

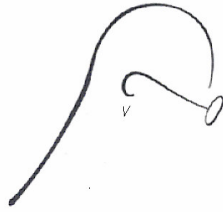
**Report of**  
**Expert Group**

**on**

**Establishment of**  
**Grievance Redressal Mechanism**  
**under NREG Act.**



**Government of India**  
**Department of Rural Development**  
**Ministry of Rural Development**



### **Gandhiji's Talisman**

**“I will give you a talisman. Whenever you are in doubt or when the self becomes too much with you, apply the following test:**

**Recall the face of the poorest and the weakest man whom you may have seen and ask yourself if the step you contemplate is going to be of any use to him. Will he gain anything by it? Will it restore him to a control over his own life and destiny? In other words, will it lead to Swaraj for the hungry and spiritually starving millions?**

**Then you will find your doubts and your self melting away.”**

**-Mahatma Gandhi**

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## Preface

I feel greatly honoured to have been associated closely with the steering of the deliberations of the Expert Group set up by the Ministry of Rural Development, Government of India on Establishment of Grievance Redressal Mechanism under National Rural Employment Guarantee Act, 2005 (NREGA).

2. Let me at the outset convey my thanks to the Hon'ble Union Minister of Rural Development, Dr. Raghuvansh Prasad Singh, and the Secretary, Department of Rural Development, Govt. of India, Dr. Rita Sharma, for reposing confidence in me to carry out the task. It has been universally acknowledged that NREGA holds great promise for the economic emancipation of the weaker sections of the society in rural areas of India. By embedding the promise of employment for at least 100 days annually and payment of wages within a fortnight of work done in a framework of statutory rights, the Act has decidedly tipped the balance of power in favour of the unorganized rural workers. For the first time in the history of India's social and economic progress, the distribution of benefits of growth to the lowest income groups has not been made subservient to a 'trickle down' process, but has been ensured by the instrumentality of law. Now the rural households who want wage income to be enhanced, can apply for registration with the local Gram Panchayats and obtain job cards. They can apply for employment in the form of unskilled manual work in the Gram Panchayats. The Gram Panchayat is under a legal obligation to provide work within 15 days of the request for employment, failing which the applicant has to be provided unemployment allowance at a rate not less than one-fourth of the wages for the first month and not less than one-half of the wages for the remaining part of the year till employment is provided. The worker has to be paid in accordance with the standards fixed for worker's outturn and the minimum wage rate. These provisions of the NREG Act lay down the unique advantages that the law has conferred on the hitherto unorganised rural workers. They are juxtaposed with counterpart obligations entrusted on the State Governments, Panchayat Raj Institutions, the District Programme Coordinators, the Programme Officers and the Line Departments. Thus the Act alters the balance of power in rural labour market by reconfiguring legal rights and obligations among different social actors.

3. While the NREG Act has attempted to alter rural social relations to the advantage of the unorganised rural workers, one cannot ignore the fact that vested interests may frustrate the implementation of the Act. Additional institutional mechanisms need to be forged so that the guarantee under the Act is actually converted into reality for all workers in all places of the country. Basing on these considerations, the Expert Group was constituted to examine institutional mechanisms which can protect the rights of the workers embodied in the Act. In this endeavour the Group looked into similar systems operating nationally and internationally. It also examined the typical problems which the workers encounter. Literature on grievance redressal mechanisms was delved into. The institution of Ombudsman was examined to provide services of settlement and resolution of complaints. Three models of Ombudsman were proposed by the Group.

4. The Group also had the advantage of associating with the National Legal Services Authority (NALSA) which came forward to support the implementation of NREGA in the country. NALSA offered its support in terms of undertaking legal awareness campaigns all over the country and organisation of Lok Adalats for the settlement of disputes through mediation and conciliation between parties. We are greatly indebted to NALSA for providing the necessary support for the formulation of a special scheme for Legal Awareness Campaigns and Lok Adalats for the benefit of NREGA workers. The Group agreed to endorse the scheme as the most powerful initiative for the settlement of grievances of the workers.

5. I have been greatly enriched by my association with this Group which consisted of seasoned administrators, social workers and activists and Members of the Central Employment Guarantee Council. The interactions in the Group was of a very high order as experiences from various background was brought on the table and each aspect of suggestions and inputs received from various sources were scrupulously deliberated in the Group. I am particularly thankful to Smt. Amita Sharma, Joint Secretary (NREGA), Ministry of Rural Development, for her guidance and support in steering the deliberations of the Group and bringing them to fruition. Her insights and knowledge of the law and its implementation greatly contributed to bring about a useful synthesis of the views of the Members. I also wish to acknowledge the important inputs received from Mr. Niten Chandra, Director, Ministry of Rural Development, in carrying out the work of the Group. I also must acknowledge the contribution of the Members who participated in the discussions and expressed their resolute support to protect the rights and entitlements of the workers. I hope that the efforts put by the Members of the Group will serve a useful purpose in taking forward the mission enshrined in the National Rural Employment Guarantee Act.

Prof. Mool Chand Sharma  
Chairman  
Expert Group

## Deliberations and Recommendations of Expert Group

Ministry of Rural Development had set up an Expert Group on examination of institutional mechanism for management of grievances under NREGA vide O.M. No.J-11011/20/2008-NREGA dated 21<sup>st</sup> April, 2008. The Expert Group had the following members:-

1.	Prof. Mool Chand Sharma, Vice-Chairman, University Grants Commission.	Chairman
2.	Shri Ram Lubhaya, Principal Secretary, Rural Development, Government of Rajasthan	Member
3.	Shri S.M. Vijayanand, Secretary, Rural Development, Government of Kerala.	Member
4.	Shri K. Raju, Principal Secretary, Rural Development, Government of Andhra Pradesh.	Member
5.	Shri R. Raghupati, JS & Legal Advisor, Ministry of Law and Justice, D/o Legal Affairs.	Member
6.	Representative of Ministry of Labour and Employment.	Member
7.	Shri T.R. Raghunandan, Joint Secretary, Ministry of Panchayati Raj.	Member
8.	Shri Vijay Kumar, Technical Examiner, Central Vigilance Commission.	Member
9.	Shri Ashk Ali Tak – Member, CEGC	Member
10.	Ms. Aruna Roy, Member, CEGC	Member
11.	Dr. B.D. Sharma, Member, CEGC.	Member
12.	Joint Secretary (NREGA), Rural Development, Government of India	Member - Convenor

A number of grievances and complaints have been registered in course of implementation of NREGA. There exists a need to establish a suitable mechanism for dealing with those grievances and complaints in a manner that is just, fair and proper. The NREG Act has specific provisions for establishment of appropriate system for disposing complaints in relation to implementation of NREGS that may be made by any person. State Governments have been given the power and the responsibility to set up such a system under the Act. In the light of the aforesaid facts and the provisions of NREG Act, the Ministry considered it expedient to constitute an Expert Group to examine the whole issue in detail.

The Expert Group had four meetings – one on 7.6.08, second on 25.7.08, third on 22.08.08 and fourth on 17.10.08. Three sub-groups were constituted to (i) study the existing grievance redressal mechanism and models of Ombudsman in select States; (ii) study the quantum, incidence and nature of complaints in select States at each level; and (iii) study the literature on the grievances management systems in government organizations. The members of the Sub-Groups were as follows:

<b>Sub-Group No.</b>	<b>Sub-Group</b>	<b>Members</b>
I	To study existing grievance redressal mechanism and models of Ombudsman in select States.	Shri S.M. Vijayanand, Secretary, Rural Development, Government of Kerala.
		Dr. B.D. Sharma, Member, CEGC.
		Shri Ashk Ali Tak – Member, CEGC Shri Ashk Ali Tak – Member, CEGC
II	To study the quantum, incidence and nature of complaints in select States at each level.	Shri K. Raju, Principal Secretary, Rural Development, Government of Andhra Pradesh.
		Ms. Aruna Roy, Member, CEGC
		Shri Niten Chandra, Director(NREGA), Ministry of Rural Development.
III	To study the literature on grievance redressal mechanism.	Study was conducted internally by the Ministry.

