

Jammu and Kashmir Commission of Inquiry Rules, 1964

JAMMU & KASHMIR

India

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Rule

JAMMU-AND-KASHMIR-COMMISSION-OF-INQUIRY-RULES-1964 of 1964

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Jammu and Kashmir Commission of Inquiry Rules, 1964Published vide Law Department Notification SRO-116 dated 8th April 1964In exercise of the powers conferred by section 15 of the Jammu and Kashmir Commission of Inquiry Act, 1962 (Act No. XXXII of 1962), the Government hereby makes the following rules, namely:-

Part I

Preliminary

1. Short title and commencement

(1) These rules may be called the Jammu and Kashmir Commission of Inquiry Rules, 1964.(2)They shall come into force at once

2. Definitions

In these rules, unless the context otherwise requires,(a)"assessor" means an assessor appointed under these rules;(b)"Commission" means a Commission of Inquiry appointed under section 3 of the Jammu and Kashmir Commission of Inquiry Act, 1962 (XXXII of 1962).

Part II

Assessors

3. Appointment of assessors

The Government or, with the previous approval of the Government, a commission may, from time to time, appoint one or more persons as assessors being experts or having special knowledge of any matter relevant to the inquiry, to assist it in its deliberations.

4. Function of assessors

It shall be the duty of the assessors to assist and advise the Commission on any matter on which the commission may consult them in the course of its inquiry; provided that the advice tendered by the assessors shall not be binding on the Commission.

5. Manner of consultation with the assessors

The Commission shall have the power to regulate the manner in which it may consult the assessors.

Part III

Procedure of Inquiries

6.

(1) The commission shall, as soon as may be, after its appointment, (a) issue summons to every person who, in its opinion, should be given an opportunity of being heard in the inquiry to furnish to the Commission a statement relating to such matters as may be specified in the notice or to produce documents; (b) issue a summons, to be published in such manner as it may deem fit, inviting all persons acquainted with the subject-matter of the inquiry to give evidence or to furnish to the Commission a statement relating to such matters as may be specified in the notification. (2) [Every notice issued by the Commission shall be in duplicate and signed by the Chairman or such person as he empowers in this behalf or in case the Commission consists of only one member by the said member or such person as he empowers in this behalf and shall be sealed with the seal of the Commission and it shall specify the 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 produce a document, or for both.] [Sub-rule (2) of rule 6 substituted by SRO 43 dated 5th February, 1965.] (3) A person may be summoned to produce a document or cause its production through an authorized agent or to give evidence. (4) A summons to produce documents may be for the production of certain specified document or for the production of all documents of a certain

description in the possession or power of the person summoned.(5)Every summons shall be served by sending it by registered post to the person for whom it is intended, or through the District Court of the District in which such person resides or carries on business or was last heard of.(6)The provisions of the foregoing rules of this Part shall apply, as far as may be, to every other process issued by the Commission.[7. Every person furnishing a statement under sub-rule (1) of rule 6 shall also furnish to the Commission along with the statement a list of the documents, if any, which he proposes to rely and forward to the Commission, wherever practicable, the originals or true copies of such of the documents as may be in his possession or power and shall state the name and address of the person from whom the remaining documents may be obtained:Provided that a statement, unless it is accompanied by an affidavit, shall not be used as piece of evidence.] [Rule 7 substituted by SRO 279 dated 3rd September, 1964. (Sub-rule (2) was omitted by SRO 75 of 1965.][7-A. The Commission may sit in public-or private as it thinks fit; provided that the Commission shall sit in private on a request being made by the Government in that behalf.] [Rule 7A inserted by SRO 209 dated 17th June, 1968.]

8. Recording of evidence

(1) The Commission shall examine all the statements furnished to it under rules 6 and 7 and if, after such examination, the Commission considers it necessary to record the evidence, it shall first record the evidence, if any, produced by the Government and may thereafter record in such order as it may deem fit(a)the evidence of any person who has furnished a statement under rules 6 and 7 and whose evidence the Commission having regard to the statement, considers relevant for the purpose of inquiry;(b)The evidence of any other person whose evidence, in the opinion of the Commission, is relevant to the inquiry:[Provided that the Commission may dispense with the attendance of any person for the purpose of giving evidence before it if in its opinion [Proviso added by SRO 75 dated 10th February, 1965.](a)such attendance cannot be enforced except by causing undue hardship or inconvenience to that person; or(b)such attendance should be dispensed with for any other sufficient reason to be recorded by it in writing.](2)If, after all the evidence is recorded under sub-rule (1), the Government applies to the Commission to call any new witness or witnesses or recall any witness or witnesses, the Commission shall, if satisfied that it is necessary for the proper determination of any relevant fact so to do, call or recall such witness or witnesses and examine him or them.

9. Persons likely to be prejudicially affected to be heard

If at any stage of the inquiry, the Commission-(a)considers it necessary to enquire into the conduct of any person; or(b)is of the opinion that the reputation of any person is likely to be prejudicially affected by the inquiry;the Commission shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence.

10. Right of cross-examination and representation

The Government, every person referred to in rule 9 and with the permission of the Commission, any other person whose evidence is recorded under rule 7,(a)may cross-examine a witness other

than a witness produced by it or him;(b)may address the Commission; and(c)may be represented before the Commission by a legal practitioner or, with the consent of the Commission, by any other person.

11. Procedure in matters not provided in the rules

The Commission shall have the power to regulate its own procedure in respect of any matter for which no provision is made in these rules.

12. Travelling and daily allowances

Every person summoned to appear before the Commission shall be entitled to travelling allowances and daily allowances at the rates admissible to witnesses summoned by the Civil Court in the State.