

NOTIFICATION

Peshawar dated *2015*

No. _____ In exercise of the conferred by section 13 of the Khyber Pakhtunkhwa, Promotion and Enforcement of Human Right Act, 2014, (Khyber Pakhtunkhwa Act No III of 2014), the Government of the Khyber Pakhtunkhwa pleased to make the following rules namely:

THE KHYBER PAKHTUNKHWA

DIRECTORATE OF HUMAN RIGHT (PROCEDURE) RULES, 2015

1. **Short title and commencement,---** (1) These rules may be called the Khyber Pakhtunkhwa Directorate of Human right (Procedure) Rules, 2015.

(2) These rules shall come into force at once.

2. **Definitions,---** In the rules unless the context otherwise requires:

(a) "Act" means the Khyber Pakhtunkhwa Promotion, Protection and Enforcement of Human Right Act, 2014 (Khyber Pakhtunkhwa) Act 2014 (Khyber Pakhtunkhwa Act No.III of 2014)

(b) "Compliant" means the allegation with regard to violation of human right made by the complaint, in writing, to the Directorate; and

(c) "Complaint" means any person who personally or in behalf of any person of any person makes a complaint.

3. **Filing of complaints,---** (1) The complaint, on violation of human right, may file a complaint in the Directorate for taking necessary action under the Act.

(2) The complaint filed by any other person on behalf of the aggrieved person, under sub-rule (1), shall be treated as filed by the complainant himself.

4. **Procedure for dealing with complaints,---** (1) All complaints, in whatever form received by the Directorate, shall be registered and assigned a number and place for admission before the Director in not later than two (2) working days of the

receipt of such complaint and the Director shall within three (3) working days, decide whether the complaint shall be accepted or rejected. Ordinarily complaints of the following nature are not entertain able by the Directorate:

- (a) in regard to events which happened more than one year before the making of the complaint;
- (b) with regard to matter which is sub-judice in any court of law;
- (c) which are vague, anonymous or pseudonymous;
- (d) which are false or frivolous nature; and.
- (e) which are outside the purview of the Directorate.

(2) In case the Director is of the opinion that the complaint has not been accepted on the ground of being frivolous under clause (d) of sub-rule (1) the complainant shall be proceeded under section 182 of the Pakistan penal code,1860.

(3) No fee shall charged for the complaint filed by the complaint filed by the complainant, with the Directorate.

(4) Every attempt shall be made to disclose a complete picture of the matter to the complaint and the same may be made in English or Urdu to enable the Directorate to take immediate action to facilitate the filling of the language. It shall be open to the Directorate to further information and affidavits to be filed in support of allegation, whenever considered necessary.

(5) The Director shall accept the complaint either through email, fax or through any other electronic source of communication.

(6) The Director shall have the power to dismiss a complaint in limini by giving solid reasons.

(7) After acceptance of a complaint, the Director shall mark the complaint to any officer of the Directorate for inquiry.

(8) On every accepted complaint, the inquiry officer shall, within fourteen (14) days of maximum time, call for report or comments from the person against whom, and government department, authority or any other agency, as the case may be against which, such complaint has been made.

(9) In case such person, government department, authority or agency, as the case may be, failed to respond within the time limit, as specified in sub-rule (8), the Directorate shall issue a second notice which shall be responded by such person, Government Department, authority or agency, as the case may be, within seven(7) days, after receiving the same.

(10) On receipt of the report or comments as required under sub-rule (8) or sub-rule (9), as the case may be, it shall be forwarded to the complainant for rejoinder which needs to be given within fifteen working days time of its receipt and if the complainant does not respond within such time, another five working days time may be given to him for the response.

(11) If the inquiry officer feels necessary or the complainant is not satisfied with the comments of the person, government department or agency as the case may be, a date of hearing may be fixed by the inquiry officer to both the parties with the advice to bring the evidence in favor of their contention, if any exists, on the day of hearing.

(12) If on the day hearing the person, Government Department, Authority or any other Agency does not turn up with a record, another date may be fixed for hearing.

(13) Similarly, if the complainant claims of certain evidence against the person, Government Department, Authority or any Agency

which he cannot produce at that time, another date may be fixed for hearing to get that evidence on the record.

(14) For hearing, the complainant may appear personally or through a legal representative or any other person may appear on his behalf after providing power of attorney on behalf of the complainant, to the inquiry officer.