The members of the Sub-group had interactions through the internet as it was found difficult by the members to meet in person.

The report of the Sub Groups was placed before the Expert Group in its second meeting on 25.7.08. According to the suggestion of the Expert Group the Model Rules for Ombudsman Scheme was also formulated and placed before the Expert Group which was discussed.

## **Ombudsman model of grievance redressal**

The deliberations in the Expert Group in regard to Ombudsman are briefly outlined below:-

- 1 There is an urgent need to deal with the grievances and complaints of the NREGA workers. Large numbers of complaints are being reported and a robust system for dealing with those complaints need to be put in place.
- 2 The NREG Act provides certain rights to the rural households which cannot be enforced unless an administrative machinery is established for redressal in the event of infringement of the rights.
- 3 There cannot be any fruitful enjoyment of rights unless facility is provided for providing remedies in case of violation of those rights. In the absence of the remedial system the rights become infructuous.
- 4 The Expert group suggested that three models of Ombudsman as detailed below and elaborated in the Annexure-8 may be considered:-

**Model One** : The complainant will, before making a complaint to the Ombudsman, make a written representation to the NREGA authority superior to the one complained against. Either such an authority rejects the complaint or the complainant does not receive any reply within a period of one month after such authority had received his representation or the complainant is not satisfied with the reply given to him by such authority, then only he should submit a complaint to the Ombudsman.

The complaint is made not later than one year after the complainant has received the reply of the NREGA Authority to his representation or, in case, where no reply is received, not later than one year and one month after the representation to the NREGA Authority.

**Model Two** : Parallel Ombudsman taking complaints directly along with the NREGA Authorities.

Ombudsman will receive all the complaints arising in relation to the implementation of NREGA from any person directly without the complaints being heard by the NREGA Authorities as enacted in the NREG Act. At the same time, complainants may approach NREGA Authorities. However, no complaint will be made to both Ombudsman and NREGA Authorities simultaneously.

Administrative, Financial implications :

In this Model, larger number of complaints will be received by the Ombudsman than Model One. In order to deal with the larger number of complaints, the posts of Deputy Ombudsman and supporting staff may be created in such numbers as may be required. The requirement will vary from district to district as the population of the districts vary from less than 5 lakhs to over 40 lakhs.

**Model Three** :

Under this Model, complaints from Gram Panchayat only will be submitted to Programme Officer. In case of no disposal of the complaints within 7 days, the complainant will be entitled to refer the complaint to Ombudsman. All other complaints, (except against Gram Panchayat, as this is governed by Section 23 of the NREG Act), can directly be submitted to Ombudsman. Under this Model also there may be requirement for additional posts for Deputy Ombudsman and supporting staff. As stated earlier, the administrative and financial requirement will vary from district to district.

### **Lok Adalat Model of Grievance redressal**

During its meeting on 17.10.08 the Expert Group deliberated on the Lok Adalat model of grievance redressal. The Member-Secretary of National Legal Services Authority, Shri G.M. Akbar Ali, who attended the meeting informed the members of the initiative of National Legal Services Authority for organization of the Lok Adalats for redressal of grievances under NREGA. He stated that NALSA Act, 1987 provides for organization of Lok Adalats for settlement of claims and grievances of workers. It will be



possible to hold Lok Adalats and organize legal awareness campaigns to deal with the problems of the workers and other persons under NREGA.

### **Recommendations of the Expert Group**

It was recommended by the members of the Group that the organization of Lok Adalats under Legal Services Authority Act, 1987 will greatly contribute to settlement of grievances under NREGA in a cost effective manner. The Lok Adalats will have widespread reach in all the Districts of the country. This would also enable forging of a strong partnership between the Judiciary and the Executive for effective implementation of NREGA. In view of the legal services offered by NALSA it will be useful to implement the Lok Adalat model of grievance redressal under NREGA. It will enable an assessment of the effectiveness of Lok Adalats in dealing with grievances. The Government can, thereafter, take a view on the alternative models namely, Lok Adalat and Ombudsman model, for handling the grievances under NREGA.

No.J-11011/20/2008-NREGA  
Government of India  
Ministry of Rural Development  
Department of Rural Development

Krishi Bhavan, New Delhi-110001  
Dated : 21<sup>st</sup> April, 2008

**OFFICE MEMORANDUM**

**Subject:-Constitution of Expert Group for examining institutional mechanism for the establishment of Ombudsman under NREG Act.**

NREG Act is in operation in all the rural areas of the country from 1.4.2008. The Act provides for enhancement of livelihood security for the rural households. Labour intensive works are being funded under the Schemes formulated under the Act for generation of employment for the rural households. During the period ending February of 2007-08, 15.61 lakhs works had been taken up generating employment of 121.64 crores persondays for 3.08 crores households with an investment of Rs.13,101.50 crores. In the implementation of the Programme, District Programme Coordinators and Programme Officers along with their support staff, Panchayat Raj Institutions, Gram Sabhas, Line Departments and NGOs are involved. Considering the huge scale of the Programme and the large number of stake holders involved, there is likelihood of malpractices being adopted and complaints and grievances arising due to those malpractices. In fact, a large number of complaints are being received in the Ministry on which State Governments are being asked to take remedial action. National Level Monitors and Area Officers of the Ministry are also conducting special enquiries on those complaints. However, the mechanisms for handling of grievances and complaints need to be further streamlined. Therefore, it has been decided to constitute a Expert Group for examining institutional mechanisms for the establishment of Ombudsman under NREG Act.

2. The Expert Group shall comprise the following Members :

- |     |   |                      |
|-----|---|----------------------|
| 1.  | Prof. Mool Chand Sharma, Vice-Chairman, University Grants Commission.               | Chairman             |
| 2.  | Shri Ram Lubhaya, Principal Secretary, Rural Development, Government of Rajasthan   | Member               |
| 3.  | Shri S.M. Vijayanand, Secretary, Rural Development, Government of Kerala.           | Member               |
| 4.  | Shri K. Raju, Principal Secretary, Rural Development, Government of Andhra Pradesh. | Member               |
| 5.  | Shri R. Raghupati, Joint Secretary & Legal Advisor, Ministry of Law and Justice.    | Member               |
| 6.  | Representative of Ministry of Labour and Employment.                                | Member               |
| 7.  | Shri T.r. Raghunandan, Joint Secretary, Ministry of Panchayati Raj.                 | Member               |
| 8.  | Shri Vijay Kumar, Technical Examiner, Central Vigilance Commission.                 | Member               |
| 9.  | Shri Ashk Ali Tak – Member, CEGC  | Member               |
| 10. | Ms. Aruna Roy, Member, CEGC   | Member               |
| 11. | Dr. B.D. Sharma, Member, CEGC.  | Member               |
| 12. | Joint Secretary (NREGA), Rural Development, Government of India                     | Member -<br>Convenor |

3. The Expert Group will examine the existing institutional mechanisms for grievance redressal under NREGA in the States. It will recommend an appropriate institutional mechanism for redressal of grievances under the NREG Act.
4. The Expert Group may also co-opt such members as it may consider necessary.
5. The Expert Group will hold meetings with such frequency as it may require.
6. The Expert Group may interact with State Governments and other stakeholders to examine all the issues.
7. Requisite support to the Expert Group will be provided by Ministry of Rural Development.
8. The expenditure on TA/DA of the Members in connection with meeting of the Expert Group will be borne by the parent Ministry/Department/Organization. However, TA/DA expenditure in respect of non-official Members will be borne by the Ministry of Rural Development as per the rules and regulations of TA/DA applicable to Grade I officer of Government of India.
9. The Expert Group will submit its report within six weeks of its constitution.
10. The concerned Ministries/Central Vigilance Commission will nominate an officer preferably not below the level of Joint Secretary as a Member of the Expert Group under intimation to Joint Secretary (NREGA), Ministry of Rural Development.
11. This has the approval of Secretary (RD).

