Members of the Division Level Police Complaints Authority as constituted by the Chairperson ;(j)"Government" means the Government of Maharashtra ;(k)"Language" means the official language of the Authorities, which shall be Marathi for all practical purposes. However, exceptions may be made owing to the non-availability of Marathi knowing stenographers /personnel or according to the language of the complainant ;(l)"Member" means a member of the Division Level Police Complaints Authority as appointed under sub-section (2) of section 22 S of the Act ;(m)"Member-Secretary" means a police officer so appointed by the Government to be the Member-Secretary of the Division Level Police Complaints Authority as appointed under sub-section (2) of section 22 S of the Act ;(n)"Misconduct" means any wilful breach or neglect by a police officer of any law, rule and regulation applicable to the police that adversely affect the rights of any member of public, as defined in clause (a) of subsection (1) section 22 Q of the Act ;(o)"Respondent" means police Constable upto the rank of senior Police Inspector against whom a complaint is lodged by the complainant ;(p)"Section" means of a section of the Act ;(q)"Single Bench" means a Bench consisting of one member of the Division Level Police Complaints Authority as constituted by the Chairperson ;(r)"Unit" means a Police Commissionerate, District, specialized branch of the Police or allied departments, including but not limited to the SID, CID, ACB, SRPF and training institutions etc. ;(2)Words and expressions used in these rules but not defined hereinabove shall have the same meaning respectively assigned to them in the Act and the Code.

3. Place of sitting and Jurisdiction of the Authority.

(1)Place of the sitting of the Authority shall be ordinarily be at its headquarter of respective Revenue Division. However, it may, at the discretion of the Chairperson, hold its meetings at any other place in the Division, if he considers the same necessary and expedient.(2)The jurisdiction of the Division Level Police Complaints Authority shall be the whole of the respective Revenue Division of Maharashtra,(3)The Division Level Police Complaints Authority shall inquire suo moto or on a complaint Police against Police Constable upto the rank of Senior Police Inspector, in respect of the matters provided on clause (a) of sub-section (1) of section 22Q.

4. Complaints not ordinarily entertainable.

- The Authority shall dismiss, complaints of the following nature, namely,-(a)vague, anonymous, pseudonymous, illegible, trivial or frivolous ;(b)when the complaint is presented after one year from alleged act and/or inaction ;(c)shall not inquire in Civil disputes, etc. except against Police Officers indulging in house or land grabbing, etc. ;(d)relate to service matters or labour or industrial disputes ;(e)matter is sub-judice before a court or any tribunal ;(f)matter is covered by a judicial verdict or decision of the Tribunal or any other Judicial or Quasi-Judicial Authority ;(g)matter is outside the purview of the Division Level Police Complaints Authority.(h)the complaint has not been made to

senior supervisory officer or one has not elapsed since filing of such complaint.

5. Sitzings and Decisions of the Authority.

(a)Every proceeding of the Authority shall be chaired by the Chairperson with the Members in attendance.(b)Three Members, including Chairperson shall constitute the quorum for any meeting wherein a decision is required to be taken by the Full Bench of the Authority. All the decisions shall be taken by a majority of the members of the Authority, present and voting. Dissenting opinion, if any, shall also be kept on record. However, decision will be taken on the basis of the majority opinion :Provided that, when there is equality of votes, the person chairing the meeting shall have a second and casting vote.(c)The absence of a Member from any meeting or a vacancy in the Authority shall not affect the continuity of the proceeding, so long as the quorum is satisfied.(d)The Administrative Officer or any other designated person shall record minutes of every meeting of the Authority. The Administrative Officer or designated officer of the Authority shall maintain the records of the Authority.(e)No decision of the Authority shall be held invalid only on account of technical grounds in the appointment of the Chairperson or Member.(f)A master copy of all the approved minutes of every meeting shall be maintained by the Member Secretary or designated officer.(g)Report of follow-up action in regard to decisions taken by the Authority shall be submitted by the Member-Secretary or designated officer at every subsequent meeting, till the decision is implemented.

