

**MAHARASHTRA LOKAYUKTA AND UPA-LOKAYUKTAS
ACT, 1971**

No. LPL. 1173/1548-D-I -In exercise of the powers conferred by sub-section (1), read with clauses (c), (d) and (e) of sub-section (2), of section 20 of the Maharashtra Lokayukta and Upa-Lokayuktas Act,.1971 (Mah.XLVI of 1971) and of all other powers enabling him in that behalf, the Government of Maharashtra hereby makes the following rules, namely :-

**CHAPTER I
PRELIMINARY**

1. *Short title and commencement.*- (1) These rules may be called the Maharashtra Lokayukta and Upa-Lokayuktas Rules, 1974.

They shall come into force at once.

2. (1) *Definitions.*-In these rules, unless the context otherwise requires,-

(a) "Act" means 'the Maharashtra Lokayukta and Upa-Lokayuktas Act, 1971 (Mah.XLVI of 1971) ;

(b) "Assistant Registrar" means a person appointed to be an Assistant Registrar under section 13 ;

(c) "Civil Manual" means the Civil Manual issued by the High Court of Judicature, Bombay, Appellate side, for the guidance of the Civil Courts and Officers subordinate to it, as amended from time to time;

(d) "Code" means the Code of Civil Procedure, 1908 (V of 1908), in its application to the State, of Maharashtra ;

(e) "Criminal Manual" means the Criminal manual issued by the High Court of Bombay for the guidance of the Criminal Courts and Officers subordinate to it, as amended from time to time;

(f) "Registrar" means a person appointed to be the Registrar under section 13;

(g) "Section" means a section of the Act;

(h) "Schedule" 'means a Schedule appended to these rules.'

(2) Words and expressions used but not defined in these rules and defined in the Act, shall have the meanings respectively assigned to them in the act.

CHAPTER II

COMPLAINTS AND AFFIDAVITS - FORM AND CONTENTS

[See sub-section (of section 9 and clause (a) of sub-section 5 of section 8]

3. *Form and contents of complaint.* --Save as otherwise provided in these rules every complaint under the Act shall be made as far as possible in the form prescribed in schedule A and shall contain the following particulars:-

(a) The name and address of the complainant.

(b) The name official designation (if any) and address of the person against whom the complaint involving a grievance or an allegation is made.

(c) If a complaint involving a grievance is made after the expiry of twelve months from the date of the action complained against the date on which the said action complained against became known to the complainant and statement of grounds showing sufficient cause for not making the complaint within the period specified in section 8 (5) (a).

(d) A statement that the complainant has not for the same matter resorted to any other remedy by way of proceedings before any tribunal or court of law or any other authority empowered to decide that matter, If the complainant has resorted to any such remedy, the designation of the tribunal or court or authority, as the case may be before which such proceedings were instituted, the date on which they were, instituted, the number given to such proceedings, if the proceedings are disposed of, the result of such proceeding and if the proceedings are pending the state at which pending, should be stated.

4. Signature or thumb impression below complaint. -- Every complaint shall be, duly signed by the complainant, or if he is illiterate it shall bear his thumb impression duly attested by a literate person under his signature and such person shall give his name and address below his signature.

5. Copies of complaint.-- Every complaint shall be accompanied by as many spare copies as there are public servants complained against.

6. Affidavit to accompany complaint.-- Every complaint shall be supported by an affidavit as prescribed in rules 7 and 8.

7. Contents of affidavit.-- (1) Every affidavit shall be drawn up clearly and legibly and as far as possible, in a language which the person making it understands. It shall be drawn in the first person and shall be divided into paragraphs, if any, which should be numbered consecutively. Each paragraph shall as far as possible, be confined to a distinct subject or portion thereof. The affidavit shall be sworn in before the Registrar or the Assistant Registrar or before a person legally authorised to administer oath.