(Amita Sharma)  
Joint Secretary to the Government of India  
Tele: 23385027

To,

1. Prof. Mool Chand Sharma, Vice-Chairman, University Grants Commission, New Delhi.
2. Central Vigilance Commissioner, Government of India, New Delhi
3. Secretary, Ministry of Law and Justice.
4. Secretary, Ministry of Labour and Employment
5. Secretary, Ministry of Panchayati Raj
6. Ms. Aruna Roy, Member, Central Employment Guarantee Council
7. Shri Ashk Ali Tak, Member, Central Employment Guarantee Council.
8. Dr. B.D. Sharma, Member, Central Employment Guarantee Council.

Copy to:

1. Chief Secretaries to Government of Rajasthan, Kerala and Andhra Pradesh.

2. Shri Ram Lubhaya, Principal Secretary, Department of Rural Development, Government of Rajasthan, Jaipur.
3. Shri S.M. Vijayanand, Secretary, Department of Rural Development, Government of Kerala, Thiruvananthapuram.
4. Shri K. Raju, Principal Secretary, Department of Rural Development, Government of Andhra Pradesh, Hyderabad.
5. Cabinet Secretariat
6. PS to MRD
7. PPS to Secretary (RD)
8. PPS to Special Secretary & FA(RD)
9. PS to JS(S)

**Minutes of the Meeting of the Expert Group on examination of Grievances Management System under NREG Act held at Unnati Conference Hall, Krishi Bhawan on 7.6.08**

List of participants is attached.

Mrs. Amita Sharma, Joint Secretary made a presentation on key issues for discussion. Copy of the presentation is enclosed.

Chairman, Prof Mool Chand Sharma, Vice-Chairman, UGC, highlighted that the problem of grievance redressal raised important issues of federalism, democracy, finance and limitations of the State in implementation of NREGA.

The members made certain observations and raised the following issues :

**Aruna Roy, Member, CEGC**

She emphasised on the formulation of rules for transparency, social audit and grievance redressal. She gave primacy to strengthening of the system for proactive disclosure and sharing of information under NREGA. Penalty provision should be invoked by Ombudsman to discourage violation of provisions of NREGA.

**Shri S.M. Vijayanand, Principal Secretary, Local Self Govt., Government of Kerala**

He presented the case of Ombudsman at Kerala. He raised the need to decide on matters like the level at which Ombudsman will be functional (State, District and Block), manner of appointment of Ombudsman, number of members, punitive powers, manner of adjudication (adversarial or otherwise), cost, tools for investigation, powers of summons, time limits, special needs of illiterate workers and excluding Ombudsman from Lokayukta.

**Shri K. Raju, Principal Secretary(RD), Government of Andhra Pradesh**

He emphasized the need to have a different type of Ombudsman as the clientele are illiterate workers and are different. There existed many inter-connected facets such as awareness of workers regarding their rights, environment for disclosure and sharing of information, the ability of workers to articulate their grievances, accountability system, etc. of which Ombudsman will be a part. Ombudsman requirement is at village and Panchayat level as the grievances arise there in large numbers. Ombudsman should look at the working of the system of transparency and accountability as a whole rather than just at individual complaints.

## **Shri T.R. Raghunandan, Joint Secretary, Ministry of Panchayati Raj**

Section 19 of NREGA should be used to develop the model of Ombudsman. Different States have different systems of Lokayuktas and grievance redressal and the proposed system of grievance redressal should be linked with the existing structure in the States. He stressed the importance of the question of who should be appointed as Ombudsman – persons of integrity, not limited to judiciary, administration or accounting. He pointed out that there existed a trade off between access and position of the Ombudsman.

## **Nikhil Dey, Special Invitee**

He emphasized the use of penalty provision for enforcing the provision of the Act that can be achieved by linking the penalty imposition powers with Ombudsman. An independent Ombudsman could handle serious cases of complaints. Use of Karnataka model may be considered and complaints under NREGA should be deemed to be complaints to Lokayukta.

## **Shri Ashk Ali Tak, Member, CEGC**

Rather than designing new systems stress should be on strengthening monitoring systems. All systems can deliver result if they are monitored properly.

The Chairman observed that there is a need to have a normative structure for grievance redressal which should be accompanied by provisions for sanctions in the event of the breach of the norms. Jurisdiction of Ombudsman will begin whenever there is any instance of maladministration.

## **Decisions taken**

It was decided that three sub groups will be constituted, viz. (i) to study the literature on grievance redressal mechanism; (ii) existing grievances redressal mechanism and models of Ombudsman in select States; and (iii) to study the quantum, incidence and nature of complaints in select States at each level. It was also suggested that if any additional issues are to be examined, more groups may be set up. Members were advised to send their views by email. Next meeting was decided to be held after four weeks.

## **List of Participants**

1. Prof. Mool Chand Sharma, Vice Chairman, UGC
2. Mrs. Amita Sharma, Joint Secretary, NREGA, MoRD
3. Shri Ashk Ali Tak, Member, CEGC
4. Shri TR Raghunandan, Joint Secretary, Ministry of Panchayati Raj.
5. Shri S.M. Vijayanand, Principal Secretary, Local Self Government, Government of Kerala.
6. Shri K. Raju, Principal Secretary(RD), Government of Andhra Pradesh.
7. Mrs. Aruna Roy, Member, CEGC
8. Shri Nikhil Dey, Special Invitee.

**Minutes of the Second meeting of the Expert Group on Grievance Redressal Mechanism.**

Second Meeting of the Expert Group on Grievance Redressal Mechanism was held on 25.07.08. The list of participants is given below :

1. Prof. Mool Chand Sharma, Vice Chairperson, UGC - Chairman
2. Mrs. Amita Sharma, Joint Secretary (NREGA), MoRD
3. Mrs. Aruna Roy, Member, CEGC
4. Shri Ashk Ali Tak, Member, CEGC
5. Shri R. Raghupati, Joint Secretary, Ministry of Law and Justice
6. Shri Niten Chandra, Director(NREGA), MoRD

2. The Chairman welcomed the Members. JS(NREGA) highlighted the need for an appropriate grievance redressal mechanism under NREGA to provide effective and speedy relief to the wage earners and other stake holders. Director(NREGA) made the presentation on the reports of the three sub-groups and draft Rules for Ombudsman.

3. Discussions were held on the draft Rules for Ombudsman and following suggestions were made by the Members of the Expert Group :

1. Selection Committee should include one nominee of the Chief Justice of the High Court and the State Chief Information Commissioner.
2. There should be a Quorum of at least three persons for the meetings of the Selection Committee.
3. The Ombudsman should be selected from among persons of eminence.
4. The maximum age of Ombudsman should be 65 years.
5. The Executive Supervisors and Assistants should have at least an L.L.B. degree from a recognized University.
6. Ombudsman should have the powers of holding Mobile Courts.
7. Consistency between Draft Ombudsman Rules and draft Grievance and Redressal Rules should be ensured.
8. Relationship between grievance redressal mechanism in Act and Ombudsman be thoroughly examined. For this purpose, the option of whether complaint can be made to the Programme Officer and also to the Ombudsman depending on the option of the complainant should also be examined. This is necessary in view of :
  - (a) The need to give direct access to the poor to an independent system of grievance redressal.
  - (b) The complaint may often be against the administrative machinery
  - (c) The need to ensure that there is no long winded route to justice that involves protracted time and delay.
9. Some of the Members wanted to have more time for submitting their comments. It was decided that all Members should submit their comments within a week.