6. Procedure for filing and registering complaints.

(1)Any person who desires an enquiry to be made by the Authority into one or more instances of "misconduct" of police personnel shall submit to the Authority, a written complaint preferably in Marathi, Hindi or English.(2)A complaint shall be submitted on plain paper, providing all the relevant details of the instance to the extent available or shall be submitted through online digital format. No fee shall be chargeable on complaints.(3)Every complaint so filed shall be supported by a self-attested declaration as provided in Annexure "A" appended to these Regulations, stating that all the relevant details mentioned in the complaint are true and correct on the basis of his personal knowledge.(4)A complaint can be submitted by post or by courier or posted by email or in digital format on the website of the Authority or in person at the office of the Authority.(5)A complainant may, if he so desires and to the extent possible supply copies of the document or records, in support of the allegations made, including, -(a)a medical report or any certificate issued by a qualified doctor disclosing nature of injuries on the body of the victim, who had examined the victim immediately after the occurrence of the incident,(b)photographs showing the injuries on the person of the victim or records at the time of enquiry,(c)audio or video recordings, relating to the allegations contained in the application,(d)relevant extract of the diary of the police station concerned,(e)copy of the first information report (F.I.R.), if any,(f)copy of the memorandum of arrest,(g)any other document considered relevant by the complainant.The complainant can file photocopies of the documents or records mentioned in the above clauses.(6)The Member-Secretary or designated officer of the Authority shall record a complaint case under the directions of the Authority, acting suo-moto in accordance with clause (a) of sub-section (1) of section 22Q of the Act or upon information received from the National Human Rights Commission (NHRC) or the State Human Rights Commission

(SHRC) or the Lokayukta or the Government or any other public authority, and as contemplated under clause 22Q (1).(7)The Member-Secretary or designated officer of the Authority shall maintain registers, in the proforma specified by the Authority, about the complaints recorded in the Authority.(8)Screening and Referral of complaints by the Authority,-(a)Upon registration of a complaint case, the Member-Secretary or designated officer shall place the complaint along with the supporting documents received, before the Authority within seven working days after receipt of the complaint, for further directions.(b)The Authority shall examine the complaint and all supporting documents and determine whether the Authority have jurisdiction to enquire into the complaint or otherwise.(c)After examination of the complaint, if the Authority is of the opinion that the subject matter of the complaint does not fall within the Authority's jurisdiction, then the Authority shall reject the complaint after recording the reasons in writing but so far as possible within fifteen days from the date of the complaint.(d)Upon preliminary examination of the complaint, if the Authority is of the view that no prima facie case is made out, it shall reject the complaint for the reasons recorded in writing, so far as within fifteen days from the registration of the complaint.(e)If the Authority is satisfied that the complaint falls within its jurisdiction and there exists a prima-facie case to conduct the enquiry, then the Authority shall proceed with the enquiry under the Act and these Regulations.(9)The Member-Secretary or designated officer of this Authority shall issue authenticated order of the Authority made under these Regulations and communicate, free of charge, a copy of the order to the complainant or representative of the complainant as the case may be.

7. Conduct of enquiry.

(1)Where the Authority decides to conduct an enquiry in any complaint, it shall issue notice, as per Annexure "B" appended to these Regulations, to all respective employee or officer who are related with that matter or against whom a complaint has been made.(2)Every notice issued by the Authority to the respondent under subregulation (1), shall be accompanied with a copy of documents, along with supporting documents, if any, filed along with the complaint.(3)When notice is issued under sub-clause (2) to any respondent, a copy of the same shall be sent to the Superior Officer of such Respondent.(4)A respondent officer shall submit his reply to the Authority within thirty days of the receipt of the notice, issued under sub-regulation (1), along with supporting documents, if any, if he so desires.(5)The Member-Secretary or designated officer of the authority shall transmit to the complainant, free of charge, copy of the reply and the copies of supporting documents received from the respondent officer within seven working day of receipt of such a reply.(6)In case the Authority refers a complaint received to its own investigator or any other agency or officer from the purpose of conducting an enquiry, such agency shall complete the enquiry into the matter as expeditiously as possible, and submit a report along with supporting documents to the Authority within a period of sixty days.(7)The Member-Secretary or designated officer of the authority shall transmit to the complainant, free of charge, a copy of the report received, under sub-regulation (5), within seven days from the date of receipt of the report.(8)The Member-Secretary or designated officer of the authority shall maintain a case record and progress report of each complaint on every day of proceedings in writing.(9)The Member-Secretary or designated officer of the authority shall maintain records of the meeting and shall obtain signature of the Chairperson and the members on the said minutes of the meeting.

