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#### NOTIFICATION

**No.B.13017/47/2012-UD&PA/Pt, the 19<sup>th</sup> April, 2013.** The rules “**The Mizoram (Establishment of Independent Local Body) Ombudsman Rules, 2013**” is hereby published for general information and the Rules shall effect from the date of publication in the Official Gazette.

The territorial jurisdiction of the Ombudsman shall be within the State of Mizoram, where Local Bodies are in existence.

**R.L. Rinawma,**

Principal Secretary to the Govt.of Mizoram,  
Urban Development & Poverty Alleviation Department.

In exercise of the powers conferred under Section 20 of the Mizoram (Establishment of Independent Local Body) Ombudsman Act, 2011 ( Act No. 8 of 2011), the Governor of Mizoram is pleased to make the following rules, namely:-

#### CHAPTER - I

#### **PRELIMINARY**

##### **1. Short title, extent and commencement**

These rules may be called The Mizoram (Establishment of Independent Local Body) Ombudsman Rules, 2013.

(2) They shall come into force from the date of their publication in the Official Gazette.

## **2. Definitions**

In these rules, unless the context otherwise requires:-

- (1) 'Act' means the Mizoram Municipalities Act, 2007
- (2) 'Authorized representative' means a person duly appointed and authorized by a complainant to act on his behalf and represent him in the proceedings under these Rules for consideration of his complaint.
- (3) 'Award' means an award passed by the Ombudsman in accordance under these Rules.
- (4) 'Complaint' means a representation in writing or through electronic means containing a grievance against municipal administration, grievance against corruption, complaint alleging deficiency in the services of the Municipal Councils, and Local Council or Village Council institutions as mentioned in Rule 9 of the Rules.
- (5) 'Local Body' means all institutions carrying out the municipal and civic functions under the Mizoram Municipalities Act, 2007 and which for the purposes of these Rules is also termed as Local Body;
- (6) 'Ombudsman' means any person appointed under the Mizoram (Establishment of Independent Local Body Ombudsman (Amendment) Act, 2011 (Act No. 8 of 2011)
- (7) 'Rules' means the Mizoram (Establishment of Independent Local Body) Ombudsman Rules, 2013.
- (8) Words and expressions used herein but not defined in these Rules shall have the same meaning as defined in the Act.

## **CHAPTER - II**

### **ESTABLISHMENT OF THE OFFICE OF OMBUDSMAN**

#### **3. Appointment and Tenure**

- (1) The State Government may, on the recommendation of a Selection Committee as indicated in sub-rule (2) of these Rules shall appoint a person to be known as Ombudsman to carry out the functions entrusted to him under these Rules.
- (2) The Selection Committee referred to in sub – rule (1) shall consist of :-
  - (a) The Chief Minister of the State Government,
  - (b) Speaker of the Mizoram Legislative Assembly, and

- (c) Leader of the Opposition Party in the Legislative Assembly.
- (3) The Ombudsman must not be a person below the rank of Additional Secretary to the State Government or a District Judge having jurisdiction in the State.
- (4) The minimum age of a person for appointment as Ombudsman shall be fifty – five years.
- (5) The appointment of Ombudsman shall be made for a period not exceeding three years,

Provided that the period of appointment of a Ombudsman may, subject to the recommendation of the Selection Committee referred to in sub-rule (1), be extended for a further period not exceeding two years, subject to the age-limit of sixty-five years.

- (6) The Ombudsman shall devote his whole time to the affairs of his office,

Provided that the State Government may, if, in its opinion, considers necessary so to do, permit the Ombudsman to undertake such part-time honorary work as is not likely to interfere with his duties under this Act.