**Minutes of the proceedings of the Third Expert Group Meeting held on 22.08.08 at New Delhi on Grievance Redressal system under NREGA.**

1. Third meeting of the Expert Group on grievance redressed system under NREGA was held under the Chairmanship of Prof. Mool Chand Sharma at Unnati, Krishi Bhawan, New Delhi. The list of participants is enclosed.
2. The Draft Report of the recommendations of the Expert Group was presented in the meeting along with the views of the Shri S.M. Vijayanand, Principal Secretary, Department of Rural Development of Government of Kerala.
3. The Members of the Expert Group discussed the Draft Report containing, inter alia, the Model Rules for Ombudsman and the views of Shri S.M. Vijayanand, Principal Secretary (RD), Kerala.
4. Commenting on the views of Shri S.M. Vijayanand, Shri T.R. Raghunandan, Joint Secretary, Ministry of Panchayati Raj submitted that if Ombudsman is to be given the powers to prosecute cases under Indian Penal Code, Prevention of Corruption Act and other relevant laws, then the submission of evidences by parties and appearance of parties through advocates cannot be prohibited. He cited the case of Ombudsman in the Panchayati Raj Department where the prohibition on appearance by advocates was held by the courts to be invalid. He also suggested that State Government of Karnataka has initiated District Ombudsman which may be studied.
5. Shri Vijay Kumar, Technical Examiner, Central Vigilance Commission said that it may be useful to consider inviting persons who have worked as Ombudsman to share their experiences with the Expert Group.
6. Prof Jean Dreze, Member, CEGC submitted that there are large number of grievances which can be dealt by the Programme Officers and the District Programme Coordinators as provided under the NREG Act. It may not be proper to send complaints directly to the Ombudsman. He also stated that even a State level Ombudsman can be useful in settlement of grievances. This view was also endorsed by Shri T.R. Raghunandan and Ms. A. Karuna.
7. Shri R. Raghupati, Joint Secretary and Legal Advisor, Ministry of Law and Justice stated that the disposal of complaints by the Ombudsman directly will be held invalid under the Act as all disputes and complaints are required to be submitted to the Programme Officer. Awards passed by the Ombudsman in such cases will be struck down by the Courts.
8. Shri B.D. Sharma, Member, CEGC pointed out that disputes should be referred to the Gram Sabha for disposal. Complainants should submit the complaints along with the views and decision of the Gram Sabha on those complaints. He also said that the remuneration should not indicate deduction of amount of pension.
9. Ms. A. Karuna, Director, Social Audit, A.P. Government, who was representing Shri K. Raju, Principal Secretary(RD), Government of Andhra Pradesh, emphasized the need to have an independent authority for disposal of complaints.



10. Mrs. Amita Sharma, Joint Secretary (NREGA), Ministry of Rural Development indicated that provisions of law do not inhibit parallel Ombudsman for certain matters. It would be a challenge to find how the provisions of NREG Act and proposed Ombudsman options can be harmoniously related.

11. Prof Mool Chand Sharma, Chairman suggested that a creative interpretation of the Act should be done in formulation of the institution of Ombudsman.

**Minutes of the proceedings of the Fourth Expert Group Meeting held on 7.10.08 at New Delhi on Grievance Redressal system under NREGA.**

1. Fourth meeting of the Expert Group on grievance redressed system under NREGA was held under the Chairmanship of Prof. Mool Chand Sharma at Krishi Bhawan, New Delhi. The list of participants is enclosed.

2. The Members of the Expert Group discussed the mechanisms for settlement of grievances and implementation of penalty provision under the NREGA, including the scheme of Lok Adalat prepared by National Legal Services Authority (NALSA). Suggestions forwarded by the Prime Minister's Office on the draft Transparency and Accountability Rules were also discussed by the members.

3. Based on preliminary remarks and issues highlighted the following decisions were taken:

- (i) Since the grievance redressal requirement of NREGA envisaged under the Ombudsman can be met through the scheme on supporting the implementation of NREGS through State Legal Services Authorities and Lok Adalats provided by NALSA, it was decided to redraft the Lok Adalat Scheme incorporating the required features of Ombudsman. For this funding may be met by NALSA out of its existing resources and in case of shortage of funds, the request of NALSA for partial funding would be considered by Ministry of Rural Development.
- (ii) As regards the suggestion of the PMO regarding the hierarchical process of works plan approval among the Panchayati Raj Institutions, it was explained that under amendments being proposed in the schedule or as part of conditions being proposed in financial rules, clear time bound limits were being indicated to ensure timely approvals, failing which the work plans shall be deemed to have been approved and the next level of implementing agency shall be free to act upon and take necessary action.
- (iii) Necessary amendments in NREG Act may be considered for the following:-
  - (a) definition of Household in the Act to make it 'Nuclear' to resolve the differences between the Act & the Guidelines
  - (b) penalty clauses for non-compliance of the provisions of the Act to be strengthened so as to become deterrent. The PMO's suggestion is to build in very deterrent provisions by amendments in Section 25 of the Act to provide that minimum fine should be Rs.10, 000/- up to a maximum of Rs. 2 lakh and the punishment should also provide for including imprisonment be considered.

- (c) An enabling provision for effective grievance redressal through the Scheme to be prepared as per sub-para (i) above.
- (iv) Measures necessary for ensuring compliance of the Act should be made necessary conditions for release of funds by the Ministry under NREGA to implementing agencies in the Financial Rules under preparation.

### **List of Participants**

1. Prof. Mool Chand Sharma, Vice Chairman, UGC
2. Shri R. Gopalakrishnan, Joint Secretary, Prime Minister's Office-Special invitee
3. Shri G.M. Akbar Ali, Member-Secretary, NALSA.
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Report of the Sub-Group-I

**A Study on  
Development of Mechanism for  
Grievance Handling in  
Local Self Government Institution**

**CENTRE FOR GOOD GOVERNANCE**  
Knowledge - Technology – People

## Executive Summary

The emerging and the fast-evolving paradigm of *Good Governance*, in conjunction with the increasing tendency towards *Decentralisation*, presents pressing challenges for reinventing Governments and reengineering governance processes – at all levels – in order to meet the expectations of the citizens.

LSGIs play a crucial role in providing various basic and non-basic services. This role has only expanded with the changing socio-politico-economic development scenario in the country. The increased responsibilities for LSGIs, especially, in the wake of implementing the provisions of the 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendments, and growing expectations of the people regarding service delivery, have led to the aggravation, over time, of the dichotomy between the service delivery functions of Local Governments, on the one hand, and availability of and / or recourse to adequate funds and skilled functionaries, on the other.

It is noteworthy, that in addition to the impetus provided by the 73<sup>rd</sup> and 74<sup>th</sup> Amendments, the internal dynamics in the State of Kerala, have led to successful initiation of some path-breaking reforms at the local level through, some applying, rather innovatively and in good measure, the concept of '*subsidiarity*', to the functioning of LSGIs. People's Planning (*Janakeeya Aasoothranam*) – a first of its kind experiment in the country is one such initiative to have met with much success and to have received wide acclaim. The functioning of Lok Adalats in some parts of the State has met with some notable successes.