(2) Every person making an affidavit shall state his name, father's or husband's name, as the case may be, surname (if any), age, profession or trade and place of residence and give such other particulars as will make it possible to identify him clearly.

(3) Every affidavit shall be duly signed by the person making it, or if he is illiterate it shall bear his thumb impression duly attested by a literate person under his signature and such literate person shall give his name and address below his signature.

(4) Every affidavit shall also include averments consistent with clause (d) of rule 3.

8. Manner of submission of complaint or affidavit.-- Every complaint or affidavit shall be legibly typed or written on

Registrar or the Assistant Registrar, as the case may be (hereinafter in this Chapter referred to as "the registering authority", is satisfied that the complaint is proper, he may direct the complaint to be registered in a register maintained for that purpose.

12. Defects in complaint.-- If the registering authority 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 to rectify the defects within a specified time and after such compliance he may direct the complaint to be registered.

13. Effects of non-compliance .-- If the necessary requirements are not complied with within the time specified under the last preceding rule or such further time as the registering authority may allow, the complaint may be put up by the registering authority before the Lokayuka or the Upa-Lokayukta, as the case be, and the Lokayukta or Upa-Lokayukta may summarily reject such complaint or pass such other order as he deems fit in the circumstances of the case.

14. Acknowledgement of complaint.-- After any complaint is registered, the registering authority or any other officer empowered in that behalf by the Registrar, shall send to the complainant an acknowledgement 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.

CHAPTER IV

INVESTIGATION AND PROCEDURE

(See section 10)

15. Manner of service of notice .-- A notice under rule 4 of the Maharashtra Lokayukta Upa-Lokayuktas (Competent Authorities) Rules, 1973, shall be served upon the public servant concerned by registered post acknowledgement due or by personal delivery after obtaining a receipt from him or

through the Officer to whom the public servant is subordinate in service.

16. *Manner of reply.*-- Such public servant shall send his reply and 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 reply for his defence.

17. *Failure to reply.* --- 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 time specified or granted, the complaint may be heard and decided in his absence.

18. *Power to condone delay,* -- The Lokayukta or an Upa-Lokayukta, as the case may be, may for sufficient cause shown allow the public servant concerned to file his reply and to offer his comments after the time specified or granted.

19. *Safe custody of documents etc.*-- If any party to the investigation files a document or documents in his support or if any file is called for from a public record and if the Lokayukta or an Upa-Lokayukta, as the case may be, considers it necessary in the interests of safety or security he may specially direct any officer subordinate to him to take the document or file in his charge and safe custody, subject to further orders in that behalf.

20. *Appearance of Advocates, Pleaders etc.* -- Ordinarily, no Advocate Pleader Muktyar or other legal representative will be allowed to appear before the Lokayukta or an Upa-Lokayukta in the investigations under this Act:

Provided that Lokayukta or Upa-Lokayukta may in specific cases allow the parties to appear through any such person.

21. *Notice of hearing.*--- (1) During course of conducting an investigation the Lokayukta or Upa-Lokayukta may serve both parties with notice in the form prescribed in Schedule D to appear before him for a hearing, with or without witnesses, or

for any other purpose.

(2) Such notice may be sent through the Police Station of the area in which the complainant or public servant complained against resides or through the Head of the Department in which the public servant is serving or/ by registered post acknowledgement due or in any other manner which the Lokayukta or the Upa-Lokayukta, as the case may be, thinks fit.

22. Examination and cross-examination of witnesses.---
During the course of hearing, each party shall have a right to examine himself and his witnesses and to cross-examine the opposite party and the witnesses examined by that party:

Provided that, if any cross-examination is irrelevant or is unduly lengthy or is otherwise improper, the Lokayukta or an Upa-Lokayukta, as the case may be, may disallow it or any part of it.

23. Administering oath and recording of evidence.--- (1) The Lokayukta or the Upa-Lokayukta, as the case may be, or an officer duly empowered by the Lokayukta may administer oath to every person examined during any investigation under the Act.

