



AOA Fact Sheet *Ombudsman Muhtasib PUNJAB*

NOVEMBER 8, 2017

INSTITUTIONAL OVERVIEW NUMBER 1

Legal Framework

In Punjab, the office of the Ombudsman came into existence on the 30th September, 1996 through Punjab Ordinance No. XI of 1996.

Mr. Justice Mohammad Munir Khan, a retired Judge of the Supreme Court of Pakistan, was appointed on the 20th October, 1996 as the first Ombudsman for the Province of Punjab. He had hardly settled down in the office when he fell victim to an act of terrorism, resulting in his tragic death.

The Ombudsman Mr. Abdur Rashid Khan assumed the charge of Ombudsman Punjab on 17.05.2004

Jurisdiction

The Ombudsman may

- on a complaint by any aggrieved person; or
- on a reference by the Government or the Provincial Assembly; or
- on a motion of the Supreme Court or the High Court; or
- on his own motion (Suo Moto),

Undertake any investigation into any allegation of maladministration on the part of any Agency or any of its officers or employees.

The Ombudsman does not have any jurisdiction to investigate or enquire into matters which:

- i. are subjudice before a court of competent jurisdiction on the date of the receipt of a complaint, reference or motion by him; or
- ii. relate to the external affairs of Pakistan or the relations or dealings of Pakistan with any foreign state or government; or
- iii. Relate to, or are connected with, the defence of Pakistan or any part thereof, the Military, Naval, and Air Forces of Pakistan or the matters covered by the laws relating to those Forces.

Similarly, the Ombudsman does not entertain any complaint by or on behalf of a public servant or functionary concerning any matters relating to the Agency in which he is, or has been, working, in respect of any personal grievance relating to his service therein.

Head Office Lahore entertains complaints from the following districts:

| | | | |
|--------------|-----------|-----------------|-------------|
| Bahawalnagar | Hafizabad | Mandi Bahauddin | Pakpattan |
| Bhakkar | Jhang | Mianwali | Sargodha |
| Faisalabad | Kasur | Nankana Sahib | Sheikhupura |
| Gujranwala | Khushab | Narowal | Sialkot |
| Gujrat | Lahore | Okara | T.T. Singh |
| | | | Sahiwal |

Legal Powers

Regional Office Multan entertains complaints from the districts of:

| | | | |
|------------|---------|--------------|--------|
| Bahawalpur | Layyah | Muzaffargarh | Vehari |
| D. G. Khan | Lodhran | R. Y. Khan | |
| Khanewal | Multan | Rajanpur | |

Regional Office Rawalpindi entertains complaints from the districts of:

| | | | |
|--------|---------|--------|------------|
| Attock | Chakwal | Jehlum | Rawalpindi |
|--------|---------|--------|------------|

The Ombudsman may on a complaint by any aggrieved person, on a reference by the Government or the Provincial Assembly, or on a motion of the Supreme Court or the High Court made during the course of any proceedings before it or of his own motion, undertake any investigation into any allegation of maladministration on the part of any Agency or any of its officers or employees:

Provided that the Ombudsman shall not have any jurisdiction to investigate or inquire into any matters which:-

- a. are subjudice before a Court of competent jurisdiction on the date of the receipt of a complaint, reference or motion by him or
 - b. relate to the external affairs of Pakistan or the relations or dealings of Pakistan with any foreign state or Government; or
 - c. relate to, or are connected with, the defence of Pakistan or any part thereof, the Military, Naval and Air Forces of Pakistan, or the matters covered by the laws relating to those forces.
2. Notwithstanding anything contained in subsection (1), the Ombudsman shall not entertain for investigation any complaint by or on behalf of a public servant or functionary concerning any matters relating to the Agency in which he is, or has been, working, in respect of any personal grievance relating to his service therein.
 3. For carrying out the objectives of this Act and, in particular for ascertaining the root causes of corrupt practices and injustice, the Ombudsman may arrange for studies to be made or research to be conducted and may recommend appropriate steps for their eradication.

