



**Union Territory of Jammu and Kashmir
Social Welfare Department
Civil Secretariat, J&K**

Public Notice

The Department contemplates to issue Rules namely Jammu and Kashmir Commission for Protection of Child Rights Rules, 2021 framed under the Commission for Protection of Child Rights Act, 2005 for over all care and protection of Children in the Union Territory of Jammu & Kashmir.

However, before finalizing the rules, the Department hereby invites all the Public Authorities/Stakeholders/Philanthropists/NGOs/ Individuals closely connected with the child protection regime, or otherwise, to furnish necessary feedback/comments/suggestions on the Draft Rules which are available on official website www.jksocialwelfare.nic.in. The comments/ feedback/ suggestions maybe furnished through registered post on or before 25th October, 2021 to Secretary, Social Welfare Department, J&K Room No. 2/22, Civil Secretariat, Jammu or Room No. 119, Civil Secretariat, Srinagar or through e-mail at socialwelfare.adm@gmail.com.

(Manoj Kumar)JKAS 04/10/21

Under Secretary to the Government,
Social Welfare Department

File No. SW/ICPS/55/2021-01

Dated:-04.10.2021

Copy to the:-

1. All Administrative Secretaries.
2. Director General, Women & Child Development J&K.
3. Director General, Social Welfare Department Kashmir.
4. Mission Director, ICPS/ICDS J&K.
5. Director, Social welfare Department Jammu.
6. Director, information with the request to give wide publicity to the notice through print and electronic media.
7. Pvt. Secretary to Secretary to Government, Social Welfare Department

DRAFT RULES

CHAPTER 1

PRELIMINARY

1. Short title and commencement. — (1) These rules may be called the Jammu and Kashmir Commission for Protection of Child Rights Rules, 2021.

(2) They shall come into force at once.

2. Definitions.—In these rules, unless the context otherwise requires,—

(a) "Act" means the Commissioner for Protection of Child Rights Act, 2005 (Central Act 04 of 2006)

(b) "Chairperson" means Chairperson of the Commission;

(c) "Code" means the Code of Civil Procedure, 1908;

(d) "Commission" means "the Jammu and Kashmir Union Territory Commission for Protection of Child Rights" constituted under Section 17 of the Commissions for Protection of Child Rights Act, 2005;

(e) "Complaint" means all petitions or communications received by the Commission from a victim or any other person on his behalf, in person or by post or telegram or fax or by any other means- whatsoever, alleging violation of child rights as defined in clause (b) of section 2 of the Act;

(f) "Division" means and includes different sections of the Administration Division, Complaints Division, Research division and such other Divisions in the Commission as may be constituted by the Chairperson;

(g) "Division Bench" means a Bench consisting of two Members of the Commission or a Bench consisting of the Chairperson and one Member as may be constituted by the Chairperson;

(h) "Form" means a form appended to these Rules;

(i) "Full Bench" means a Bench consisting of the Chairperson and two Members of the Commission as may be constituted by the Chairperson;

(j) "Government" means the Government of Jammu and Kashmir;

(k) "Member" means the Member of the Commission;

(l) "Registrar" means Registrar of the Commission;

(m) "Secretary" means the Secretary of the Commission;

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

(o) "Single Bench" means a Bench consisting of one Member of the Commission as constituted by the Chairperson;

(p) "Zone" means and includes division of the Union Territory made by the Commission for administrative and functional convenience;

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

CHAPTER 2

PROCEDURE FOR APPOINTMENT AND TERMS AND CONDITIONS OF SERVICE OF CHAIRPERSON AND MEMBERS

3 Eligibility for Appointment as Chairperson and Members. —(1) No person who has not attained the age of 35 years and has not possessed ten years experience in the areas specified in clause (b) of sub-section (2) of section 17 of the Act may be appointed as Chairperson or Member of the Commission.

(2) No person having any past record of violation of human rights or child rights shall be eligible for appointment as Chairperson or Member of the Commission.

(3) No person having been convicted and sentenced for imprisonment of an offence which in the opinion of the Government involves moral turpitude, shall be eligible for appointment as Chairperson or Member of the Commission.

(4) No person having been removed or dismissed from service of the Central Government or a Union Territory Government or a body or corporation owned or controlled by the Central Government or a Union Territory Government shall be eligible for appointment as Chairperson or Member of the Commission.

(5) The Chairperson or Member shall not be a Member of Parliament or be a Member of Legislature of any Union Territory and shall not hold any office of trust or profit other than his office as Chairperson or Member. In case he carries on any business or practices any profession, he shall suspend as the case may be such business or practice before he assumes his office."