- (7) When appointed as Ombudsman, the officer, if he/she is still in service under the Government of Mizoram, shall seek and obtain retirement from Government service, before entering upon the office as an Ombudsman.
- (8) Where the State Government is satisfied that in the public interest or for reason of incapacity of a Ombudsman, it is necessary so to do, it may, for reasons to be recorded in writing, and by giving him three months notice or by paying him three months consolidated emoluments in lieu of the notice aforesaid, remove him from his office.
- (9) The Ombudsman shall be independent of any control of either the Urban Local Body or other Local Body.

#### **4. Remuneration**

The Ombudsman selected shall be engaged in the scale of pay determined by orders of the Government or in accordance with CCS (Fixation of Pay of Re-employed Pensioner) Orders, 1986 on regular basis and shall preferably be a resident of the city where he/she is proposed to be posted.

#### **5. Territorial Jurisdiction**

The State Government shall specify the territorial jurisdiction of the Ombudsman by a notification in the Gazette.

#### **6. Location of Office**

The office of Ombudsman shall initially be located at Aizawl, State of Mizoram and the Government may notify additional locations and may appoint additional Ombudsman for each such location.

## **7. Secretariat**

The Ombudsman shall be provided with a secretariat staff consisting of a Private Secretary, UDC, Office Peon by the Government of Mizoram.

### **CHAPTER - III**

## **POWERS AND DUTIES OF MUNICIPAL OMBUDSMAN**

### **8. Powers and Duties**

- (1) The Ombudsman shall have the powers to –
  - (a) receive complaints from citizens on any matters specified in Rule 9;
  - (b) consider such complaints and facilitate their satisfaction or settlement by agreement, through conciliation and mediation between the Local Body and the aggrieved parties or by passing an ‘award’ in accordance with the Rules, failing conciliation or mediation;
  - (c) to resolve, by referring to arbitration, such disputes between Municipalities or between a local council or village council and its citizens to arbitrator/(s) as may be agreed upon by the contesting parties in accordance with the provisions of the Arbitration and Conciliation Act, 1996.
  - (d) require the Local Body Authority Complained Against or any other related Local Body Authority to provide any information or furnish certified copies of any document relating to the subject matter of the complaint which is or is alleged to be in its possession; provided that in the event of failure of such authority to comply with the requisition without any sufficient cause, the Ombudsman may, if he deems fit, draw the inference that the information, if provided or copies if furnished, would be unfavourable to the concerned Municipal or Local/ Village Council Authority;
  - e) suggest remedial measures for redressing of grievances; and
  - (f) report his order and findings and/or forward the Award to the Governor of Mizoram for appropriate action against erring officials and/or compliance of the Award;
- (2) The Ombudsman shall have the following duties:
  - (a) to exercise general powers of superintendence and control over his office and be responsible for the conduct of business in his office;
  - (b) to maintain confidentiality of any information or document coming into his knowledge or possession in the course of discharging his duties and not to disclose such information or document to any person except with the consent of the person furnishing such information or document;

Provided that nothing in this clause shall prevent the Ombudsman from disclosing information or documents furnished by a party in a complaint to the other party or parties, to the extent

considered by him to be reasonably required to comply with the principles of natural justice and fair play in the proceedings;

- (c) to protect individual citizens' civic rights and reduce citizens' civic burden;
- (d) to identify issues that increase the complications, burden, or create problems for citizens in respect of civic amenities, and to bring those issues to the attention of the Government of Mizoram;
- (e) to send a monthly report to the Principal Secretary, Urban Development Department, recommending appropriate action. The report shall specially highlight cases where action needs to be taken against erring Local Body Authorities for their failure to redress the grievance. The report will be accompanied with primary evidence needed to initiate action against the delinquent persons;
- (f) to furnish a report every year containing a general review of activities of the office of the Ombudsman during the preceding financial year to the Chief Secretary, Government of Mizoram along with such other information as may be considered necessary by him. In the annual report, the Ombudsman, on the basis of grievances handled by him, will review the quality of the working of the Local Body and make recommendations to improve the functioning of municipal and other local body administration; and
- (g) to compile a list of 'awards' passed by it between April and March of each financial year in respect of every Local Body Authority Complained Against, by name, and report it to the controlling Chief Executive Officers concerned and the Chairperson-in-Council/Chairperson of the Local Body before the end of April so that this information can be reflected in the Annual Confidential Reports of the officers concerned.

