The National Commission for Women (Procedure) Regulations, 2005 – Part II

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PROCEDURE FOR DEALING WITH COMPLAINTS

1. General

The complaint shall disclose complete picture of the matter leading to the complaint. The Commission may seek further information/affidavit as may be considered necessary in the matter.

2. Complaints not ordinarily entertainable

The Commission may summarily dismiss complaints of the following nature:

i) Complaints illegible or vague, anonymous or pseudonymous; or

ii) The issue raised relates to civil dispute, between the parties such as contractual rights obligations and the like;

iii) The issue raised relates to service matters not involving any deprivation of women's rights;

iv) The issue raised relates to labour/industrial disputes not involving any deprivation of women's rights;

v) Matter is sub judice before a Court/Tribunal;

vi) The Commission shall not inquire into any matter which is pending before a State Commission or any other Commission duly constituted under any law for the time being in force.

vii) Matter already decided by the Commission

viii) Matter is outside the purview of the Commission on any other ground;

3. Receipt and Registration of Complaints

a. All communications/complaints in writing (by whatsoever mode they are received) addressed to the Commission, its Chairperson, Members or other officers of the Commission, either by name or designation, shall be received by the C&I (complaints and investigation) cell, who shall enter the complaints in the complaints register containing particulars such as, date of receipt, diary number, sender's name, address, case number and category and State, as per the following

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S. No	DATE OF REGISTRATION	FILE No.	Name of counselor	NAME OF MEMBER	VIP / NRI / ORGANISATION	NAME	ADDRESS	CITY/ DISTT	STATE	NATURE OF COMPLAINT	ATR	FOLLOWUP	REMARKS

b. Such registration of complaint shall be done within 24 hours from the date of the receipt of the complaint

c. An acknowledgement shall be sent to the complainant within 3 days of the receipt of the complaint

d. Without prejudice to the Chairperson's power to set up an Investigating Committee, complaints on which cognizance has been taken shall be serially noted and allocated as per roster amongst the members and the counselors assigned to each case to assist the member in the matter.

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4. Scrutiny of complaints

(a) On receipt of the complaint by the Counselor, he/she shall prepare the BTR/ (Bill Transmission Report) and submit the same to the DS

(b) The (BTR) shall be prepared as per the format at Annexure I – BTR shall disclose the course of action to be adopted in the complaint Such BTR shall be placed before the DS within 24 hours from the date of receipt of the complaint. The DS shall decide whether the complaint is cognizable or not and shall forward the complaint which has been taken cognizance of to the members after getting full information and reports as necessary. DS will be deemed to be act on behalf of the Commission for getting full information and reports on behalf of the Commission.

(c) Subject to the provisions above, complaints and other communications requiring urgent attention shall be placed expeditiously before the member or the chairperson as the case my be.

(d) All complaints and other communications which are not in English/Hindi and which are required to be placed before the Commission shall be got translated into English/Hindi with utmost expedition. Provided that only the gist of the complaint shall be prepared in English if the complaint is not entertainable or is of an urgent nature, requiring immediate attention.

(e) Any complaint directly received by the chairperson or any member shall be sent to the C&I Cell who shall process the same as per the provisions here in above provided.

(f) In case of any suo moto action taken or proposed to be taken by either the chairperson or any Member the procedure as described shall be followed.

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5. Placing complaints before the Commission

A brief data of the complaints registered, whether taken cognizance or not shall be placed before the commission for its information and consideration.

Any member/Member Secretary to whom a complaint is forwarded and on which cognizance has been taken shall be deemed to act on behalf of the commission.

6. Manner of dealing with complaints

Subject to such special or general orders of the Chairperson, all complaints shall be initially dealt with by a Member of the Commission. However, the Chairperson may, having regard to the importance of the matter, place the case / complaint requiring a detailed enquiry before two or more members or a Committee appointed in this behalf or set up a Investigating Committee for the said purpose.

7. INQUIRY INTO COMPLAINTS

The Commission while Inquiring into the complaints may-

(i) Call for information or report from the Central Government or any State Government or any other authority or organization subordinate thereto within such time as may be specified by it:

Provided that if the information or report is not received within the time stipulated by the Commission, it may proceed to inquire into the complaint on its own;

(ii) If, on receipt of information or report, the Commission is satisfied either that no further inquiry is required or that the required action has been initiated or taken by the concerned Government or authority, it may not proceed with the complaint and inform the complainant accordingly;

(iii) Without prejudice to anything contained in clause (I), if it considers necessary, having regard to the nature of the complaint, initiate an inquiry.

(iv) Call for further particulars or information from any person or authority.

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8. Preliminary consideration, Issue of Notice, etc.

(a) If on consideration of the complaint, the Commission dismisses the complaint in limine, the said order shall be communicated to the complainant and the case shall be treated as closed.

(b) If on consideration of the complaint along with the BTR, the DS admits/takes cognizance of the complaint, she may direct issue of notice to any authority including the complainant, calling upon, to furnish information/ report, or calling for further particulars .This shall be issued in the form at ANNEXURE II enclosing a copy of the complaint there to. Such notice shall be signed by the DS.

(c) If, however, the Commission issues any other direction or order, action shall forthwith be taken accordingly.

(d) If the reports/information is not received from the concerned authority within the given time, or received late or not complete in all respects, the case shall be placed before the Member for further direction.

9. Procedure for conducting enquiry

(A) On receipt of information/report called for as per provision of Regulation 7 or 8 the Chairperson or Member concerned may, if so considered necessary proceed with the complaint in the manner hereinafter provided.