4 Selection Procedure. —(1) The Chairperson and the Members of the Commission shall be appointed on the recommendation of a three Member Selection Committee constituted by the Government under the Chairmanship of the Minister of Social Welfare.

(2) For the purposes of selection of the Chairperson and Members of the Commission, the Government shall invite applications from qualified candidates from the public through an advertisement in at least two leading national and vernacular dailies. The Government shall prepare a short list from the applications so received. The short listed candidates shall be selected on merit and interview by the Selection Committee. Such selected candidates shall be recommended by the Selection Committee to the Government for appointment.

(3) The selection procedure shall be fair and transparent.

(4) The Selection Committee shall also prepare a wait list of two persons for each of the posts. The wait list shall be valid for three months.

5 Terms and Conditions of Service of Chairperson and Members.

(1) The Commission shall function full time as an independent and autonomous body.

(2) The Chairperson shall, unless removed from office under section 7, hold office for a period of three years, or till the age of sixty-five years, whichever is earlier.

(3) Every Member shall, unless removed from office under section 7, hold office for a period of three years, or till the age of sixty years, whichever is earlier.

(4) Notwithstanding anything contained in sub-rule (2) or sub-rule (3),—

(a) a person who has held the office of Chairperson shall be eligible for reappointment, and

(b) a person who has held the office of a Member shall be eligible for reappointment as a Member or appointment as Chairperson:

Provided that a person who has hold an office of Chairperson or Member for two terms in any capacity shall not be eligible for reappointment as

a Member of Chairperson.

(5) If the Chairperson is unable to discharge his functions owing to illness or other incapacity, the Government shall nominate any other Member to act as Chairperson and the Member so nominated shall hold office of Chairperson until the Chairperson resumes office or till the remainder of his term.

(6) The Chairperson or a Member may, by writing under his hand addressed to the Government, resign his office at any time.

(7) A vacancy caused by death, resignation or any other reason shall be filled-up within ninety days from the date of occurrence of such vacancy.

6. Secretary.—(1) The Secretary shall be appointed by the Government in accordance with sub-section (1) of section 21 of the Act.

(2) The Secretary shall hold office on full time and for a tenure of three years or such extended period.

7. Terms and Conditions, of Service of Officers and other employees of the Commission.—(1) The Government shall appoint such officers and employees as may be necessary for the efficient performance of the Commission.

(2) The terms and conditions of service of officers and employees shall be as specified in the Jammu and Kashmir Civil Service Regulations.

(3) The officers and employees of the Commission shall perform such duties' as may be assigned to them by the Commission or the Secretary.

(4) The category and number of employees of the Commission, method of appointment and scale of pay shall be as may be decided by the Government from time to time.

8. Powers and Duties of the Secretary.—The Secretary shall,—

(i) have power to execute all decisions taken by the Commission in order to carry out the powers and functions of the Commission as provided in the sections 13 and 14 of the Act;

(ii) exercise and discharge such powers and perform such duties as are required for the proper administration of the affairs of the Commission and its day to day management as specified in section 21;

(iii) convene the meetings of the Commission in consultation with the Chairperson and serve notices of the meetings to all concerned;

(iv) take steps to ensure that the quorum required for convening a meeting of Commission is secured;

(v) prepare, in consultation with the Chairperson, the agenda for each meeting of the Commission and shall cause submitted self-contained and brief notes to the Chairperson and Members;

(vi) make available specific records covering the agenda items to the Commission for reference;

(vii) ensure that the agenda papers are circulated to the Members at least two clear working days in advance of the meeting, except, in cases when urgent attention is required;

(viii) prepare the minutes of the meetings of the Commission and execute the decisions of the Commission taken in the meeting and shall also ensure placing the Action Taken Report of the decisions of the Commission before the Commission in its subsequent meetings;

(ix) ensure that procedure of the Commission is followed by it in transactions of its business;

(x) take up all such matters in consultation with the Commission with the Government for release of grants, creation of posts, revision of scales, procurement of vehicles, appointment of staff, laying of annual and audit report

in Legislative Assembly, re-appropriation of funds, residential accommodation, and any other matter requiring the approval of the Union Territory Government;

(xi) exercise such financial powers as are delegated to him by the Chairperson on behalf of the Commission:

Provided that no expenditure on an item exceeding one lakh rupees at a time shall be incurred without the sanction of the Chairperson;

(xii) to be the appointing and disciplinary authority in respect of other officers and employees of the Commission.