Another noteworthy initiative has been the setting up of the institutions of Ombudsman and Tribunal for LSGIs to enable an external and independent mechanism for redressal of grievances against LSGIs.

Good grievance handling requires institution and full implementation of a comprehensive and effective Grievances Redressal Management System (GRMS). Though there can be nothing sacrosanct or definitive about such a system, as it applies to an LSGI, yet an LSGI must make necessary adaptations / modifications at its level even as certain fundamentals are uniformly applicable.

This calls for an understanding of, a further considerable attitudinal shift towards and a renewed focus on Good Governance and improved public service delivery. Responsiveness and accountability to the felt needs and demands of the people – especially the poor and the voiceless – are of special importance. Essentially, thus, there should be an institutionalised systematised mechanism for accepting grievances, processing them quickly and disposing them by taking necessary action. Furthermore, just as essentially, such a system (as may exist in a LSGI) should be equitably accessible to all.

Furthermore, it would be appropriate for the LSGI to orient the GRMS to the implementation of the recently enacted Right to Information Act, 2005 for a public authority. The Right to Information is an important instrument to ensure transparency and accountability in the functioning of public authorities. The mechanisms deployed by an LSGI for handling complaints / grievances and its

adherence to its obligations under legal provisions and to its self-imposed commitments in disposing such complaints / grievances, will thus be open to wide public scrutiny, and therefore needs to be set right.

The recommendations in this study report give due consideration to all the aforesaid socio-politico-cultural-legal-administrative factors and issues, even as they take into account some of the more recent positive trends and developments that have set in the State. **Part – A**, starts with a situational analysis of grievance handling (which has implications for the recommendations that would be made) with respect to the functional, administrative and regulatory jurisdiction of LSGIs in Kerala which has been presented in **Chapter I**. **Chapter II** presents, in detail, a framework for instituting a comprehensive and elaborate GRMS at the LSGI level emphasising the principles that should constitute such a framework. **Chapter III** deals with operationalising the framework for new or improved GRMS in LSGIs and emphasises the importance of compliance of the new or revamped systems with all the relevant provisions of the Right to Information Act, 2005. **Chapter IV** explains the various options for the deployment of ICTs for greater efficiency, effectiveness and accessibility of the GRMS.

**Annexure – A-I** presents various templates useful for a new and improved GRMS. **Annexure – A-II** presents the questionnaires administered to various stakeholders and key reports of the surveys conducted among the citizens (all complainants) using the questionnaires. **Annexure – A-III** covers, in brief, some of the significant complaints / grievances handling initiatives in India as well as in other countries. **Annexure – A-IV** details the Online Grievance Redressal Tracking System (OGRTS) deployed in several municipalities in Andhra Pradesh. It is a comprehensive model / tool enabling end-to-end tracking of grievance disposal by integrating a host of ICTs for its successful functioning.

**Part – B** (i.e. **Chapters V – VII**) deals elaborately and comprehensively with a review of the functioning of the institutions of the Ombudsman and Tribunal for LSGIs in Kerala and similar institutions / authorities (in varied sectors) in other parts of the country and in other countries and various developments related to the functioning of these institutions / authorities. This discussion culminates into **Chapter VIII** containing concluding observations for making the institutions of the Ombudsman and the Tribunal for LSGIs in Kerala more people friendly.

**Annexures – B-I and B-III** present the unstructured questionnaires administered to the Ombudsman and the Tribunal judge respectively, whereas **Annexures – B-II and B-IV** encapsulate the propositions that emerged from the interviews with the Ombudsman and the Tribunal judge respectively.

## **A Note in Conclusion**

The institution of a robust and integrated GRMS at the LSGI level is of strategic significance for LSGIs as administrative and public service delivery units. It is contended that handling complaints and redressing grievances about a service should, as much, be a part of the mandate of a public authority, as providing the service itself.

A grievance redressal mechanism should, in fact, be an integral part of the machinery of any administration. No administration can claim to be accountable, responsive and citizen-friendly unless it establishes an efficient and effective grievance redressal mechanism. In fact, the grievance redressal mechanism of an organisation is often the barometer to gauge the efficiency and effectiveness of administration as it provides valuable citizen feedback on the working of the administration.

Dissatisfaction regarding the existing mechanisms for handling grievances is caused either due to unsystematic, arbitrary, unknown processes / mechanisms for handling grievances or due to absence of any mechanism at all. Dissatisfaction could, thus, spring from the manner in which complaints are dealt with, generally speaking, or more specifically from the treatment received from the officials concerned, or from the improper or unfair investigation; or from the time taken to settle matters. This necessitates setting up new mechanisms or improving the existing ones, such that a holistic and systematic GRMS can be designed and implemented.

A comprehensive and coherent management system for grievances handling that not only integrates the established principles of good grievance redressal, but also painstakingly operationalises them will work best to achieve the most important objectives that underlie good governance and people-centric public service delivery. The success of such a GRMS will also be dependent on whether or not it succeeds in incorporating a learning culture within its functioning, which ensures that all gaps can be quickly filled as and when visible and further that the GRMS can constantly tune itself to the changing needs and demands.

It is self-defeating to cling hard and inflexibly to policies and procedures even at the cost of going against the objective(s) for which the policy and procedure(s) have been put in place. Thus, refusal to deviate from policy even on reasonable grounds amounts to giving more importance to policies and procedures and not to people-centric service delivery. In addition to dealing with routine issues / complaints, the system's readiness to deal with exceptions is also important. The GRMS should also be able to deal with urgent matters quickly.

Customer satisfaction is closely tied to employee satisfaction. Customers get their needs met through product and service quality; employees get their needs met through rewards and recognition, and job excitement. These are also necessary to encourage valuable ideas from the members of the staff. It is just as important that the employees are imparted the necessary knowledge and skills – through well-designed training and capacity building programmes – to be able to effectively and efficiently work the new / improved GRMS.

Improvement / improvisation need not wait for or be dependent upon receiving a complaint / grievance. It could be carried out through regular feedback as well. The GRMS should be geared up to receive such feedback, which should be periodically and regularly analysed and reviewed by members from senior management. Inputs on necessary improvements to the system can also be sought from representatives of leading Civil Society Organisations. Furthermore, the senior management in all LSGIs should ensure that having established an effective GRMS, it should not be abandoned when other demands present themselves.

The complainants should be able to know about improvements made as a result of their complaints and about the recourse to further appeal / action if they are not satisfied with the manner in which their complaint is disposed. Less or no complaints is not necessarily good news! More complaints is not necessarily bad news! It shows that an LSGI's customers trust it to take them seriously. A good complaints system must create an encouraging environment for citizen customers to approach the LSGI with their complaints / grievances and assure them that their complaints / grievances will be dealt with impartially, objectively and professionally; and that citizens should have no fear that they might be meted out adverse treatment because they have complained.

No less important is the infusion into the GRMS of appropriate ICTs. The use of ICTs for further simplification of various processes and making them convenient for all the stakeholders has been amply demonstrated.

It is with due regard to all the aforesaid concerns and considerations that a comprehensive and robust GRMS that is equitably and conveniently accessible to the citizens has been suggested to be instituted at the LSGI level. This will require significant improvements to be made to the mechanisms for grievance redressal existing in most LSGIs and even establishing completely new mechanisms for the same in others. Likewise, suggestions have also been made to bring about changes in the Laws, Rules and practices related the institutions of the Ombudsman and Tribunal for LSGIs to make these institutions more citizen friendly.

This report is not intended to cut across any legal requirements. It is hoped that the recommendations of this study will be useful to put in place the basic building blocks for effective redressal of grievances at the LSGI level in the State of Kerala.