#### **CHAPTER - IV**

### **PROCEDURE FOR REDRESSAL OF GRIEVANCES**

#### **9. Grounds on which complaint shall be filed:-**

- (1) Complaints may be filed on grounds of grievance against administration, grievance against corruption, complaint alleging deficiency in the services of the Local Body;
- (2) A complaint on any one or more of the following grounds alleging deficiency in the services of the Urban Local Body and on charges of corruption may be filed with the Ombudsman, only with sufficient evidences to support the complaint:-
  - (a) Complaints in the nature of allegations of corruption, bribery, misconduct, lack of integrity, or any other kind of malpractice or misdemeanour on part of any elected representative to the Municipal Council or Local Council or Village Council and on the part of any officer or other employee of the said Local Body;

- (b) delay in issue of demand notices, orders, refunds, and copy of register or other documents beyond time limits prescribed by law or under the relevant instructions issued from time to time under the Act or the Rules framed there under;
- (c) non acknowledgement of letters or documents sent or submitted to the Local Body;
- (d) non up-dating of demand register and other registers leading to harassment of property-tax assesses, shop owners, licensees, and lessees of municipal properties;
- (e) lack of transparency in identifying cases for scrutiny of Property-Tax returns and non communication of reasons to assesses for selecting the case for scrutiny;
- (f) delay in disposing cases of interest waiver;
- (g) delay in disposal of rectification applications;
- (h) delay in giving effect to the municipal appellate orders given under the Act;
- (i) delay in release of seized assets, if any, after the proceedings under Act;
- (h) delay in allotment of property-tax identification number, holding number, and licenses;
- (j) non credit of property-tax paid before filing of property-tax returns;
- (k) non adherence to prescribed working hours by municipality officials;
- (l) non adherence to prescribed working hours by municipality officials;
- (m) failure to provide or delay in providing a civic facility without reasonable causes like supply of water, removal of municipal solid waste, and all other civic functions as mentioned in the Act, and as promised under the Act and/or by a "Citizen Charter for Civic Services" accepted by the Local Body;
- (n) levying of charges and taxes without adequate prior notice to the citizen;
- (o) delays in sanction, disbursement or non-observance of prescribed time schedule for disposal of applications to avail permissions and permits as mentioned and promised under the Act;
- (p) unwarranted rude behaviour of municipal officials with citizens;
- (q) demand for gifts and gratifications against promise to provide civic services;
- (r) any other matter relating to violation of the administrative instructions and circulars issued by the Urban Development Department in relation to civic administration;

## **10. Procedure for filing the complaint**

(1) A citizen or a person can file a complaint before the Ombudsman if the reply is not received from the Local Body within a period of one month after the Local Body concerned has received his/her representation, or if the Local Body rejects the complaint without grounds of rejection, or if the complainant is not satisfied with the reply given by the Local Body.

