



The Manipur Municipality Ombudsman Act, 2013

Act 3 of 2013

Keyword(s):

Action, Allegation, Complaint, Corruption, Maladministration, Public Servant, Municipal, Ombudsman, Lokpal, Lokayukta

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MANIPUR GAZETTE
सत्यमेव जयते

**EXTRAORDINARY
PUBLISHED BY AUTHORITY**

No. 1 **Imphal, Monday, April 1, 2013** **(Chaitra 11, 1935)**

GOVERNMENT OF MANIPUR
SECRETARIAT : LAW & LEGISLATIVE AFFAIRS DEPARTMENT

NOTIFICATION

Imphal, the 26th March, 2013

No. 2/18/2013-Leg/L : The following Act of the Legislature, Manipur which received assent of the Governor of Manipur on 26th March, 2013 is hereby published in the Official Gazette :

THE MANIPUR MUNICIPALITY OMBUDSMAN ACT, 2013
(MANIPUR ACT NO. 3 OF 2013)

AN
ACT

to provide a Local Government Ombudsman for the purpose of Investigating charges of corruption and maladministration against the functionaries of urban local bodies, both elected members and officials and recommend suitable action in the State of Manipur.

Be it enacted by the Legislature of the State of Manipur in the Sixty-fourth Year of the Republic of India as follows :

1. Short title, extent and commencement :

- (1) This Act may be called the Manipur Municipality Ombudsman Act, 2013.
- (2) It extends to the whole of the State of Manipur.
- (3) It shall come into force on such date as the State Government may by notification in the official Gazette, appoint.

2. Definitions : In this Act, unless there is anything repugnant in the subject or context :

- (1) **“action”** means administrative action taken by way of decision, recommendation, resolution or finding or in execution thereof or in exercise of administrative or legal functions in any other manner and includes wilful failure in taking action or omission to act and all other expressions relating to such action shall be construed accordingly;

- (2) **“allegation”**
- (a) in relation to a public servant means, any affirmation that such public servant;
- (i) has abused his position for any gain or favour to himself or to any other person or to cause undue harm or hardship to any other person; or
 - (ii) was actuated in the discharge of his functions as such public servant by personal interest or improper or corrupt motives; or
 - (iii) is guilty of corruption, favouritism, nepotism or lack of integrity;
 - (iv) is guilty of any action as public servant which facilitates or causes to make any loss, waste or misapplication of money or other property of the municipality.
- (b) in relation to a municipality means any affirmation that such municipality has defaulted or acted in excess of its powers in the discharge of its functions imposed on it by law or in implementing the lawful orders and directions of the Government;
- (3) **“complaint”** means a statement of allegation that a public servant of a municipality is guilty of corruption or maladministration and includes any reference to an allegation in respect of which *suo moto* enquiry has been proposed or recommendation for enquiry has been made by Government;
- (4) **“corruption”** includes anything punishable under Chapter X of the Indian Penal Code (Central Act 45 of 1860) or under the Prevention of Corruption Act, 1988 (Central Act 49 1988);
- (5) **“maladministration”** means action taken or purporting to have been taken in the exercise of administrative function in any case where
- (i) such action, administrative procedure or practice governing such action is unreasonable, unjust, oppressive, discriminatory or nepotistic and will make illegitimate gain or loss or will deny deserving benefits; or
 - (ii) there is wilful negligence or delay in taking such action, or the administrative procedure or method regulating such action will cause undue delay and includes the action leading to loss or waste or misuse of fund by malfeasance or misfeasance.
- (6) **“ombudsman”** means the Ombudsman referred to in section 3.
- (7) **“public servant”** means an elected member of the municipality including its Chairperson or an employee or officer under the municipality and

includes an employee or officer of any office or institution transferred to the municipality;

- (8) **"Secretary"** means the Secretary of the Ombudsman referred to in section 6;
- (9) **"Investigating Officer"** means an officer authorised by the Ombudsman to conduct investigation in respect of an allegation or complaint.

3. Appointment of Ombudsman:

- (1) The Governor shall, on the advice of the Chief Minister, appoint a person as Ombudsman:

Provided that the person appointed as Ombudsman should have held the post of a Judge of a High Court:

Provided further that the Chief Minister before tendering advice to the Governor shall consult with the Speaker of the Legislative Assembly of the State and the Leader of Opposition in the Legislative Assembly of the State.

- (2) A person appointed to be the Ombudsman shall, before entering upon office, make and subscribe before the Governor an oath or affirmation according to the form as prescribed.