Power to enter and search any premises

4. The Ombudsman, or any member of the staff authorised in this behalf, may, for the purpose of making any inspection or investigation, enter any premises where the Ombudsman or, as the case may be, such member has reason to believe that any article, books of accounts, or any other documents relating to the subject-matter of inspection or investigation may be found, and may -
 - a. search such premises and inspect any article, books of accounts or other documents;

- b. take extracts or copies of such books of accounts and documents;
 - c. impound or seal such articles, books of accounts and documents; and
 - d. make an inventory of such articles, books of account and other documents found in such premises.
5. all searches made under subsection (1) shall be carried out mutatis mutandis, in accordance with the provisions of the Code of Criminal Procedure, 1898.

Power to punish for contempt

1. The Ombudsman shall have the same powers, mutatis mutandis, as the High Court has to punish any person for its contempt who:-
 - a. abuses, interferes with, impedes, imperils, or obstructs the process of the Ombudsman in any way or disobeys any order of the Ombudsman;
 - b. scandalises the Ombudsman or otherwise does anything which tends to bring the Ombudsman, his staff or nominees or any person authorised by the Ombudsman in relation to his office, into hatred, ridicule or contempt.
 - c. does anything which tends to prejudice the determination of a matter pending before the Ombudsman; or
 - d. does any other thing which, by any other law, constitutes contempt of Court.

Provided that fair comments made in good faith and in public interest on the working of the Ombudsman or any of his staff, or on the final report of the Ombudsman after the completion of the investigation shall not constitute contempt of the Ombudsman or his Office.

Any person sentenced under subsection (1) may, notwithstanding anything herein contained, within thirty days on the passing of the order, appeal to the High Court.

Inspection Team

2. The Ombudsman may constitute an Inspection Team for the performance of any of the functions of the Ombudsman.
3. An Inspection Team shall consist of one or more members of the staff and shall be assisted by such other person or persons as the Ombudsman may consider necessary.
4. An Inspection Team shall exercise such of the powers of the Ombudsman as he may specify by order in writing and every report of the Inspection Team shall first be submitted to the Ombudsman with its recommendations for appropriate action.

Standing Committees, etc.

The Ombudsman may, whenever he thinks fit, establish standing or advisory committees at specified places, with specified jurisdiction for performing such functions of the Ombudsman as are assigned to them from time to time and every report of such committee shall first be submitted to the Ombudsman with its recommendations for appropriate action.

Delegation of powers

The Ombudsman may, by order in writing, delegate such of his powers as may be specified in the order, to any member of his staff or to a standing

or advisory committee, to be exercised subject to such conditions as may be specified and every report of such member or committee shall first be submitted to the Ombudsman with his or its recommendations for appropriate action.

Appointment of advisers, etc.

The Ombudsman may appoint competent persons of integrity as advisers, consultants, fellows, bailiffs, interns, commissioners and experts as well as ministerial staff with or without remuneration to assist him in the discharge of his duties under this Act.

Authorization of functionaries, etc.

The Ombudsman may, if he considers it expedient, authorize a District Judge or any agency, public servant or other functionary working under the administrative control of the Provincial Government to undertake the functions of the Ombudsman under subsection (1) or subsection (2) of section 14 in respect of any matter falling within his jurisdiction and it shall be the duty of the Agency, public servant or other functionary so authorized to undertake such functions to such extent and subject to such conditions as the Ombudsman may specify.

Award of costs and compensation and refund of amounts

5. The Ombudsman may, where he deems necessary, call upon a public servant, other functionary or any Agency to show cause why compensation be not awarded to an aggrieved party for any loss or damage suffered by him on account of any maladministration committed by such public servant, other functionary or Agency, and after considering the explanation, and hearing such public servant, other functionary or Agency, award reasonable costs or compensation and the same shall be recoverable as arrears of land revenue from the public servant, functionary or Agency.
6. In cases involving payment of illegal gratification to any employee of any Agency, or to any other person on his behalf, or misappropriation, criminal breach of trust or cheating, the Ombudsman may order the payment thereof for credit to the Government or pass such other order as he may deem fit.
7. An order made under subsection (2) against any person shall not absolve such person of any liability under any other law.