## **Study Team**

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## **Report of Sub-Group-II**

### **STUDY OF THE QUANTUM, INCIDENCE AND NATURE OF COMPLAINTS IN SELECT STATES AT EACH LEVEL**

1. In the first Meeting of the Expert Group on examination of Grievances Management System under NREG Act held on 07.06.08 in Unnati Conference Hall, Krishi Bhawan, it was decided, inter-alia, that a Sub- Group will be constituted to study the quantum, incidence and nature of complaints in select States at each level.

2. The State Governments of Jharkhand, Bihar, Andhra Pradesh, Orissa and Madhya Pradesh have been requested to furnish the requisite information on complaints received at each level of implementation of NREG Act in i.e. Gram Panchayat, Block, District and State level for study by the Sub-Group. Their response is awaited.

3. In the meantime, complaints received in this Ministry have been analysed. The rights and entitlements of the wage seekers under NREGA are Application for registration, obtaining a Job Card, Application for work, choice of time and duration of the work applied for, provision of work within fifteen days of application, provision of crèche, drinking water, first aid facilities on work site, the right to check their muster rolls and to get information regarding their employment entered in their Job Cards, payment of wages within fifteen days of work done and the right to get unemployment allowance in case employment is not provided within fifteen days of submitting the application or from the date when work is sought. The Ministry of Rural Development, Government of India has been receiving information from various sources on cases of anomalies and deviations in the implementation of National Rural Employment Guarantee Act, most common of which are use of machines, fake muster rolls, excessive use of materials, improper payment of wages, non-issue of job cards, inflated measurements, fraudulent procurement of materials, etc. These reports have been regularly examined and States have been requested to take corrective action. Complaints received by the Ministry of Rural Development about irregularities/lapses in the implementation of the Act are forwarded to concerned State Governments seeking action taken report and comments thereon. For investigation into complaints of serious nature National Level Monitors are deputed by the Ministry and their reports are analysed and findings are forwarded to the concerned State Government for taking corrective measures. In cases in which charges are established in investigation by NLMs and Officers of the Ministry, State Government is asked to enquire into and take punitive action against the guilty persons. The Ministry repeatedly reminds State Governments to ensure that they establish a suitable mechanism for redressal of grievances and disposal of complaints in accordance with the relevant provisions of NREG Act. All the State Government have been requested to ensure that in cases of misappropriation and embezzlement of Government funds not only disciplinary action should be taken against the guilty officials but simultaneously criminal prosecution should also be initiated under Indian Penal Code and Prevention of Corruption Act, besides recovering the amount involved from the persons concerned in accordance with law.

4. Complaints received by the Ministry and forwarded to State Governments during the last one year seeking action taken report and comments thereon have been studied to know their nature and quantum. The result is as under:-

<b>S.No.</b>	<b>Category</b>	<b>Number of complaints received during the last one year</b>
1.	Registration and Job Cards	36
2.	Provision of work	10
3.	Selection of work	3
4.	Muster rolls, Payment of wages, Compensation, Unemployment allowance	48
5.	Work Execution: (a) Quality of work (b) Use of Machines, (c) Worksite facilities	33
6.	Social Audit	1
7.	Transparency and Disclosure (a) Display of list of workers by G.P., (b) Signboard	4
8.	Complaint – Registration & its disposal	10
9.	Funds – (a) Mis-use, (b) Improper Sanction	54
10.	Awareness Generation	4
11.	Gender Discrimination	4
12.	Violation of Guidelines	6
13.	Corruption	15
14.	Irregularities	16
15.	Non –Implementation	4
16.	Improper Implementation	4
17.	Any other	13
	<b>Total:</b>	<b>265</b>

Since some complaints may have allegations falling under more than one of above categories, the actual number of complaints is less than the above figure.

## **Report of Sub-Group-III**

### **GRIEVANCE REDRESS MECHANISM IN GOVERNMENT**

#### **GRIEVANCE REDRESS**

1.1 Grievance Redress Mechanism is part and parcel of the machinery of any administration. No administration can claim to be accountable, responsive and user-friendly unless it has established an efficient and effective grievance redress mechanism. In fact, the grievance redress mechanism of an organization is the gauge to measure its efficiency and effectiveness as it provides important feedback on the working of the administration.

#### **I. (A) STRUCTURE OF GRIEVANCE REDRESS MACHINERY AT APEX LEVEL**

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The grievances of public are received at various points in the Government of India. There are primarily two designated nodal agencies in the Central Government handling these grievances. These agencies are:-

- (i) Department of Administrative Reforms and Public Grievances, Ministry of Personnel, Public Grievances & Pensions
- (ii) Directorate of Public Grievances, Cabinet Secretariat

#### **Department of Administrative Reforms & Public Grievances**

2.1 Department of Administrative Reforms & Public Grievances is the nodal agency in respect of policy initiatives on public grievances redress mechanism and citizen-centric initiatives. The role of Department of Administrative Reforms and Public Grievances consists primarily to undertake such citizen-centric initiatives in the fields of administration reforms and public grievances in the Government so as to enable the Government machinery to deliver quality public services to the citizen in a hassle-free manner and eliminate the causes of grievance.

2.2 The grievances received by the Department are forwarded to the concerned Ministries/Departments/State Governments/UTs, who are dealing with the substantive function linked with the grievance for redress under intimation to the complainant. The Department 'takes up' about 1000 grievances every year depending upon the seriousness of the grievance and follows them regularly till their final disposal. This enables the Department to evaluate the effectiveness of the grievance redress machinery of the concerned government agency.

2.3 On the basis of the grievances received, Department identifies the problem areas in Government which are complaint-prone. These problem areas are then subjected to studies and remedial measures are suggested to the Department/Organisation concerned.

### **Directorate of Public Grievances (DPG)**

3.1 Based on the review of the public grievances redress machinery in Government of India carried out in 1987, the Directorate of Public Grievances was set up in the Cabinet Secretariat with effect from 01.04.88. This Directorate was set up initially to look into individual complaints pertaining to four Central Government Departments which were more prone to public complaints. Subsequently, more Departments having larger public interface were added to its purview and presently this Directorate is handling grievances pertaining to 16 Central Government Organisations.

3.2 The Directorate was envisaged as an appellate body investigating grievances selectively and particularly those where the complainant had failed to get redress at the hands of internal machinery and the hierarchical authorities. Unlike the Department of AR&PG, Directorate of Public Grievances has been empowered to call for the files and officers for discussion to see that grievance handling has been done in a fair, objective and just manner. Wherever the Directorate is satisfied that the grievance has not been dealt in such a manner, it makes suitable recommendations for consideration and adoption by the concerned Ministry/Department which are required to be implemented within a period of one month.

3.3 The empowered and enlightened citizenry of today is far more demanding and the government, therefore, has to develop, evolve and enable itself to meet the evolving demands of the society that it has to serve. The society today is impatient with the old system of governance which is not coming up to its expectations. To them, a government employee is perceived as insensitive, aloof, corrupt and overall the administrative system as autocratic, opaque and with no work culture.

3.4 This requires a paradigm shift in governance to a system where the citizen is in the center and he is consulted at various stages of formulation and implementation of public policy. To achieve this objective, India needs a public service which is capable, innovative and forward looking. The traditional role of civil service which was of administrator, service provider and controller of development activities has to make way for the new roles of facilitator and regulator so as to create best environment and conditions in the country for building a nation of excellence.

3.5 Department of Administrative Reforms & Public Grievances is the nodal agency in Government of India for formulation and implementation of such policies and strategic initiatives so as to enable and equip the government machinery to meet the challenges involved in achieving this objective.