8. Issue of Notice of Hearing.

(1)The Authority shall hold hearing of the complaint case as deemed necessary after giving due notice to the parties, including the complainant, his representative or the victim as the case may be.(2)The Member-Secretary or designated officer shall notify all the concerned parties, the date of hearing well in advance, but at least seven days before the listing of the complaint for hearing. However, in case of urgency, the Authority may waive this period of notice and proceed at the earliest possible.(3)When notice of hearing is issued to any Respondent, a copy of the same shall be sent to the Superior Officer of such Respondent.(4)Every officer who has received notice of hearing under sub-regulation (3), shall immediately communicate the same to the concerned Respondent Officer and ensure that such officer is given leave or permission to attend the hearing on the stipulated date.(5)The Authority may also call and hear any other person other than the concerned parties, as and when required.(6)The Authority may call for concerned documents, any record or public document concerned with an enquiry from any police officer or public servant.

9. Conduct of Hearing.

(1)The Authority shall observe principle of natural justice in the conduct of every hearing in the enquiry.(2)The hearing shall be conducted in the official language of the State. However, as an exception, the hearing may be conducted in Hindi or English also.(3)The Member-Secretary or designated officer of the Authority shall maintain a record of the proceedings of every hearing.

10. Appearance at a hearing.

(1)The parties to a complaint shall appear at a hearing in person or through their Legal Representative.(2)Legal representative of persons can attend a hearing by obtaining leave of the Authority, which the Authority may grant for reasons recorded in writing.(3)The Authority may issue summons to any person (as per Annexure "C"), who has knowledge of the matter and facts relating to the complaint, to appear at a hearing for purpose of examination, obtaining evidence on oath or producing documents or record relevant to the case or both or as the case may be, as the Authority deems fit.(4)Time limit for completion of enquiry and grant of adjournment.- Every enquiry initiated on the basis of a complaint received by the Authority shall be completed and submit report to the State Government, as expeditiously as possible and in any case within a period of ninety days from the date of receipt of complaint :Provided that, the authority shall not grant more than three adjournments to respondent officer or complainant, during the pendency of a complaint.(5)In the report submitted to the State Government after expiry of the time limit mentioned in the above sub-regulation (4), the Authority shall record the reasons for delay in writing.(6)The complainant or a victim or a respondent officer may apply for adjournment of a hearing at least three days in advance before the date of hearing.(7)Ordinarily the Authority shall not grant adjournment of hearing unless reasonable cause is shown by the concerned party to a case and in every instance; the Authority shall record reasons in writing for grant of adjournment.(8)Where an adjournment is granted on the plea of a respondent officer for reasons of performance of unavoidable official duty, the hearing may be held on the next working day :Provided that, the Authority shall not grant more than three adjournments to a Respondent Officer,

during the pendency of a complaint against him.(9)Where a complainant or a victim or the Respondent Officer fails to appear before the Authority, the Authority shall proceed with the case ex- parte.

11. Decisions and Directions of the Authority.

(1)Upon completion of an enquiry, the Authority shall communicate its findings to the State Government, the concerned officers and their senior supervisory officer.(2)The Authority shall take into consideration any additional fact or information or submission received under sub-regulation (2), before arriving at findings on the complaint in accordance with the time limit specified in the earlier Rule.(3)In its findings, the Authority may affirm or revise its findings or the directions recorded under sub-regulation (1) or (2).(4)Every findings of the Authority shall contain,-(a)a summary of the allegations in the complaint ;(b)a summary of the reply, report and submissions received by the Authority ;(c)the findings of the Authority ;(5)After completion of the enquiry, if the Authority comes to the conclusion that the complaint so filed by the complainant or his representative or the alleged victim is frivolous, false, vexatious, malicious or with ulterior motive, in that case the Authority may take action as per provisions of section 22T of the Act.(6)The Member-Secretary or designated officer shall notify the date of pronouncement of final decision at least three working days in advance.(7)Findings of the Authority shall be pronounced in open proceedings by the Chairperson or any Member authorized by Chairperson for this purpose and the same shall be communicated to the concerned authorities for implementation.(8)The person pronouncing the findings of the Authority shall read out the operative part of the decision and cause the explanation of the substance thereof to the complainant or the victim in the official language or in Hindi or English, as an exception.(9)The Member-Secretary or designated officer of the authority shall duly authenticate final decision of the Authority and without any delay cause copies of the decision to be provided to the parties, free of charge.