4. Term of office and conditions of service of Ombudsman :

- (1) Persons appointed as Ombudsman shall hold office for a term of five years from the date on which he enters upon his office:

Provided that-

- (a) the Ombudsman may, by writing under this hand addressed to the Governor, resign his office; and
- (b) the persons appointed as Ombudsman may be removed from office in the manner prescribed in Section 5.
- (2) The salaries and allowances payable to, and other terms and conditions of the service of the Ombudsman shall be, such as, may be prescribed by the State Government.

- (3) On expiry of his term of office as Ombudsman, he shall not be eligible for re-appointment as Ombudsman.

5. Removal of Ombudsman :

- (1) The Ombudsman shall not be removed from his office except by an order of the Governor, passed after an address by the State Legislature, supported by a majority of the total membership of the House, has been presented to the Governor in the same session for such removal, on the ground of proved misbehaviour or incapacity.
- (2) The procedure of the presentation of an address under sub-section (1) and for the investigation and proof of the misbehaviour or incapacity of the Ombudsman shall be as provided in the Judges (Inquiry) Act, 1968 in relation to the removal of a Judge and accordingly the provisions of that Act shall, mutatis mutandis, apply in relation to the removal of the Ombudsman as they apply in relation to the removal of a Judge.

6. Staff of the Ombudsman:

- (1) The Ombudsman shall have a Secretary, and such other officers and employees as the Government may determine to assist the Ombudsman in the exercise of its powers and discharge of its functions under this Act.
- (2) The appointment and conditions of service of the Secretary and the employees shall be such as may be specified by the Government.
- (3) The officers and other employees referred to in sub-section (1) shall be under the administrative and disciplinary control of the Ombudsman.
- (4) Without prejudice to the provisions of sub-section (1), the Ombudsman may for the purpose of conducting investigations under this Act utilize the service of:
 - (a) any officer or investigating agency of the State Government; or
 - (b) any other agency.
- (5) The Ombudsman may requisition the services of any person having experience and expertise in any particular subject in deciding the questions before it.

7. Functions of the Ombudsman:

- (1) The Ombudsman shall perform all or any of the following functions, namely:
 - (a) investigate into any allegation contained in a complaint or on a reference from Government, or that has come to the notice of the Ombudsman;
 - (b) enquire into any complaint in which corruption or maladministration of a public servant of a local government institution is alleged;
 - (c) pass an order on the allegation in the following manner, namely:
 - (i) Where the irregularity involves a criminal offence committed by a public servant, the matter shall be referred to the appropriate authority for investigation
 - (ii) Where the irregularity causes loss or inconvenience to a citizen, direct the municipality to give him compensation and to reimburse the loss from the person responsible for the irregularity;
 - (iii) Where the irregularity involves loss or waste or misuse of the fund of the local government institution, direct the municipality to realise such loss from those who are responsible for such irregularity, and
 - (iv) Where the irregularity is due to omission or inaction, cause to supply the omission and to rectify the mistake.
- (2) In addition to the functions enumerated in sub-section (1), the Ombudsman may pass interim order restraining the municipality from doing anything detrimental to the interest of the complainant if it is satisfied that much loss or injury will be caused to the complainant due to the alleged act.
- (3) The Ombudsman may by order, impose penalty in addition to compensation if it is of opinion that the irregularity involves corrupt practice for personal gain.

8. Powers of the Ombudsman:

- (1) The Ombudsman shall, for the purpose of any investigation or enquiry under this Act, have the same powers as are vested in a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act V of 1908) in respect of the following matters, namely:

- (a) summoning and enforcing the attendance of any witness and examining him;
 - (b) requiring the discovery and production of any document;
 - (c) receiving evidence on affidavits;
 - (d) requisitioning any public records, or copy thereof from any Court or Office;
 - (e) issuing commissions for the examination of witness;
 - (f) such other powers as are prescribed.
- (2) Where the Ombudsman finds that the allegation contained in complaint is without any substance or trivial in nature it may by order direct the complainant to pay to the opposite party an amount specified in the order by way of cost.
- (3) Where the allegation contained in a complaint is about the loss or waste or misapplication of the fund of the municipality or in respect of the loss or inconvenience caused to a citizen, the Ombudsman may, during enquiry, collect evidence, determine the loss and direct in its order the amount to be realised from the person responsible.
- (4) If the amount to be paid as per the order passed by the Ombudsman under sub-section (2) or sub-section (3) is not paid within the period specified by it, the same shall be recoverable by Revenue Recovery Proceedings as if it were an arrear of land revenue.

9. Service of Government Department: The Government may, at the request of the Ombudsman, make available the services of officers and employees of the Government including police personnel to assist the Ombudsman in the conduct of investigation and enquiry and in respect of such functions such Officer or employee shall be deemed to be the office or employee of the Ombudsman.