(xiii) interact and liaison with concerned departments including Department of Social Welfare, Department of Education, Department of Health and Family Welfare, Department of Local Self Government, Department of Home and other departments of the Government for carrying out the functions of the Commission under the Act.

9. Salaries and Allowances. Chairperson or members shall get the following monthly entitlements:

(1) If the Chairperson or any other member is a government Servant, his salary shall be regulated in accordance with the rules applicable to him/ her.

(2) If the Chairperson or any other member is a retired government Servant, he / she will be entitled to emoluments equivalent to the last pay drawn minus pension.

(3) If the Chairperson or member happens to be non official, their monthly honorarium shall be such as may be prescribed by the government in this regard.

(4) Salary and allowances payable to, and the other terms and conditions of service of the Secretary and the other officers and other employees appointed for the purpose of the Commission shall be such as may be determined by the Government from time to time.

10. Leave.—The Chairperson and every other Member shall be entitled to leave rules as per Jammu and Kashmir Civil Services (Leave) Rules, 1979.

11. Sanctioning Authority. -- (1) The Government shall be the authority competent to sanction leave to the Chairperson.

(2) The Chairperson shall be the authority competent to sanction leave to every Member and the Secretary.

(3) The Secretary shall be the authority competent to sanction leave to any officer or other employee of the Commission.

12. Travelling allowance.—(1) The Chairperson and every other Member shall be entitled to draw travelling allowances and daily allowances at the rates appropriate to their pay admissible to equivalent post in the Union Territory Government.

(2) The Chairperson and every other Member shall be his own controlling officer in respect of his bills relating to travelling allowances and daily allowances.

13. Residential accommodation. (1) The Chairperson and every other Member shall be entitled to the use of an official residence as may be determined by the Government.

(2) If the Chairperson or a Member is not provided with or does not avail himself of the accommodation provided under sub-rule (1), he shall be paid every month house rent allowance at the rates admissible to officers of an equivalent

rank in the Government.

14. Facility for conveyance.—The Chairperson and every other Member shall be entitled to the facilities of staff car for journeys for official and private purpose in accordance with the rules or orders of the Government, issued from time to time in that behalf.

15. Facility for medical treatment. The Chairperson and every other Member shall be entitled to the medical treatment-and hospital facilities as applicable to Union Territory Government servants of equivalent rank as provided in the Union Territory Service Rules.

16. Residuary Provisions.--The condition of service of the Chairperson and the other Members of which no express provision has been made in these Rules shall be such as may be determined by the Government.

CHAPTER 3

FUNCTIONS

17. Functions of the Commission. -'The Commission shall, in addition to the functions assigned to it under clauses (a) to. (j) of sub-section (1) of section 13. perform, the following functions, namely:--

(a) analyze existing law, policy and practice to assess compliance with Convention on the Rights of the Child, undertake inquiries and produce reports on any aspect of policy and practice affecting children and -comment on proposed new legislation from a child rights perspective;

(b) study Union Territory policies that impact children and ensure that they comply with international child rights standards.

(c) present to the Union Territory Government, National Commission for the Protection of Child Rights and other Union Territory Commissions annually and such other intervals, as the Commission may deem fit, reports upon the working of those safeguards;

(d) undertake formal investigations where concern has been expressed either by children themselves or by concerned person on their behalf;

(e) ensure that the work of the Commission is directly informed by the views of children in order to reflect their priorities and perspectives;

(f) promote, respect and give serious consideration of the views of children in its work and in that of all Government Departments and Organizations dealing with child;

(g) produce and disseminate information about child rights;

(h) compile and analyze data on children;

(i) promote the incorporation of child rights into the school curriculum, teachers training and training of personnel dealing with children;

(j) refer cases and issues of national and inter-Union Territory importance to the National Commission for the Protection of Child Rights as and when required;

(k) make regional visits and hold public meetings at least once in every year in all regions of the Union Territory;

(1) call for Action Taken Reports on the recommendations made to

various departments and authorities;

(m) review the plans and programmes of the Local Self Government and relevant Government departments from the child rights perspective and make appropriate recommendations.

CHAPTER 4

TRANSACTION OF BUSINESS

18. *Procedure for transaction of business.*—(1) The Commission shall ordinarily hold its meetings and sittings at the headquarters located in Jammu/Srinagar. However, the Commission may at the discretion of the Chairperson hold its meetings and sittings at any other place in the Union Territory if it considers that it necessary or expedient to do so.

(2) The Commission may hold Camp Sittings at District Headquarters and at such other places in the Union Territory taking into consideration the exigencies of individual cases and in the interest of the general public.