(B) Where no further action is called for, the complaint may be:

(a) Closed, under intimation to the complaint.

(b) Complaint may be sent to the appropriate Government/other authorities for their consideration

(c) May be referred to concerned State Police/State Govt.

Provided that where the action has been taken as (b) (c) above, the same shall be monitored till the issue/matter has been decided/settled.

` (C) Where cognizance of the complaint is taken or/on suo-moto action.

- The proceedings in the form of an enquiry may be initiated.

- On suo-moto or any urgent action, the CP may direct setting up of Investigating Committee U/Sec.8 of Act

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10. Preliminary hearing of the complaint

(a) At the preliminary hearing, the Member shall ascertain from the complainant whether he/she admits the allegations made by him/her.

(b) Such complainant may be examined on Oath (Annexure-III) or May file an affidavit supporting the facts of the case or may be directed to produce list of witnesses/documents proposed to be relied upon, if any, to support her claim.

(c) Thereafter the witnesses on behalf of the complainant shall be examined and the opposite party shall have the right to cross examine.

(d) The opposite party against whom the complaint has been made would then be required to submit his written statement of defense either on oath or on affidavit and produce list of documents/witnesses, if any, relied on.

(e) The committee or any member investigating or inquiring into a complaint may issue a commission for examination of any witnesses in accordance with the provisions of the CPC

11. When a complaint has been filed before the Commission,

Summons (as per ANNEXURE - IV / V') may be issued to the opposite party/parties to appear & answer the claim on the day to be therein specified.

12. The opposite party/parties to whom summons have been issued may appear in person or by a pleader duly authorized, if so permitted by the commission, & able to answer all material question relating to the complaint.

13. Every summons shall be accompanied by a copy of the complaint or by a concise statement. Such summons shall be signed by the DS or the Law Officer.

14. Circumstance for issuance of summons.

- To afford an opportunity of being heard in person and/or to adduce evidence in support of the complaint.
- Cause production of the records.
- Examine as a witness
- To afford an opportunity of being heard as in the opinion of Commission his/her reputation is likely to be prejudicially affected by the decision that the Commission may give in the above proceedings.
- To afford an opportunity of being heard in the matter as your conduct in connection with subject matter of the above proceedings is being enquired into. Where the Commission sees reason to require the personal appearance of the defendants/opposite party,

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the summons shall order him to appear in person on the day therein specified.

15. Investigation.-

The Commission may, for the purpose of conducting any investigation pertaining to the inquiry, utilize the services of any officer of the Central Government or any State Government with the concurrence of the Central Government or the State Government, as the case may be or any retired officer or any other person and co-opt such officer or such person as a Member of the investigating committee.

16. Powers relating to inquiries.-

(i) The Commission shall, while inquiring into complaints under this Act, have all the powers of a civil court trying a suit under the Code of Civil Procedure, 1908 (5 of 1908), and in particular in respect of the following matters, namely:-

(a) Summoning and enforcing the attendance of witnesses and examining them on oath;

(b) Discovery and production of any document;

(c) Receiving evidence on affidavits;

(d) Requisitioning any public record or copy thereof from any court or office;

(e) Issuing commissions for the examination of witnesses or documents;

(f) Any other matter which may be prescribed.

17. Steps after inquiry.-

The Commission may take any of the following steps upon the completion of an inquiry held under these regulations, namely-

(i) where the inquiry discloses, the commission of violation of any rights or negligence in the prevention of violation of any rights by a public servant, it may recommend to the concerned Government or authority the initiation of

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proceedings for prosecution or such other action as the Commission may deem fit against the concerned person or persons;

(ii) Approach the Supreme Court or the High Court concerned for such directions, orders or writs as that Court may deem necessary;

(iii) Recommend to the concerned Government or authority for the grant of such immediate relief to the victim or the members of his family as the Commission may consider necessary;

(iv) Subject to the provisions of Sub clause (v) provide a copy of the inquiry report to the petitioner or her representative;

(v) the Commission shall send a copy of its inquiry report together with it's recommendations to the concerned Government or authority and the concerned Government or authority shall, within a period of one month, or such further time as the Commission may allow, forward its comments on the report, including the action taken or proposed to be taken thereon, to the Commission;

(vi) The Commission shall publish its inquiry report together with the comments of the concerned Government or authority, if any, and the action taken or proposed to be taken by the concerned Government or authority on the recommendations of the Commission.

Misc provisions

18. Recording of Orders / Proceedings

The order sheet is the mirror to the proceedings and hence the counselor has to ensure that right from the date of the receipt of the complaint, its enquiry / investigation till its final disposal, the gist of the proceedings are reflected in the order sheet and therefore shall ensure that - (a) All orders, notices, summons, day to day proceedings etc issued in the matter are legibly recorded in the Order Sheet; provided that the orders which are lengthy shall be recorded on separate sheets and appended to the order Sheet.

(b) The order sheet shall invariably reflect the brief of the proceedings conducted which shall be signed by the counselor, member concerned/ committee and the parties if any.

(c) No routine inter office correspondence or any deposition shall be recorded in the order sheet. Such correspondence should be made separately in an annexed file.

19. Mode of Communication

Unless otherwise directed, all summons and notices from the Commission shall be sent by registered post

20. Procedure regarding Suo Motu Action.

The procedure contained in this Chapter shall mutatis Mutandis apply to suo moto action taken by the Commission.

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