- (2) Any person, who has a grievance against the Local Body, may, himself or through his authorized representative, make a complaint against the Local Body Authority Complained Against in writing to the Ombudsman.
- (3) The complaint shall be duly signed and verified by the complainant and his authorised representative, if any, and shall state clearly the name and address of the complainant, the name of the office and official of the Local Body against whom the complaint is made, the facts giving rise to the complaint supported by documents, if any, relied on by the complainant and the relief sought from the Ombudsman;
- (4) The Ombudsman shall also accept a complaint made through electronic means and a print out of such complaint shall be taken on the record of the Ombudsman.
- (5) The complainant at the earliest possible opportunity shall sign a printout of the complaint made through electronic means before the Ombudsman takes steps for conciliation or settlement.
- (6) The signed printout shall be deemed to be the complaint and it shall relate back to the date on which the complaint was made through electronic means.
- (7) No complaint to the Ombudsman shall lie unless:-
- (a) the complainant had, before making a complaint to the Ombudsman, made a written representation to the civic authority superior to the one complained against and either such authority had rejected the complaint or the complainant had not received any reply within a period of one month after such authority had received his representation or the complainant is not satisfied with the reply given to him by such authority;
  - (b) the complaint is made not later than one year after the complainant has received the reply of the department to his representation or, in case, where no reply is received, not later than one year and one month after the representation to the Local Body.
  - (c) the complaint is not in respect of the same subject matter which was settled through the Office of the Ombudsman in any previous proceedings whether or not received from the same complainant or along with any one or more complainants or any one or more of the parties concerned with the subject matter; and
  - (d) the complaint is not frivolous or vexatious in nature.
- (8) No complaint shall be made to the Ombudsman on an issue, which may be, has been, or is the subject matter of any proceeding in an appeal, revision, reference or writ before Municipal Appellate Authority or Tribunal or Court.

## **11. Proceedings to be summary in nature**

The proceedings before the Ombudsman shall be summary in nature.

## **12. Settlement of complaints by agreement**

(1) As soon as it may be practicable so to do, the Ombudsman shall cause a notice of the receipt of any complaint along with a copy of the complaint to be sent to the Local Body Authority Complained Against and endeavour should be made to promote a settlement of the complaint by agreement between the complainant and such Authority through conciliation or mediation;

(2) For the purpose of promoting a settlement of the complaint, the Ombudsman may follow such procedure as he may consider appropriate.

## **13. Award by the Ombudsman**

(1) If a complaint is not settled by agreement within a period of one month from the date of receipt of the complaint or such further period, as the Ombudsman may consider necessary, he may pass an award after affording the parties reasonable opportunity to present their case. He shall be guided by the evidence placed before him by the parties, the principles of providing basic urban services, directions, instructions and guidelines issued by the Urban Development Department, Govt. of Mizoram from time to time and such other factors, which in his opinion are necessary in the interest of justice.

(2) The 'award' passed under sub-rule (1) of Rule 13 shall be a speaking order consisting of the following components:

- (a) Directions to the concerned Local Body Authority such as performance of its obligations like expediting delayed matters, giving reasons for decisions and issuing apology to complainants etc., except a direction affecting the quantum of tax assessment or imposition of penalties under the Act;
- (b) A compensation amount not exceeding Rs. 500/- (Rs. Five hundred only) for the loss suffered by the complainant;
- (c) Designation of the Local Body to whom the letter of acceptance of the award is to be communicated.

(3) A copy of the 'award' shall be sent to the complainant and the Civic Authority complained against.

(4) The 'award' shall be binding on the Local Body and on the complainant provided that an award shall not be binding on the Local Body unless the complainant furnishes to it, within a period of 15 days from the date of receipt of a copy of the award, a letter of acceptance of the award in full and final settlement of his complaint. If the complainant does not accept, the Award passed by the Ombudsman or fails to furnish his letter of acceptance within the said period of 15 days or within such time, not exceeding a period of 15 days that may be granted by the Ombudsman, the award shall lapse and be of no effect.

(5) Any compensation as mentioned in sub-rule (2)(b) of Rule 13 above given as a part of the award shall be paid by the Local Body out of the budget allocated under the head 'Office Expenses' of the office of the Local Body Authority Complained Against. Such payments shall take priority over any other expenditure from this allocation.



(6) The Local Body Authority Complained Against shall, within one month from the date of the award, comply with the award and intimate compliance to the Ombudsman.

## CHAPTER - V

### MISCELLANEOUS

#### **14. Removal of difficulties**

(1) If any difficulty arises in giving effect to the provisions of these Rules, the State Government may make such provisions consistent with the Act or the Rules as it appears to it to be necessary or expedient for removing the difficulty.