(3) The Chairperson may, of his own accord or as required by any Member of the Commission, order special meetings of the Commission to be convened at any convenient place, to consider any specific matter of urgency.

(4) Notwithstanding anything contained in sub-rules (1), (2), and (3), Secretary shall convene an extraordinary meeting of the Commission on the requisition made to the Secretary in writing for the purpose by majority of the Members of the Commission.

(5) The Commission shall meet at regular intervals for the purpose of disposing of complaints.

(6) The Commission or some Members may transact business at places outside its headquarters as and when previously approved by the Chairperson, provided that if parties are to be heard in connection with any inquiry under the Act at least two Members shall function as a bench of the Commission for such purpose.

(7) The Commission shall normally have its regular sittings on all working days of every month, excepting Saturdays and other Public holidays. The Chairperson may, however either suo motu or at the request of one or more members, direct a special sitting to be convened to consider any matter of urgency.

(8) (i) The Secretary, along with such officers as the Chairperson may direct, shall attend the meetings of the Commission;

(ii) The Secretary shall, in consultation with the Chairperson, prepare the agenda for each meeting of the Commission and shall have notes prepared by the Secretary and such notes shall, as far as possible, be self-contained;

(iii) The records covering the agenda items shall be made readily available to the Commission for its reference;

(iv) The agenda papers shall ordinarily be circulated to Members at least two clear working days in advance of the meeting, except in cases where urgent attention is required;

(9) More than half of the members appointed to the Commission including Chairperson shall form the quorum at every meeting of the Commission;

(10) All decisions of the Commission at its meeting shall be taken by majority:

Provided that in the case of equality of votes, the Chairperson, or in his absence, the person presiding shall have and exercise a second or a casting

vote;

(11)(i) The Commission may invite, if it is considered necessary, for such purposes and on such conditions as may be prescribed, any person or person with expert knowledge in the particular subject coming up before the Commission for its disposal to be present at the meeting to assist the Commission in arriving at a decision but such person shall not be entitled to vote.

(ii) Every expert, if he is not in service of the Central or Union Territory Government or in an institution funded by the Central or Union Territory Government, shall be paid a sitting fee of Rs.500/- (Rupees five hundred only) for attendance of each day of the meeting of the Commission subject to a maximum of 1500/- (Rupees one thousand five hundred only) per month.

(iii) Every expert, if he is not in service of the Central or Union Territory Government or in an institution funded by the Central or Union Territory Government, attending a meeting of the Commission shall be paid, in addition to the sitting fee payable under sub-rule clause (ii) travelling allowance and daily allowance at the rates admissible to the Class-III Officer as per Jammu and Kashmir Civil Services Regulation VOL I and such other rules and orders made by the Union Territory Government in this regard from time to time.

(12) If, for any reason, the Chairperson is unable to attend the meeting of the Commission, any Member chosen by the Members present from amongst themselves at the meeting shall preside.

19. *Officers to attend the meetings.* The Secretary and other officer or officers of the Commission, if so, required by the Chairperson shall attend the meetings of the Commission.

20. *Office hours.*--'The working hours of the office shall be from 9:30 a.m. to 5:30 p.m. or such other hours as may be notified by the Commission from time to time.

21. *Zones.* (1) There shall be **two** zones in the Union Territory for facilitating the functioning of the Commission as indicated below:

Jammu Zone: Districts of Jammu, Udhampur, Ramban, Doda, Kishtwar, Samba, Kathua, Reasi, Rajouri and Poonch.

Kashmir Zone: Srinagar, Anantnag, Bandipora, Baramulla, Kupwara, Budgam, Kulgam, Shopian, Ganderbal and Pulwama

2. One Member as authorized by the Commission shall be in charge of a Zone. The Chairperson may, taking into consideration the administrative and functional convenience re-allocate a particular district or districts already placed under one Member to another.

22. *Notice of meetings.* - (1) At least seven clear days notice of all meetings of the Commission shall be given to each Member, but an extraordinary meeting may be called for on a twenty-four hour notice

(2) The notice shall Union Territory the venue, date, time and the agenda for the meeting.

23. *Minutes of the meeting.* (1) The minutes of each meeting of the Commission shall be recorded during the meeting itself or immediately thereafter by the Secretary or by any other officer of the Commission as directed.

(2) The minutes of the meeting of the Commission shall be submitted to the Chairperson for approval, and upon approval, be circulated to all Members of the Commission at the earliest and in any case sufficiently before the commencement of the next meeting.