3.6 Department of Administrative Reforms and Public Grievances is the driving engine of reforms in administration and governance. The Department proposes to introduce and lead Change to establish a public service of quality, efficiency, integrity and effectiveness and modernize the public service. It is the nodal agency in government for facilitating administrative improvements and reengineering of processes across the government. Citizen's Charter initiative, Public Grievance Policy, Quality Management in Government, e-Governance, Review of Administrative Laws etc. Documentation and Dissemination of Best Practices, Organisation & Methods, Information & Facilitation Counters, Civil Services Reforms are some of the areas under the ambit of Department of Administrative Reforms & Public Grievances.

3.7 Following are the necessary conditions for successful implementation of any reforms agenda:

- Political mandate
- Committed and strong executive
- Willingness and capability to take on vested interests in the system

## **II. (A) PUBLIC GRIEVANCE REDRESS MECHANISM IN CENTRAL GOVERNMENT MINISTRIES/ DEPARTMENTS/ ORGANISATIONS**

4.1 The Public Grievance Redress Mechanism functions in Government of India on a decentralized basis. The Central Government Ministries/Departments, their attached and subordinate offices and the autonomous bodies dealing with substantive functions as per Allocations of Business Rules, 1961 have their respective grievance redress machinery. An officer of the level of Joint Secretary is required to be designated as Director of Grievances of the Ministry/Department/Organisation. The role and functions of Directors of Grievances are given in Department of Administrative Reforms and Public Grievances O.M.no.1/PLCY/PG-88(7) dated 01.03.1988. This inter alia empowers the Directors of Grievances to call for files/reports and take decisions or review decisions already taken, in consultation with Secretary/HOD even in those areas which do not fall within his/her domain/charge.

4.2 The functioning of Public Grievance Redress Machineries in various Ministries/Departments/Organisations is regularly reviewed by a Standing Committee of Secretaries under the Chairmanship of Cabinet Secretary with Additional Secretary Department of Administrative Reforms and Public Grievances as member-secretary.

4.3 With a view to ensure prompt and effective redress to the grievances, a number of instructions have been issued by Department of AR&PG from time to time which, inter alia include:-

- (a) Observe every Wednesday as a meetingless day in the Central Secretariat Offices when all the officers above a specified level should be available their desks from 1000hrs.to 1300hrs. to receive and hear public

grievances. Field level offices having contact with the public have also to declare one day in the week as a meetingless day.

- (b) Designate a Joint Secretary level officer as Director of Grievances including in autonomous bodies and public sector undertakings.
- (c) Deal with every grievance in a fair, objective and just manner and issue reasoned speaking reply for every grievance rejected.
- (d) Analyse public grievances received to help identification of the problem areas in which modifications of policies and procedures could be undertaken with a view to making the delivery of services easier and more expeditious.
- (e) Issue booklets/pamphlets about the schemes/services available to the public indicating the procedure and manner in which these can be availed and the right authority to be contacted for service as also the grievance redress authority.
- (f) Pick up grievances appearing in newspaper columns which relate to them and take remedial action on them in a time bound manner. Issue rejoinders to newspapers after investigation in cases which are found to be baseless and/or damaging to the image of the Organisation.
- (g) Strengthen the machinery for redress of public grievance through, strictly observing meetingless day, displaying name designation, room number, telephone number etc. of Director of Grievances at the reception and other convenient places, placing locked complaint box at reception.
- (h) Set up Staff Grievance Redress Machinery and designate a Staff Grievance Officer.
- (i) Include the public grievances work and receipt/disposal statistics relating to redress of public grievances in the Annual Action Plan and Annual Administrative Report of the Ministries/Departments.
- (j) Fix time limits for disposal of work relating to public grievances and staff grievances and strictly adhere to them.
- (k) Acknowledge each grievance petition within three days of receipt, indicating the name, designation and telephone number of the official who is processing the case. The time frame in which a reply will be sent should also be indicated.
- (l) Constitute Lok Adalats/Staff Adalats, if not already constituted, and hold them every quarter for quicker disposal of public as well as staff grievances and pensioners' grievances.
- (m) Constitute a Social Audit Panel or such other machinery, if not already constituted, for examining areas of public interface with a view to recommending essential changes in procedures to make the organization more people-friendly.
- (n) Establish a single window system at points of public contact, wherever possible to facilitate disposal of applications.
- (o) Indicating telephone/fax number of the officer whose signature over a communication regarding the decision/reply is to issue to the petitioner.
- (p) Monitoring of grievances in organisations under Ministries/Departments on a monthly basis.
- (q) Publicising the grievance redress mechanism through the print and electronic media.
- (r) Review of receipt and disposal of grievances by Secretaries of Ministries/Departments in the weekly meetings taken by them.

## **(B) TYPES OF PUBLIC GRIEVANCES**

5.1 An analysis of grievances received in Department of Administrative Reforms & Public Grievances and Directorate of Public Grievances has revealed that the majority of grievances related to inordinate delay in taking decisions, extending from several months to several years and refusal/inability to make speaking replies/disclose basic information to the petitioners to enable them to examine whether their cases have been correctly decided. It is observed that, had the concerned organizations expeditiously and appropriately dealt with the grievances in the first instance, the complainants would not have approached Department of Administrative Reforms & Public Grievances/Directorate of Public Grievances.

## **(C) SYSTEMIC PROBLEM AREAS**

6.1 There are rules, regulations, instructions which are archaic and aimed at shifting the work towards citizens. Slackness in administration, low morale of the services, inherent inertia, absence of incentives, lack of proper authority and accountability are the delay-breeders and the delay is the major factor that generates the grievances. These factors need to be tackled properly through systematic changes. Prevention is better than cure. On these lines, the best method to redress a grievance is not to allow the grievance to arise at the first instance. Even the redress of a grievance, that arose on account of delay, is also delayed as is revealed by the analysis of grievances according to which on an average six months are taken to redress a grievance.

6.2 Many a times Departments/Organisations are found to avoid taking appropriate decisions by resorting to rejection without application of mind, not taking appropriate interest in functioning of subsidiary offices/linked autonomous organizations, and emphasize on disposal and not on the quality disposal. Decisions taken earlier are reiterated without subjecting the cases of independent examination. There is an inertia to review decisions taken by down-the-line functionaries. In many cases Departments/Organisations justify the delay and continue with their inability to take decisions by putting the onus on another agency or on the petitioner. Many a times, the actual cause of grievance lay in internal inefficiency of the system and failure to identify simple systemic solutions. It is also observed that the time norms set by Departments for providing services were not being adhered to in many cases.

6.3 There is no doubt that grievances continue to arise because of a high systemic tolerance for delay, poor work quality and non-accountability in every day performance of functions. Failure to review archaic, redundant and incongruous rules, policies and procedures and to initiate simple, workable systemic changes is another cause for grievance generation. However, Departments and Organisations, which work with policies and procedures on a day-to-day basis, do not appear to have developed the ability to continually look 'within' and identify deficiencies. All these factors have ensured that grievances, once arisen, many a time do not get resolved in 'normal' course and need intervention at the highest administrative level.



6.4 Slackness in efficient functioning of 'Directors of Grievances' is identified as one of the prime cause for continuing delay in redress of grievances. Poor work quality, non-accountability in everyday performance of functions and failure to systemically review policies/procedures and suggest systemic changes are other important causes. In most Ministries, Departments and Organisations, the mechanism of Director of Grievances is not functioning as per the mandate prescribed.