10. Investigation:

- (1) The Ombudsman may, according to the provisions of this Act, enquire into any complaint filed before it under this Act.
- (2) Notwithstanding anything contained in this Act, the Government may refer any allegation of corruption or maladministration against a municipality or a public servant who is within its knowledge or brought to its notice of the Ombudsman and the Ombudsman shall enquire into it as if it was a complaint filed under this Act.

- (3) The Ombudsman may, on receipt of a complaint, conduct an investigation in the matter and where there is prima facie case it may conduct a detailed enquiry.
- (4) The Ombudsman shall not enquire into matters relating to:
 - (a) any matter in respect of which a formal and public enquiry has been ordered by Government;
 - (b) any matter in respect of which a remedy is available from the Tribunal for municipality;
 - (c) any matter in respect of which an enquiry has been ordered under the Commission of Inquiries Act, 1952 (Central Act 60 of 1952) or any matter pending before a court;
 - (d) any complaint filed after the expiry of three years from the date on which the matter complained against have taken place:

Provided that the Ombudsman may entertain such complaint if the complainant satisfies that he had sufficient reason for not filing the complaint within the specified period.

11. Enquiry:

- (1) After an investigation if the Ombudsman is satisfied that:
 - (a) the complaint is frivolous or vexatious or is not made in good faith; or
 - (b) there is no sufficient ground to initiate proceedings; or
 - (c) other remedies are available to the complainant and it would be more beneficial for the complainant to avail of such remedies in view of the circumstances of the case, it may dispose of the complaint as rejected after recording its findings stating the reason therefore, and communicate the same to the complainant.
- (2) If, the Ombudsman is of opinion that there is a prima-facie case against the person or the local government institution complained of it shall record its findings to this effect and send notices of the proposed enquiry to the complainant and to the opposite party.
- (3) The Ombudsman shall, subject to the provisions of this Act and the rules made there under, have power to regulate its procedures by fixing the time and place of sitting.
- (4) In any proceedings before the Ombudsman, no legal practitioner will be permitted to represent any person, unless the Ombudsman

permits, by an order, a person to be represented by a legal practitioner for reasons to be recorded.

12. Existing cases to be transferred to Ombudsman:

- (1) Notwithstanding anything contained in any other law, if any proceedings, filed and not disposed of under the said Act, before the constitution of Ombudsman as per the provisions of this Act, relate to a public servant or municipality as per the provisions of this Act, all cases with regard to such proceedings shall be transferred to the Ombudsman and the Ombudsman shall decide the cases in accordance with the provisions of this Act.
- (2) All cases, with regard to the loss, wastage and misappropriation of any land of the municipality, pending before the Government or any other authority and disposed of just before the constitution of Ombudsman and the Ombudsman shall dispose of the cases in accordance with the provisions of this Act.

13. Initiation of prosecution:

- (1) If, after an investigation or inquiry, the Ombudsman finds that there is a prima-facie case against the accused involving a criminal offence, the Ombudsman may refer the complaint and the findings to a competent authority with recommendation to initiate prosecution.
- (2) The authority responsible for initiating such prosecution shall conduct a detailed enquiry if necessary and charge a case.

14. Disposal of complaints. –

- (1) The Ombudsman may consider and dispose of complaints other than those involving criminal offences, in the following manner, -
 - (a) award of compensation, to a citizen in case of loss or grievance;
 - (b) order the recovery of loss caused to the local government institution from the person responsible;
 - (c) order the supply of omission or rectification of defects due to inaction;
 - (d) order the recovery of loss from the accused failing which, order realisation through Revenue Recovery Proceedings;
 - (e) order other necessary remedial measures considering the facts and circumstances of the case.

- (2) Whereas the Ombudsman finds that the procedure or practice regarding the administration of municipality gives room for complaint, it may give suggestions to the Government or municipality relating to the measures for avoiding the recurrence of such complaint.
- (3) The Ombudsman shall submit an annual report regarding the performance of its functions under this Act to the Government and the Government shall lay it before the Legislative Assembly with an explanatory memorandum.

15. Powers to make rules:

The Government may make rules in respect of the following matters, namely:-

- (1) the salaries and allowances and other conditions of service of the Ombudsman, his officers and staff;
- (2) the form and manner of filing complaints before the Ombudsman and the manner of filling cases either suo moto or on reference by the State Government;
- (3) the manner and procedure of conducting investigation;
- (4) procedure for moving the appropriate authority for the initiation of prosecution;
- (5) procedure to be followed during the inquiry, which as far as possible, be summary proceedings;
- (6) the manner of implementing the order of the Ombudsman and further proceedings;
- (7) any other matter which the Government may deem necessary to prescribe.

TH. KAMINI KUMAR SINGH,
Joint Secretary (Law), Government of
Manipur.