Assistance and advice to Ombudsman

8. The Ombudsman may seek the assistance of any person or authority for the performance of his functions under this Act.
9. All officers of any Agency and any person whose assistance has been sought by the Ombudsman in the performance of his functions shall render such assistance to the extent it is within their power or capacity.
10. No statement made by a person or authority in the course of giving evidence before the Ombudsman or his staff shall subject him to, or be used against him in any civil or criminal proceedings except for prosecution of such person for giving false evidence.

Conduct of business

11. The Ombudsman shall be the Chief Executive of the Office.
12. The Ombudsman shall be the Principal Accounts Officer of the Office in respect of the expenditure incurred against budget grant

or grants controlled by the Ombudsman and shall, for this purpose, exercise all the financial and administrative powers delegated to an Administrative Department.

Requirement of affidavits

13. The Ombudsman may require any complainant or any party connected or concerned with a complaint, or with any inquiry or reference to submit affidavits attested or notarized before any competent authority in that behalf within the time prescribed by the Ombudsman or his staff.
14. The Ombudsman may take evidence without technicalities and may also require complainants or witnesses to take lie detection tests to examine their veracity and credibility and draw such inferences that are reasonable in all circumstances of the case especially when a person refuses, without reasonable justification, to submit to such tests.

Remuneration of advisors consultants, etc.

15. The Ombudsman may, in his discretion, fix an honorarium or remuneration for advisor, consultants, experts and interns engaged by him from time to time for the services rendered.
16. The Ombudsman may, in his discretion fix a reward or remuneration to any person for exceptional services rendered, or valuable assistance given, to the Ombudsman in carrying out his functions:

Provided that the Ombudsman shall withhold the identity of that person, if so requested by the person concerned, and take steps to provide due protection under the law to such person against harassment, victimization, retribution, reprisals of retaliation.

Ombudsman and staff to be public servants

The Ombudsman, the employees, officers and all other staff of the Office shall be deemed to be public servant within the meaning of section 21 of the Pakistan Penal Code, 1860.

Annual and other reports

17. Within three months of the conclusion of the calendar year to which the report pertains, the Ombudsman shall submit an Annual Report to the Governor.
18. Simultaneously, such reports shall be released by the Ombudsman for publication and copies thereof shall be provided to the public at reasonable cost.
19. The Ombudsman may also, from time to time, make public any of his studies, research, conclusions, recommendations, ideas or suggestions in respect of any matters being dealt with by the Office.
20. The report and other documents mentioned in this section shall be placed before the Provincial Assembly as early as possible.

Bar of jurisdiction No Court or other authority shall have jurisdiction

- xxi. to question the validity of any action taken, or intended to be taken, or order made, or anything done or purporting to have been taken, made or done under this Act ; or
- xxii. to grant an injunction or stay or to make any interim order in relation to any proceeding before, or anything done or intended

to be done or purporting to have been done by, or under the orders or at the instance of the Ombudsman.

Immunity

No suit, prosecution or other legal proceeding shall lie against the Ombudsman, his staff, Inspection Team, nominees, members of a standing or advisory committee or any person authorised by the Ombudsman for anything which is in good faith done or intended to be done under this Act.

Reference by the Government

23. The Government may refer any matter, report or complaint for investigation and independent recommendations by the Ombudsman.
24. The Ombudsman shall promptly investigate any such matter report or complaint and submit his findings or opinion within a reasonable time.
25. The Government, may, by notification in the Official Gazette, exclude specified matters, from the operation of any of provisions of this Act.