(3) The conclusions of the Commission in every matter undertaken by it shall be recorded in the form of an opinion and dissenting opinions, if given, shall also form part of and be kept on record. Action shall be taken on the basis of majority opinion where there is any difference of opinion.

(4) All orders and decisions of the Commission shall be authenticated by the Secretary or any other officer of the Commission duly authorized by the Secretary with the prior approval of the Chairperson in this behalf.

(5) Unless specially authorized, no action shall be taken by the Secretary of the Commission on the minutes of the meetings until the Chairperson confirms the same.

(6) A master copy of the record of all meetings and opinions of the Commission shall be maintained duly authenticated by the Secretary.

(7) A copy of the minutes pertaining to each item shall be kept in the respective files for appropriate action. Opinions shall be kept in respective records and for convenience, copies thereof with appropriate indexing shall be kept in guard files.

24. *Report of Action Taken.*- Report of the follow up action shall be submitted by the Secretary to the Commission at every subsequent meeting indicating therein the present stage of action taken on each item, on which the Commission had taken any decision in any of its earlier meetings, except in the items on which no further action is called for.

CHAPTER 5

PRELIMINARY ACTION ON RECEIPT OF COMPLAINTS

25. *Language of Complaints.* Complaint may be made to the Commission in Hindi or English or Urdu or in any of the languages included in the Eighth Schedule of the Constitution of India. However, when complaints are made in any language other than in English, Urdu or Hindi, translated version of the complaints in English shall also be furnished.

26. No fee shall be chargeable on complaints.

27. Every complaint should disclose a complete picture of the matter complained of and disclose the name and address of the respondent. The Commission may, if it considers necessary,—

- (a) call for further relevant information from the complainant;
- (b) direct the complainant to file affidavit/s in support of the complaint;
- (c) obtain sworn Statements of the complainant; and

(d) take Statements of the complainant by issuing Commission for that purpose or by any other means considered necessary.

28. *Complaints not ordinarily maintainable.*---The Commission may dismiss *in limbo* the complaints of the following nature:

- (a) Illegible;
- (b) vague or anonymous or pseudonymous;
- (c) trivial or frivolous;
- (d) issues relates to civil disputes, service matters, labour or industrial disputes;
- (e) allegations do not raise any violation of child rights;

- (f) matter is sub judice before a Court or Tribunal;
- (g) matter is covered by a judicial verdict or decision of the National or State/Union Territory Commission;
- (h) where complaint is only a copy of the petition addressed to some other authority;
- (i) where the petition has not signed or where the original petition is not sent to the Commission;
- (j) where matter is outside the purview of the Commission or on any other ground.

CHAPTER 6

RECEIPTS AND DISBURSEMENT OF DAK

29. Dak, by whatsoever mode received addressed, to the Commission, its Chairman, Members or Officers of the Commission either by name or by designation shall be received by the designated officer in the office of the Commission.

Note: Those communications which are addressed by name to the Chairperson, Members and other officers of the Commission shall be noted in separate 'Transit' Registers and delivered forthwith to the designated official and acknowledgement of receipt shall be obtained in the Register.

30. Unless otherwise directed, petitions or Communications received by the Chairperson, Members and other Officers of the Commission when marked to each division shall be dealt with as prescribed in the Rules.

31. The Dak shall be opened in the presence of the Section Officer in charge of Receipt and Despatch Section who shall get the same sort out Section wise and diarised in a register containing particulars, such as date of receipt, Diary No., sender's name and address and transmitted under acknowledgement to the concerned petition sections and to the respective heads of the other divisions. Separate Transmission Registers shall be maintained for each section in the Law Division as well as in other divisions.

32. *Distribution and disbursement of Dak.* (1) The designated official shall submit the Dak to the Section Officer in charge of the Administrative division who shall get the Dak sorted out division-wise. There shall be a Dak Register maintained for each division. After the Dak is sorted division-wise each item in the Dak shall be numbered consecutively with the number being duplicated in the Dak register also. Particulars such as date of receipt, sender's name and address outside number, if any. Dak number assigned, shall be recorded in an "Inward Register" maintained by the designated official. The Dak shall then be delivered with the Dak register to the division concerned. The Section Officer/Officer-in-charge of the division shall allot the Dak in accordance with the approved distribution of work and the acknowledgements of Dak received in the Dak register by the Assistants/officials concerned. Each Assistant in the divisions shall maintain a Personal Register in which the current Dak received by the Assistant shall be registered.

(2) The papers received by Dak or otherwise in the office shall broadly fall under three categories; namely:

- (i) those relating to complaints regarding violation of child rights;
- (ii) those relating to administrative matters; (iii) those relating to miscellaneous matters.