(15) After the case has been examined, the inquiry officer shall submit a detailed noted on the merit of the case to the Director in light of such report or comments, the director may, if he deems necessary and if circumstances of the case warrants, issue direction or recommendations to the person against whom, government department, authority or any other agency, as the case may be, against which, the complaint has been filed.

(16) The director may also, if feels necessary, in his discretion, afford personal hearing to the complainant and such other person or persons, as in the opinion of the Director, shall be heard for appropriate disposal of the complaint, before him and where necessary call for records and examine witnesses in connection with it. The director shall afford a reasonable opportunity of hearing, including opportunity of cross-examining witnesses, if any, in support of complaint and leading evidence in support of his stand to a persona whose conduct is enquired into or where in his opinion the reputation of such person is likely to be prejudicially effected.

(17) Where inquiry is conducted by an office or officers of the Directorate or the committee, as case may be, authorized by the Directorate the report, after completion of such inquiry , shall be submitted to the Directorate within fourteen (14) days:

Provide that, if such report cannot be submitted within fourteen (14) days, the Director may extend the time for another seven (7) days, for submission of the report.

(18) the Director may, in his discretion, director further inquiry, in case he is of the opinion, that the inquiry has not been conducted properly or the complaints requires further inquiry for ascertaining the truth or enabling

him to properly dispose of. On receipt of such report, within the time limit, as specified in sub-rule (17), the Director may, on his own motion, or if he moved by the complainant, direct for receiving the evidence in the course of such inquiry.

(19) The Director may direct any officer of the directorate to visit for an on-the-spot study. In this regard report or a joint reports, where such study is undertaken by more than one officers, shall be furnished to the directorate within ten (10)days.

(20) The Directorate shall submit its recommendations to the Government within 15 days; The Government shall implement the recommendation within 30 days on the receipt of the recommendation. On the receipt of the implementation report the Directorate shall published such report within 15 days.

5. Inquiry team. --- The Directorate shall have its own team of inquiry to be headed by the officer, not below the rank of Deputy Director, duty authorized by the Director. The Directorate may, in case to case basis, authorize an appropriate number of outsiders to be associated with inquiry team.

6. Reports on the complaints and inquiries. --- Every report or recommendation shall be sent to Government within seven (7) days of completion of the proceedings before the Directorate and receipt of the comments of Government, the Directorate shall publish such reports within seven (7) days after receiving it.

7. Suo motu cognizance.--- (1) wher suo motu cognizance of any violation or abuse of human rights is taken by the Director, it may issue , to the principal officer or any other officer of the Agency, a notice incorporating brief facts and circumstances or send a copy of the written material which , in his opinion . Appears to have caused human rights violation or abuse and call upon him to meet the allegations contained therein and to submit a detail report in this regard.

(2) The procedure as provided in rule 4, for inquiry, shall be mutatis mutandis applicable in cases of suo motu cognizance by the Directorate.

8. Authentication of orders and decisions.--- (1) all the Directions, recommendations or decisions as the case may be, of the Directorate shall be authenticated by the Director.

(2) Copies of the inquiry reports or orders passed finally while disposing of the complaint, which are not classified or confidential shall be furnished to the parties free of cost.

(3) Every effort shall be made to provide the copies within utmost expedition and, in any case, not later than seven (7) days of the date of request made for such documents.

9. Report to Government. --- The Directorate shall, in each and every case , where the person to whom. And Government Department , Authority and any other Agency, as the case may be, to which a final notice has been issued to response under sub-rule(9) of rule 4, fails to respond , submit a detailed report to Government for appropriate action.

10. Annual report.--- The Directorate shall furnish its annual report for the period commencing from first April of the year to 31St March of the succeeding year to Government by the end of May every year. The Annual report shall be signed by the Director.

11. Special reports.--- The directorate may furnish to Government the special reports on specific matters, as may be considered necessary.

12. Printing of the reports.--- The Directorate shall be responsible for the printing of annual, as well as, special report with utmost expedition and in any case, not later than thirty (30) days of finalization of the same.

13. Appropriate Direction.--- As and any matter. Which is not covered by these rules, arises, it shall be competent for the Directorate to issue appropriate directions not inconsistent, derogatory or beyond the powers of the Director under the Act or these rules, as the case may be.