(2) The Lokayukta or the Upa-Lokayukta, as the case may be may record in English the substance of the evidence given by each person examined by him.

24. Interpreters. ---(1) The Lokayukta or Upa-Lokayukta may in special case appoint an interpreter or interpreters, who shall be paid remuneration at such rate as may be fixed by the Lokayukta.

(2) The interpreter shall take oath in the following form :--

do swear in the name of God
I ----- that I will well and truly
Solemnly affirm
interpret and explain all questions put and evidence given by
witnesses and translate correctly and accurately all documents
given to me for translation.

25. *Witness summons and process.*-- If either party wants his witnesses to be summoned he shall pay in the form of Court fee stamps process fee at the rate of 30 paise per witness and he shall deposit in the office subsistence allowance at the rate prescribed in the Criminal Manual and obtain a receipt as prescribed by rule 27 :

Provided that, the person named in paragraph 3 of Chapter II of the Criminal Manual shall be exempted from payment of process fee.

26. *Witness summons and manner of service* ---- Save as otherwise provided or in the absence of any other specific order in that behalf, summons to witnesses may be issued in the form [prescribed in Schedule 'E'] and may be served through the Police Station within whose jurisdiction the witness resides.

CHAPTER V ACCOUNTS

27. *Issue of receipt.* - A party depositing subsistence allowance shall be given a receipt in form 'A' as shown in the Civil Manual,

28. *'G' Register* -- Such amount shall be entered in 'G' Register as prescribed in the Civil Manual.

29. *'H' Register.* -- All amount paid to a witness or witnesses or repaid to the party concerned, shall be entered in a register described as 'R' Register in the Civil Manual.

30. *Cash Book.* -- The daily total of 'G' and 'R' Register shall be carried to the daily cash book.

31. *Balance over one year.* -- Balance unclaimed within one year from the close of the case shall after the close of March next year be credited to Government,

CHAPTER VI
CLOSURE OF A CASE

(See section 10)

32. Procedure after closure of case under section 10.-- If the Lokayukta or Upa-Lokayukta refuse to investigate or ceases to investigate any complaint for reasons stated Sub-section (4) of Section 10, the finding shall be communicated to the complainant and if necessary to the public servant concerned, in the form prescribed in Schedule 'F'.

CHAPTER VII
**FURNISHING OF INFORMATION AND PRODUCTION OF
DOCUMENTS, ETC.**

(See section 11)

33. Furnishing of information and production of documents -
(1) Where the Lokayukta or Upa-Lokayukta require any public servant or any other person to furnish information or to produce documents under section 11 (1) the Registrar shall issue a notice in the form prescribed in Schedule 'G' to the office or authority in whose custody that document or file would ordinarily be.

(2) If the file is not produced or sent within one month from the date of receipt of the notice by the officer or authority concerned, the Registrar shall write to the Head of the Department concerned and wait for 15 days thereafter.

(3) If the file is not received within 15 days after the Registrar's letter referred to in sub-rule (2), the complaint shall be put up before the Lokayukta or the Upa-Lokayukta as the case may be, for disposal.

34. Consequences of refusal of party to produce documents.-- Where any party to an investigation before the Lokayukta or Upa-Lokayukta, without lawful excuse, refuses to

produce a document or documents in his custody or power, the Lokayukta or the Upa-Lokayukta as the case may be, proceed to decide the matter against him in the absence of those documents and may also strike off the complaint or defence, as the case may be; or may make such other orders as he thinks fit.

CHAPTER VIII

GENERAL POWERS

[See section 11 (2) (f) and 20 (2)]

35. *Interim stay etc.* -- If during the course of an inquiry or, investigation under this Act, the Lokayukta or Upa-Lokayukta is *prima facie* satisfied that the case is likely to result in an action being taken under section 12(1) or 12(3), he may direct that the further implementation or enforcement of the order or action complained against be stayed and may direct the *status quo* as on the date of the application to be maintained on such terms and condition, if any, as he thinks fit.