33. *Scrutiny of Complaints.* (1) Immediately on receipt of Dak relating to

complaints regarding violation of child rights, the Section Officer in the Administrative Division shall forward the same to the Court Officer/Section Officer who shall sort out the new complaints, register them in the Child Rights Miscellaneous Petition Register maintained in the section and allot them to the Assistants concerned in accordance with the distribution of work. The Assistant, shall submit each Child Rights Miscellaneous Petition duly filled in to the Register and the Registrar shall place the case file before the Member concerned/ Chairman as the case may be.

(2) Complaints and other communications relating to violation of child rights requiring urgent attention shall, however, be placed by the Section Officer before the Registrar who shall cause it to be placed immediately before the Member available for appropriate orders.

34. If a petition/complaint is dismissed in limine by the Commission, the matter shall be treated as closed. In such cases, an intimation regarding the fact of disposal shall be given to the petitioner/complainant if it is so ordered by the Commission.

35. Where the Commission finds that a complaint is not maintainable by it, but that it requires action by an authority other than the Commission, it shall be forwarded to that authority on the orders of the Commission.

36. *Registration.* A common register called the Child Rights Petition Register shall be maintained by the Section Officer, livery complaint or petition received in the section shall be entered in the Register in the order in which it is received in the Dak. Particulars such as, the current number, date of receipt, the nature of complaint or petition, name of the complainant or petitioner, the date of occurrence name of District in which the alleged violation has occurred, name of the respondent, if any, etc., shall be recorded in the register.

(2) Records relating to each complaint shall be kept in a separate file cover, specifically printed for the purpose, and arranged chronologically in the following order, namely:-

- (i) index in Form No.
- (ii) Order sheet in Form No.
- (iii) brief particulars of the complaint
- (iv) Complaint or petition with Annexures if any.

(3) The Assistant concerned shall, after arranging the file in the manner prescribed in clause sub-rule (2) above, submit it to the Registrar for placing before the Commission.

(4) All complaints newly registered shall be placed before the Bench concerned for preliminary consideration as expeditiously as possible as but not later than 15 days from the date of its receipt.

(5) Complaints requiring urgent consideration shall be placed before the Commission as far as possible within 24 hours of its receipt.

37. (1) Upon deciding to entertain a complaint the bench concerned may direct whether the matter should be set down for inquiry by the Commission or be investigated by some other agency.

(2) In case of complaints which are not dismissed in **liming** and decision is taken by the Bench concerned to hold an inquiry, the Registrar shall call for such reports from the Government or any other authority or organizations subordinate thereto as may be directed by the Commission. The time within which reports should be furnished to the Commission shall also be specified.

38. The Commission as a whole or Members individually or collectively may undertake visits to any place in the Union Territory for an on the spot study of facts relating to matters brought before it and when such visits are made a report thereon shall be prepared and kept as record.

39. *Constitution of Benches.* ---(1) Subject to such special or general orders of the Chairperson, all complaints shall be dealt with by a Single Bench of the Commission. If the Single Bench dealing with the case, having due regard to the nature and importance of the issues involved, is of the opinion, that the case should be considered by a Division or a Full Bench, the Single Bench may refer the case to the Chairperson who may constitute a Division Bench or Full Bench, as the case may be, and refer the case to the Bench so constituted.

(2) When a case is referred to a Division Bench/Full Bench, the Section Officer concerned shall have the requisite number of copies of the case file prepared for the use of all Members in the Bench.

CHAPTER 7

PREPARATION OF CAUSE LIST, SUMMONS, EXAMINATION OF WITNESSES AND REPORT

40. *Preparation of Cause List.* Cause List shall be prepared listing the cases under the following heads, namely:

(a) Preliminary inquiry:

(i) Petitions—the entertainability of which is under consideration:

(ii) Petitions—relating to which the need for a preliminary inquiry either by the Commission or by any other agency is to be considered.

(b) Inquiry: All cases in which preliminary inquiry has been completed and orders have been passed admitting it to the file for recording evidence of the parties and to hear their arguments shall be included in this category.

(c) Final Orders: Cases in which recording of evidence and hearing of parties have been completed.

(d) Follow up action: Cases in which orders have been passed after inquiry requesting the Government or other authorities to offer their comments and particulars regarding the action taken by them consequent thereto.

41. *Posting of Cases.* -(1) Cause list of each Bench shall be prepared in accordance with the allocation of districts among the Members of the Commission.

(2) The cause list and the files relating to the cases listed therein shall be submitted to the Bench concerned two days prior to the date appointed for hearing.

