

## **OMBUDS MAN**

The R&R in Irrigation Projects under Jalayagnam are in advance stage of completion and the appointment of **Ombudsman** has become essential at this stage. Accordingly, Government after careful examination of the matter have decided to appoint an Ombudsman for the Redressal of grievances relating to implementation of the R&R Policy, 2005. The mode of appointment of the Ombudsman, method of selection, tenure, powers and duties, procedure for Redressal of grievances, disposal of complaints, orders to be passed etc., are given as ANNEXURE TO THE G.O.Ms.No. 04, Irrigation & CAD (PW: R&R) Department, dated: 01-02-2012.

### **Definitions**

In these instructions unless the context otherwise requires -

- 1.1 Authorized representative'** means a person duly authorized by a complainant to act on his behalf. and represent him in the proceedings before the Ombudsman.
- 1.2 `Direction'** means a direction passed by the Ombudsman.
- 1.3 `Complaint'** means a representation in writing containing the grievances with regards to the implementation of R&R, Policy to an individual or group of individuals affected by the R & R in a project affected area.
- 1.4 `Nodal Department'** means Commissioner R & R and/or the Department of the State Government which deals with the implementation of the R&R Policy.
- 1.5 Resettlement and Rehabilitation Policy'** means the Policy on Resettlement and Rehabilitation for Project Affected Families contained in G.O.Ms.No.68, Irrigation & CAD (Project Wing-LA-IV-R & R) Department dated 8th April,2005 as amended from time to time.
- 1.6 `Resettlement and Rehabilitation (R&R) Policy Functionary or authority'** means any person or persons who have been vested with the powers and functions for implementation of the R&R Policy in a project affected area.
- 1.7 `Ombudsman'** means any person appointed as per p a 7.5 (a) of State R&R Policy-2005.

### **2.1. Appointment, Tenure and Removal.**

2. 1.1 **Eligibility:** The Selection of Ombudsman shall be made from among persons of eminence and having outstanding and impeccable integrity with at least twenty five years of experience in Judicial or in public administration at a senior level.

2.1.2. The Commissioner (R&R) as a member and convener of selection committee shall invite applications for the post of ombudsman by way of publication in newspapers and prepare the list and submit to the selection committee.

**2.1.3 The Selection Committee will consist of the following persons: -**

- (a) Chief Secretary of the State Government Chairperson
- (b) Spl. Chief Secretary/Prl. Secretary, Finance Department . .  
Member
- (c) Prl. Secretary/ Secretary, I & CAD, Department  
Member
- (d) Secretary, Law Department  
Member
- (e) Commissioner (R&R) & E.O. Secretary ..Member Convener I & CAD Department

2.1.4. The Selection Committee shall prepare a panel of three suitable persons for consideration for appointment of one of them as Ombudsman. Prior to the appointment, the panel prepared by the Selection Committee may be published on the official website of the State to invite comments from the public. On expiry of 15 days of publication, the comments may be examined by the Selection Committee. All comments and objections will be submitted to the Government while recommending the panel for the consideration of the Government. Anonymous, frivolous and unsubstantiated comments and allegations shall not be considered.

2.1.5 The State Government on recommendations of the Selection Committee may appoint one suitable person as the **Ombudsman** in State for Resettlement & Rehabilitation of Project Affected Families (PAFs) under different development projects.

2.1.6 The State Government may designate any Officer not below the rank of Special Chief Secretary to the Government as **Ombudsman** in the interregnum period between the appointment of regular Ombudsman and also before the first Ombudsman and such appointment shall not be of more than six months.

2.1.7 The person selected as Ombudsman must be physically active and capable of conducting field tours, inspection and visits to remote rural locations in the Districts.

2.1.8 The **Ombudsman** shall be appointed for a tenure of (3) years extendable by one year based on performance appraisal or till the incumbent attains the age of (65) years, whichever is earlier. There shall be no reappointment after a continuous term of (4) years as Ombudsman.

2.1.9 An Ombudsman shall be removed form Office by order of the Government for gross misconduct committed by him or on the ground of proved misbehavior in an enquiry held in accordance with the procedure as may be prescribed.

### **3. Remuneration**

Subject to any notification by State Government, the Ombudsman shall be paid an honorarium of Rs. One lakh (consolidated) P.M.

### **4. Territorial Jurisdiction**

Entire State of Andhra Pradesh,

## **5. Location of Office**

The Office of R&R Ombudsman shall be located in the State Capital of Andhra Pradesh.

## **6. Technical and Administrative support**

Technical and administrative support will be provided by the Commissioner, R & R or as decided by the State Government.