Representation to Governor

Any person aggrieved by a decision or order of the Ombudsman may, within thirty days of the decision or order, make a representation to the Governor, who may pass such order thereon as he may deem fit.

Informal resolution of disputes

26. Notwithstanding anything contained in this Act, the Ombudsman and a member of the staff shall have the authority to informally conciliate, amicably resolve, stipulate, settle or ameliorate any grievance without written memorandum and without the necessity of docketing any complaint or issuing any official notice.
27. The Ombudsman may appoint for purposes of liaison counselors, whether honorary or otherwise, at local level on such terms and conditions as the Ombudsman may deem proper.

Service of process

28. For the purposes of this Act, a written process or communication from the Office shall be deemed to have been duly served upon a respondent or any other person by, inter alia, any one or more of the following methods, namely :-
 - . by service in person through any employee of the Office or by any special process-server appointed in the name of the Ombudsman by any authorized staff of the Office, or any other person authorised in this behalf;
 - i. by depositing in any mail box posting in any Post Office a postage prepaid copy of the process, or any other document under certificate of posting or by registered post acknowledgment due to the last known address of the respondent or person concerned in the record of the Office, in which case service shall be deemed to have been affected ten days after the aforesaid mailing;
 - ii. by a police officer or any employee or nominee of the Office leaving the process or document at the last known address, abode, or place of business of the respondent or person concerned and if no one is available at the

aforementioned address, premises or place, by affixing a copy of the process or other document to the main entrance of such address; and

- iii. by publishing the process or document through any newspaper and sending a copy thereof to the respondent or the person concerned through ordinary mail, in which case service shall be deemed to have been effected on the day of the publication of the newspaper.
29. In all matters involving service the burden of proof shall be upon a respondent to credibly demonstrate by assigning sufficient cause that he, in fact, had absolutely no knowledge of the process, and that he actually acted in good faith.
 30. Whenever a document or process from the office is mailed, the envelope or the package shall clearly bear the legend that it is from the Office.

Expenditure to be charged on Provincial Consolidated Fund

The remuneration payable to the Ombudsman and the administrative expenses of the Office, including the remuneration payable to staff, nominees and grantees, shall be an expenditure charged upon the Provincial Consolidated Fund.

Rules

The Ombudsman may, with the approval of the Government, make rules for carrying out the purposes of this Act.

Act to override other laws

The provisions of this Act shall have effect notwithstanding anything contained in any other law for the time being in force.

Removal of difficulties

If any difficulty arises in giving effect to any provision of this Act, the Government may make such order not inconsistent with the provisions of this Act as may appear to him to be necessary for the purpose of removing such difficulty.

Repeal

The Punjab Office of the Ombudsman Ordinance 1997 (XIV of 1997) is hereby repealed.

Implementation Arrangements

The objective of the Office of Ombudsman Punjab is to provide relief/redressal to citizens in complaints against Provincial Government Agencies through a procedure which is informal, simple, prompt and inexpensive and do so under the law i.e. the Punjab Office of the Ombudsman Act 1997.

It is mentioned in the preamble of the Punjab Office of the Ombudsman Act 1997, that the appointment of the Ombudsman is for protection of the rights of the people, ensuring adherence to the rule of law, diagnosing, redressing and rectifying any injustice done to a person through maladministration and suppressing corrupt practices.

Maladministration includes:

- A decision, process, recommendation, act or omission or commission which:
 - Is contrary to law, rules or regulations or is a departure from established practice or procedure, unless it is bonafide and for valid reasons; or
 - Is perverse, arbitrary or unreasonable, unjust, biased, oppressive, or discriminatory; or
 - Is based on irrelevant grounds; or
 - Involves the exercise of powers or the failure or refusal to do so, for corrupt or improper motives, such as, bribery, favoritism, nepotism and administrative excesses; and
- Neglect, inattention, delay, incompetence, inefficiency and ineptitude, in the administration or discharge of duties and responsibilities.

Research & Analysis Wing