(3) The Bench shall indicate the case or cases to be posted for each day and the cause list shall be prepared accordingly.

42. *Preliminary Examination/Investigation:* —(1) If a complaint after consideration is dismissed the said order shall be communicated to the complainant concerned and the case shall then be treated as closed.

(2.) If on consideration of the complaint or after taking cognizance of a matter *suo motu*, the commission orders issue of a notice to the Union Territory Government or to any authority or organization subordinate thereto, a notice signed by the Registrar shall be issued to the Union Territory Government or authority or organization concerned. Such notice shall be accompanied by a copy of the complaint or a description of the matter *suo motu* taken cognizance of.

(3) If no time is fixed by the Commission for return of the notice or furnishing of the information or report, the time shall be thirty days from the date of service of the notice.

(4) If the information or report called for under clause (2) above is not received within the time allowed, or if it is received late, or if the information or report received is not complete in any respect, the case shall be submitted to

the Bench for further orders or directions.

43. *Recording of Order.*—(1) Ordinarily short orders of the Commission shall be recorded in the order sheet. Orders which are lengthy shall be recorded on separate sheet and appended to the order sheet or kept separately. The Bench concerned shall make necessary entry in the relevant column of the order sheet mentioning the page number, date of order, etc.

(2) In cases where urgent action is required to be taken pursuant to the order /proceeding issued by the Commission, the Bench Assistant concerned shall forthwith send the file to the Registrar. The Registrar shall then give suitable instructions with regard to the mode of communication i.e. by Telephone/Fax/Speed Post/Telegram etc. and transmit records.

(3) Other witnesses on the side of the petitioner shall be examined as PW2, PW3 etc.

(4) (i) The evidence of the respondent or respondents shall then be taken up by examining as respondents RW1, RW2 etc and documents produced on his/her behalf shall be marked serially as Exhibits R1, R2, R3 etc.

(ii) Other witnesses on the side of the respondent/respondents shall be examined as RW2, RW3 etc.

(5) The Bench may, in its discretion, examine as witness any person other than the petitioner or petitioners, respondent or respondents and persons cited by them as witnesses and the persons so examined shall be CW1, CW2 etc. in the order in which they are examined and the documents produced by them shall be marked as Exhibit C1, C2 etc.

(6) Nothing mentioned in this Rules shall be regarded as a bar for the Bench in examining first the petitioner or petitioners, the respondent or respondents or witnesses, as the case may be.

(7) The petitioner or petitioners and respondent or respondents shall be at liberty to cross-examine or refrain from cross-examining the witnesses produced by other parties provided that no child shall be directly cross-examined.

(8) Every affidavit shall be drawn up in the first person and shall be divided into paragraphs numbered consecutively. Each paragraph, as nearly as may be shall contain a distinct portion of the subject matter. The affidavit shall also state the full name, age, description and address of the deponent and shall be signed in full or be marked with his thumb impression.

(9) After the close of inquiry a formal order culminating in the disposal of the complaint shall be pronounced by the Bench after giving both the petitioner or petitioners and the respondent or respondents an opportunity of being heard.

(10) A copy of such order shall be furnished to the petitioner/respondent free of cost.

44. Forms specified by the Commission under these Rules shall be used for the respective purposes therein mentioned with such variations as the particular circumstances of each case may require.

45. *Communication of Recommendations.*—In cases where the inquiry results in any recommendation to the Government or any other authority or organization subordinate thereto a copy of the report thereon shall be forwarded to the Government or the authority or organization subordinate thereto as the case may be within 20 days from the date of the order and the Government or authority shall be required to forward its comments on the report including the action taken or proposed to be taken thereon to the Commission within a period

of one month or such further time as the Commission may allow.

46. *Application for copies.*— (1) Any person who desires to 'obtain a copy of any proceeding or document filed in or in the custody of the Commission may present an application with the name of the applicant, his position in the proceeding or the way in which he is interested in the proceeding and the description of the document of which the copy is" required.

(2) Copies may be granted only under orders of the Bench concerned and on payment of the actual cost for taking such copies.

47. *Orders after disposal.*—When orders are passed by the Commission after inquiry under section 14 of the Act the Registrar shall cause to:

(a) Prepare a list of. such cases in which orders are passed;

(b) publish the list so prepared on the notice board of the Commission on the first working day of every month;

(c) make available to the library of the Commission two sets of inquiry report together with comments of the Government or authority concerned, if any, and the action taken or proposed to be taken by the Government or authority concerned on the recommendations of the Commission;

(d) send simultaneously free of cost a copy each of the documents referred to in clause (c) above to the complainant or to his representative;

(e) keep the original order in each case permanently in the record section of the office along with the order sheet.