The Ombudsman shall be provided with a car for conveyance for official work and also office, residential and a mobile telephone . as entitled to the officers in the rank of Spl. Chief Secretary to the State Government.

. The expenditure related to the establishment of the office of Ombudsman shall be met from the budget allocation of Commissioner (R&R), HOD under the head 300-other contractual services.

## **7. Duties & Responsibilities**

7.1 The Ombudsman shall have the powers

7.1.1. Receive complaints from individuals or group of individuals from Project Displaced Families/Project Affected Families who are affected by the projects as declared under the R&R policy on matters as specified in Clause 9.

7.1.2 Consider such complaints and facilitate their disposal by issuing directions/ direction to the competent authority for redressal of those grievances in accordance with the R & R policy and the law. The directions thus issued will be binding on the authority who is implementing the R & R for those PAFs.

7.1.3 Require the R&R authority to provide any information or furnish certified copies of any documents relating to the subject matter of the complaint which is or is alleged to be in his possession; provided that in the event of failure of such authority to comply with the requisition without any sufficient cause, the Ombudsman may, if he/she deems fit, draw the inference that the information, if provided or copies if furnished, would be unfavorable to the concerned R&R authority and decide accordingly.

7.1.4. Issue direction for conducting spot investigation/enquiry.

7.1.5. Initiate proceedings suo motu in the event of any circumstance arising within his jurisdiction that may cause any grievance.

7.1.6. Report his findings to the Chief Secretary of the State and to the Secretary/ Prl.Secretary of the Department which has caused displacement in the first place for appropriate action against erring officers/ functionaries engaged in R & R work.

## **7.2. The Ombudsman shall have the following duties:**

- 7.2.1 To be responsible for timely disposal of the grievances/ petitions received.
- 7.2.2. To be responsible for the conduct of business in his office.
- 7.2.3. To maintain confidentiality of any information or document coming into his knowledge or possession in the course of discharging his duties and not disclose such information or document to any person except with the consent of the person furnishing such information or document: provided that nothing in this clause shall prevent the ombudsman from disclosing information or documents furnished by a party in complaint to the other party or parties, to the extent considered by him to be reasonably required to comply with the principles of natural justice and fair play in the proceedings.
- 7.2.4. To send a quarterly report to the Chief Secretary, and to the Principal Secretary, of the nodal Department highlighting the failure to redress the grievance within the ambit of R&R Policy and to his assigned duties. The report shall specially highlight cases where there is failure to redress the grievance. The report will be accompanied with primary evidence needed to initiate action against the delinquent persons by respective Nodal Departments.
- 7.2.5 To furnish a report every year containing a general review of activities of the office of the Ombudsman during the preceding financial year to the Chief Secretary and to the Secretary, nodal Department along with such other information as may be considered necessary by him within a month from the end of the financial year. In the annual report, the Ombudsman, on the basis of Grievances handled by him will review the quality of the working of R&R authorities on disposal of grievances make recommendations for efficient disposal/redressal of grievance to improve implementation of R&R. The report shall be put on the R&R website.
- 7.2.6 To compile a list of 'direction' given by it between April and March of each financial year in respect of every R&R authority complained against and report it to the Chief Secretary of the State.

### **Procedure for Redressal of Grievances**

#### **8. Grounds on which Complaints shall be filed:-**

Any affected person, if aggrieved, for not being offered the admissible rehabilitation and resettlement benefits as provided under the policy in vogue, may move an appropriate petition for redressal of his or her grievances to the ombudsman.

#### **9. Procedure for filing the complaint**

- 9.1. Any person, who has grievance against the R&R Authority, may, himself or through his authorized representative, make a complaint against the officer/functionary/Administrator for R&R in writing to the Ombudsman.
- 9.2. The complaint shall be duly signed by the complainant and/or his authorized representative, if any, and shall state clearly the name and address of the complainant, the name of the office and official of

the Nodal Department against whom the complaint is made, the facts giving rise to the complaint supported by the documents, if any, relied on the complainant and the relief sought from the Ombudsman.

- 9.3. A complaint made through electronic means to [www.aprr.gov.in](http://www.aprr.gov.in) shall also be accepted by the Ombudsman and a print out of such complaint shall be taken on the record of the Ombudsman.
- 9.4. A printout of the complaint made through electronic means shall be signed and submitted by the complainant at the earliest possible opportunity before the Ombudsman takes steps for disposal.
- 9.5. The signed printout shall be deemed to be the complaint and its shall relate back to the date on which the complaint was made through electronic means.
- 9.6. The complainant should have made a representation to the Project Administrator / Commissioner, Resettlement & Rehabilitation named in the complaint and the R&R Authority either should have rejected the complaint or the complainant have not received any reply within a period of forty five days after the concerned R&R Authority has received his / her complaint or he / she is not satisfied with the reply of the R&R Authority.
- 9.7. No complaint shall be made to the R&R Ombudsman on an issue which has been or is the subject matter of any proceeding in an appeal, revision, reference or writ before any Tribunal or Court.
- 9.8 **Limitation:** Ombudsman shall not investigate any complaint involving an allegation, if complaint is made after the expiry of six years from the date on which the action complained against is alleged to have been taken place. (With a view that there should be an end to any litigation).