12. Transparency in the working of the Authority.

(1)Every hearing of the Authority shall be open to the public :Provided that, in exceptional circumstances and for reasons recorded by the Authority in writing, such hearing may be held in camera.(2)The Member-Secretary or designated officer of the Authority shall be responsible to create, develop and update an internet website in the official language of the Authority or in English.(3)The Member-Secretary or designated officer of the Authority shall prepare and display on its website or its notice board, the cause-list of the cases listed daily, weekly and monthly.(4)All decisions of the Authority shall be uploaded on the website of the Authority regularly without any delay.(5)All applications received by the Authority for information under the Right to Information Act, 2005 shall be disposed off as per the provision of that Act.(6)The Member Secretary or designated officer of the Authority shall publish and disseminate basic information of the Authority and its procedure through print, electronic and/ or social media.(7)Without prejudice to sub-regulation (1) above, the Member-Secretary or designated officer shall within six months of the constitution of the Authority publish a booklet/guide, giving the contact details, powers and functions of the Authority, the procedure for filing complaint, prescribed forms or formats for the purpose of receiving and disposing of complaints and the remedies available to the complainant

under the provision of the Act.(8)The Member-Secretary or designated officer of the authority shall update the said booklet/guide, from time to time.(9)The Government shall make copies of this booklet/guide available at the offices of the Authorities, at every Police Station and all other offices of the Police Department, as far as possible, free of charge.

13. Annual report of the Authority.

- The Authority shall submit to the State Government an annual report at the end of the financial year on the following subjects:(a)number and type of complaints enquired into by the Authority;(b)number and type of cases of misconduct enquired into by the Authority;(c)number and type of cases if referred to any other agency or officer for the purpose of conducting an enquiry;(d)findings of the Authority in each case;(e)extent of any delay and the reasons for the delay in completing any enquiry;(f)identifiable patterns of misconduct of police personnel in the state;(g)recommendations for enhancing the accountability of the police.

14. Power of Authority to issue orders, circulars, etc.

- The Chairperson of the Authority shall issue necessary administrative orders, circulars and clarifications etc. from time to time to ensure the smooth functioning of the Authority. Annexure A[See section 6(3)]Self Attested Declaration On plain paper (No Court fee required) I Shri/Smt./Ms.

son / daughter / wife / widow
of _____

_____ aged _____ years, permanent and current address as given below,
having Aadhaar No. _____ (self attested copy attached) do
swear in the name of God and hereby solemnly affirm and state as follows:

**1. That I am the complainant in the accompanying complaint / have
authorized Shri / Smt. / Ms.**

_____ to file the
authorized Shri/ Smt./ Ms. _____
to file the accompanying complaint as I am unable to file the same because
of _____
_____ reason.

**2. That the facts stated in the attached complaint in paras
_____ are true to the best of my knowledge
and in paras _____ are true to my
information and belief.**

3. I therefore request you to enquire into the above complaint and take further action as deemed fit.

DeponentName : _____ Permanent AddressAnnexure B[See Rule 7(1)]Division Level Police Complaints Authority at _____ Summons to Produce Document/sNo. DPCA / ofTo

Designation & Address(es) of Public servant(s);Whereas a complaint has been made before the Division Level Police Complaints Authority at Respective Headquarter by

(name and address of complaint)
against you, the above-named, containing grievance / allegation in respect of

and it appears to the Chairperson, Division Level Police Complaint Authority desirable for the purpose of inquiry / investigation that the relevant document(s) should be produced before him.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 _____ at _____ O'clock. Herein fail not.Given under my hand and seal of the office.Dated :Administrative Officer,Division Level Police Complaints Authority.Annexure C[See Rule 10(3)]Division Level Police Complaints Authority at _____ Summons to WitnessNo. DPCA / of _____
..ComplaintVs._____. ..Police OfficerTo,_____

your attendance is required as a witness before the Chairperson, Division Level Police Complaint Authority on behalf of

_____ in the above complaint, you are hereby required to appear personally before him on the _____ at _____ O'clock and to bring with you the relevant documents or to send them through your servant or agents able to prove them.Given under my hand and seal of the office.Dated :Member Secretary/ Administrative Officer,Division Level Police Complaints Authority.