CHAPTER IX

MISCELLANEOUS

Time limit for certificate under section 11.- (1) The Certificate as required by sub-section (5) of section 11 shall be issued by the Chief Secretary, within a period of sixty days from the date on which the information is required to be furnished, the question is required to be answered or the documents is required to be produced:

provided that, this period may be extended by the Lokayukta or the Upa-Lokayukta, as the case may be, for such period as he thinks fit.

(2) If the certificate is not issued during this period, it shall be deemed that for the purposes of the investigation on such objection exists.

37. Information under section 12 (5) when case is closed.- When a case is closed, the information to be given to the complainant, to the public servant concerned and to the competent authority concerned according to sub-section (5) of section 12, shall subject to the specific written order of the Lokayukta or Upa-Lokayukta, be given in the form prescribed in Schedule 'H'.

38. Information under section 12 (5) when a report is made to the Governor- When a special report is made to the Governor under sub-section (5) of section 12, the information to be given to the complainant regarding such report shall, subject to the specific written order of the Lokayukta or Upa-Lokayukta be given in the form prescribed in Schedule 'I'.

39; Rehearing of complaint. - If the case is closed for default of complainant or if it is ordered to be filed or if it is decided *ex parte* against the public servant, the Lokayukta or Upa-Lokayukta as the case may be if sufficient cause is shown to him, may restore the complaint to file and may re-open the case and re-hear it on merits.

40. General Powers during inquiry.- (1) While conducting a preliminary inquiry or an investigation under this Act, the Lokayukta or the Upa-Lokayukta as the case may be, shall have all the powers of a Civil Court as contained in Order XI, rules 12, 13, 14 and 21, Order XII, rule 3-A, Order XIII, rule 10, Order XVI, rules 1 to 7, 10, 11,12 regarding imposition of fine only, 14, 15 and 16, in the First Schedule to the code, with such variations as circumstances may require,

(2) Any amount of the fine imposed as per Order XVI rule 12. aforesaid, shall be recovered from the- party as an arrear of land revenue.

41. Certified copy.- No person shall be entitled to a certified copy of any record of the proceeding before the Lokayukta or

the Upa-Lokayukta as the case may be:

Provided that, subject to the provisions of sections 10 (2) and 14 (1) the Lokayukta or Upa-Lokayukra, may permit a certified copy to be granted of the final order passed in a case or of such part thereof as he may deem fit.

42. Destruction of record.-- Subject to the general or special order issued by the Lokayukta in this behalf the record of a case may be destroyed after a period of three years from the date of close of the case. For example if a case is closed on the 20th February 1973, the record should be destroyed after 1976:

Provided that, the original complaint and the final order passed or the finding given shall be preserved permanently.

43. Attendance of Witnesses:- (1) If while making any preliminary inquiry or while conducting any investigation under the Act, or at any time, the Lokayukta or the Upa-Lokayukta, as the case may be, on his own motion examines any person as a witness, whether as witness to give evidence, or to produce any document in his possession, and if such person is in any private service, such person shall obtain from the office of the Lokayukta a certificate that he has attended the office of Lokayukta or Upa-Lokayukta for the purpose of giving evidence. The certificate shall state the date of his appearance and the period for which he had been detained;

Explanation.- For the purposes of this rule, "Private service" means any employment other than that of a public servant.

(2) If the person produces such a certificate before his employer, he shall be deemed to have been on duty on such date or dates and he shall not be marked absent from duty on such date or dates or be penalized in any manner.

(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 or Upa-Lokayukta, Upon production of such a certificate, he shall be treated as on duty on the day or dates on which he attended the office of the Lokayukta or Upa-Lokayukta,

(4) If such person is not employed in any service and, if the Lokayukta or the Upa-Lokayukta, as the case may be, thinks fit, such person may be paid travelling allowance, if any, and subsistence allowance at the rates mentioned in the Civil Manual.