#### **10. Proceedings to be summary in nature.**

The Ombudsman shall not be bound by any legal rules of evidence and may follow such procedure that appears to him to be fair and proper. The proceedings before the Ombudsman shall be summary in nature.

#### **11. Disposal of complaints.**

- 11.1. On receipt of the complaint, Ombudsman may refer the complaint to the appropriate R&R Authorities for disposal within 45 days from the date of receipt of communication from the O/o the Ombudsman. In the event of failure of the R&R Authority to dispose the complaint, the matter may be taken up by the Ombudsman for disposal.
- 11.2. The Ombudsman shall. cause a notice of the receipt of any complaint along with a copy of the complaint to be sent to the R&R Authority complained against.
- 11.3. when facts of the case are admitted by the parties, the Ombudsman shall dispose the case in accordance with law.

## **12. Decision of Ombudsman**

- 12.1. If the facts are not admitted by the parties in a case, Ombudsman may order/ issue direction after providing the parties reasonable opportunity to present their case. He shall be guided by the evidence placed before him by the parties, the reports of social audits, if any, the provisions of R&R Policy and Scheme and practice, directions, instructions, issued by Government from time to time and such other factors which in his opinion are necessary in the interest of justice.
- 12.2. The 'direction' given under sub--clause (13.1) above shall be a speaking order consisting of the following components:
  - 12.2.1. Details of the parties of the case.
  - 12.2.2. Brief facts of the case.
  - 12.2.3. Issues for consideration.
  - 12.2.4. Finding against issues along with reasons.
  - 12.2.5. Directions to the concerned R&R Authority such as for furnishing' of its objections like expediting delayed matters, giving reasons for decisions and issuing orders/clarifications to complainants.
  - 12.2.6. Costs, if any.
- 12.3. If a complaint is found to be false, malicious or vexatious, the Ombudsman shall, for reasons to be recorded in writing, dismiss the complaint and make an order that the complainant shall pay to the opposite party cost as deemed appropriate by the Ombudsman.
  - 12.3.1. The Ombudsman may in his/her discretion refuse to investigate or discontinue the investigation of any complaint involving any allegation if in his opinion, on following grounds:
    - (a) The complaint is frivolous or vexatious or is not made in good faith.
    - (b) There are no sufficient grounds for investigation or as the case may be, for continuing the investigation or
    - (c) Other remedies are available to the complainant and in the circumstances of the case it would be more proper for the complainant to avail of such remedies.
    - (d) In case the Ombudsman decides not to entertain a complaint or to discontinue any investigation in respect of the complaint, he shall record his reasons and communicate the same to the complainant and the authority concerned.
    - (e) If the Ombudsman is of the opinion that the injustice complained of or the grievance alleged can be remedied or redressed at the departmental level, he may close the complaint and send the relevant records to the concerned

departmental authority with suitable directions and for appropriate action.

- 12.4. A copy of the 'direction' shall be sent to the complainant and the R&R Authority complained against.
- 12.5. Appeal lies against the direction passed by Ombudsman to the High Court under Article 227 of the constitution of India as the High Court has superintendence over all courts and Tribunals throughout the territories in relation to which it exercises jurisdiction.
- 12.6. A representative of Project Administrator/R&R Officer may appear in cases where the Project Administrator/R&R Officer is a party, Project Administrator/ R&R Officer shall appear only when a proceeding is taken up before the Ombudsman, in which case he shall be provided the opportunity of hearing.
- 12.7. All cases not involving complicated questions of fact or law shall be disposed within (30) days. Other cases may be disposed within (45) days.
- 12.8. Representation of parties by the advocates in any proceeding may be made with the permission of Ombudsman.
- 12.9. In any proceeding before the Ombudsman, if the facts reveal a case of illegal gratification, bribery or misappropriation and the Ombudsman is satisfied that the case is fit for further investigation by a criminal court, the same shall be referred by him to the authority competent to sanction criminal prosecution of the persons involved in the case. The competent authority on receipt of such a case shall forward the case to appropriate authority for further action in accordance with law.