CHAPTER 8

FINANCIAL POWERS AND PREPARATION OF BUDGET

48. The Commission shall spend the sums of money received by it for the purposes of its functioning.

49. The Chairperson shall have all powers relating to financial transaction of the Commission, except in cases, which require prior approval of the Union Territory Government.

50. The Chairperson shall obtain prior approval of the Union Territory Government in matters of creation of posts, revision of pay scales,, procurement of vehicles, re-appropriation of funds from one head to another, permitting any officer of the Commission to participate in Seminars, conferences or training programmes abroad and such other matters determined by the Union Territory Government, by order.

51. The Chairperson shall, subject to such conditions and limitations and control and supervision, have powers to delegate his financial powers to any Member or the Secretary subject to the financial powers/ regulations prescribed from time to time by the government in this regard:

52. The Chairperson shall have powers to engage any person or persons as consultant or consultants for a specific purpose and for a- specific period on the terms and conditions agreed in advance relating to honorarium, travelling allowance and dearness allowance.

53. The Secretary shall have powers to execute all decisions taken by the Chairperson or any other Member on his behalf relating to financial matters.

54. All financial powers of the Commission shall be governed by the General Financial Rules, delegation of financial powers, rules and instructions.

issued by the Finance Department of the Union Territory Government in this regard from time to time.

55. The forms in which the budget may be prepared and provided and forwarded to the Union Territory Government shall be as provided in Budget Manual issued by Finance Department, Government of Jammu and Kashmir vide S.O No. 334 dated 28.10.2020 and such other manner as prescribed by the Government of Jammu and Kashmir from time to time.

CHAPTER 9

MISCELLANEOUS

56. *Mode of communication*—Unless otherwise directed, all communications from the Commission shall be sent by registered post/ speed post.

59. *Consignment of records*—Records of all cases finally disposed of shall be transmitted to the Section Officer of the Petition Section who will be in charge of the records. He shall make necessary entries in the register in a manner decided by the Commission.

60. *Preparation of Statements.* -The Registrar" shall cause to prepare such weekly, monthly, quarterly, half-yearly or yearly statements /returns/reports in such Form as may be specified by the Commission from time to time.

61. The Registrar shall review periodically the allocation of work in the petition section to ensure equitable distribution of work in each division of that section.

62. *Annual and Special Reports.* -- (1) The Commission shall furnish its annual report for the period commencing from 1st April of every year to the 31st of March of the succeeding year to the Union Territory Government as provided in section 23 of the Act.

(2) A draft of the report shall be prepared before the 31st of March every year and be presented before the Commission for approval. The original report shall be signed by the Chairperson and Members of the Commission and three copies of the report duly authenticated by Secretary shall be submitted to the Union Territory Government by the end of April every year.

(3) The Commission may furnish such special reports on specific matters as may be considered necessary as per section 23 of the Act under the direction of the Chairperson.

(4) The Government shall cause the annual and special reports of the Commission to be laid as per sub-section (2) of section 23 of the Act within a period of one year from the date of receipt of such report.

(5) The Government as the case may be concerned, shall cause the annual and special reports of the Commission to be laid before the Union Territory Legislature, as the case may be, along with a memorandum of action taken or proposed to be taken on the recommendations of the Commission and the reasons for non-acceptance of the recommendations, if any within a period of one year from the date of receipt of such report.

(6) The annual report shall include information on administrative and financial matters, complaints investigated/inquired into; action taken on cases; details of research; reviews; education and promotion efforts; consultations; details and specific recommendations of the Commission on any matter, besides any other matter that the Commission may consider warranting inclusion in the report;

(7) In case the Commission considers that there could be a time lag for the preparation of the annual report, it may prepare and submit a special report to the Union Territory Government. The annual report shall be

submitted within three months of submitting the special report.

63. The Commission shall place the annual report on the Commission's website.

64. *Printing of Reports.-* The office of the Commission shall be responsible for the printing of the annual report and in any case not later than one month of the finalisation of the report.

65. *Panel of consultants.— (1)* The Commission may constitute a panel of consultants for assisting the Commission in wide range of tasks including such as investigation, inquiry, to serve on task forces or Committees, for study, research and analysis.

(2) The Commission may draw on experts from academic, research administrative, investigative, legal or civil society groups to form the panel.

(3) The Commission may devise a transparent process of empanelling these consultants so that they are available for quick delegation of tasks.