#### **(D) Focus Areas**

7.1 In this context, it is the need of the time that the Government should review its pledge of providing hassle-free public services to the citizens by focusing on systemic changes to minimize the grievances in Government domain. In order to achieve this objective in a focused manner, it is necessary to evolve a multi-pronged strategy to be implemented in a time-bound and effective manner. Keeping in view the various factors involved in grievance redress issue, following areas need focused attention :

#### **7.2 Performance Review – Foreseeing areas of dissatisfaction**

- (a) To review processes, functions etc. in the organization and to cast them pro-actively in a manner that would foresee areas of dissatisfaction, identify activities where transparency, equity, prudence and propriety are compromised, interventions that can help achieve better outcomes, improve satisfaction of internal and external stakeholders.
- (b) An annual review of laws, rules, regulations, instructions and procedures be carried out with a view to simplify the procedure making the administration more transparent, accountable and citizen-friendly. Information Technology should be employed in re-engineering of governmental processes in order to improve efficiency and effectiveness and ensuring transparency and accountability.

#### **7.3 Identification of Grievance Prone Areas and Analysis**

- (a) Identify areas susceptible to corruption and/or grievance generation and conduct work audit of such areas. In addition, consider external/social audit in areas of very high public interface, with the aim of identifying wrong doers and improving processes and systems. Involve NGOs in the exercise.
- (b) Analyse the nature and causes of grievances with the aim of identifying systemic deficiencies in laws, rules, regulations, policies, instructions, work practices and procedures, and effecting systemic changes to remove/correct these deficiencies. The Directors of Grievances be the nodal officers for such purpose. The analysis should be conducted in the month of April every year and studies of identified grievance prone areas be undertaken. Recommendations made in the studies should be implemented by December of that year so as to bring systemic changes and remove the Causes of grievances.

- (c) Fix responsibility in each and every case of delay, default or dereliction in performance of every day duties on failure to deliver services, and take disciplinary action to avoid recurrence. This will send a clear signal that in the event of failure to perform duties or deal appropriately with grievances within the time frame norms prescribed, a real possibility of having responsibility fixed on one's shoulder exists. Consider the feasibility of prescribing specific penalty clauses in such cases.

#### **7.4 Citizen's Charter**

Formulation and effective implementation of Citizen's Charters, which should, *inter-alia*, include disclosure of time norms for providing various services to the citizens/clients and details of all levels of grievance redress machinery that may be approached.

#### **7.5 Information & Facilitation Counters (IFC)**

Setting up and effective operationalisation of IFC's civic society may be involved in the functioning of IFCs to make them citizen- friendly and effective.

#### **7.6 On Line Registration of Grievances**

Make 'Public Grievance Redress and Monitoring System' (PGRAMS) software, operational with every Director of Grievances. This shall enable the Director of Grievances to immediately place the details of grievances received in a database (efficient 'dak' management) as well as record the fact whether he intends to monitor its progress, identify the section/division where it is being sent, etc., generate the time taken in dealing with the grievance, enable review of pending grievances in the organisation or across the organisations, generate acknowledgements to complainants, conduct analysis etc. The system should also have the facility of on-line registration of grievances by the citizens and access to information on the status of his/her grievances.

#### **7.7 Prompt and Effective Redress of Grievances**

- (a) Grievances should be necessarily acknowledged, with an interim reply within 3 days of receipt and redressed within 3 months of receipt in the Organisation. The same time limit should apply even if co-ordination with subsidiary offices or another Department/Organisation is involved. In such instances special efforts, to be *suo moto* disclosed when reports are called, should be made.
- (b) No grievance is to be rejected without having been independently examined. At a minimum, this means that an officer superior, to the one who delayed taking the original decision or took the original decision that is cause for grievance, should actually examine the case as well as the reply, intended to be sent to the grievance holder.

- (c) Make the 'Director of Grievances' effective through the following inter-related steps:
- (i) Secretaries/Organisational Heads ensuring that Directors of Grievances are fully 'empowered' in accordance with instructions to perform their role.
  - (ii) All grievance representations received in the Department/Organisation, either by mail, fax, e-mail to be invariably routed through Director of Grievances before they go to concerned sections/divisions. At this stage, Office of the Director of Grievances shall go through the representations and come to a *prima-facie* view regarding the gravity of the matter involved and decide whether it shall monitor the case or allow down-the-line functionaries to independently deal with it. Directors of Grievances should monitor and follow up at least 3 to 5 percent of grievances received to enable them to assess the efficacy of grievance redress mechanism.
  - (iii) Fix responsibility in each case of delay, default and dereliction of duty, identified by Director of Grievances, and take appropriate action against concerned personnel. In addition, consider feasibility of prescribing specific penalty clauses for such failures.

## **7.8 Review and Monitoring of Grievance Redress Mechanism**

Ensure meaningful review of the performance of grievance redress machinery of the Ministry/Organisation as well as that of attached/subordinate organization by Secretary/ Head of the Department on a monthly basis. Review should also cover action against defaulters.

### **III. ROLE OF REGULATORS, OMBUDSMAN AND LIKE BODIES**

8.1 An explosive issue today in context of public grievance redress is the pace and phasing of the movement towards open markets after the gradual abandonment of centralized planning model. The Government is today withdrawing from various service sectors traditionally monopolized by it and private enterprise is moving in. This may lead to a scenario where the Government monopolies are replaced by even more vicious private monopolies or cartels in the absence of adequate regulation, enforcement and recourse to grievance redress.

8.2 This has significant implications for the role of Government. The Government can not just abandon the interests of citizens to be taken care of by the market forces in areas of service delivery covered by the private sector. In the open market scenario, it is often the major stakeholders and players which define the cost, quality and mechanism etc. of service delivery.

8.3 The Government therefore needs to put in place appropriate mechanisms in the regulatory authorities, ombudsmen and like bodies in such sectors so that the concerns of individual citizens are also accorded equal importance and weightage and are appropriately and effectively addressed. They should safeguard the interests of the common citizens and ensure that the grievances of the citizens are attended to promptly and effectively.

## **Model Rules for NREGS Ombudsman**

The Model Rules for NREGS Ombudsman have been formulated under Section 19 read with Section 23(3) of NREG Act for adaptation or adoption by State Governments and Union Territories with the objective of establishing a system for redressal of grievances and disposal of complaints relating to implementation of the NREG Scheme made under the Act by the States.

## **Model Rules for NREGS Ombudsman**

*In exercise of the powers conferred under section 19 and section 23 (3) of National Rural Employment Guarantee Act, the State Government hereby makes the following Rules , namely*

### **Chapter I Preliminary**

1. **Short title, extent and commencement.**
  - 1.1 The Rules shall be known as National Rural Employment Guarantee Scheme, (*Name of the State/Union Territory*) Ombudsman Rules , 2008.
  - 1.2 It extends to the whole of the State/Union Territory.
  - 1.3 The Rules shall come into force from 1<sup>st</sup> October, 2008.
2. **Definitions**
  - 2.1 **‘Authorised representative’** means a person duly authorised by a complainant to act on his behalf and represent him in the proceedings before the Ombudsman.
  - 2.2 **‘Award’** means an award passed by the Ombudsman in accordance with Ombudsman Rules 2008.
  - 2.3 **‘Chief Secretary’** means the Chief Secretary of the State/Union Territory.
  - 2.4 **‘Complaint’** means a representation in writing containing a grievance alleging deficiency in the implementation of NREG Scheme.
  - 2.5 **‘Department of Personnel’** means the Department in the State Government dealing with the cadre management of the members of the Indian Administrative Service.
  - 2.6 **‘Nodal Department’** means the Department of the State Government which deals with the implementation of the NREG Act and Schemes.
  - 2.7 **‘NREGA functionary or authority’** means any person or persons who have been vested with powers and functions under the NREG Act and NREG Scheme.
  - 2.8 **‘Ombudsman’** means any person appointed under Clause 3 of the Rules.
  - 2.9 **‘State’** means any State, and includes the Union Territory, of India.

### **Chapter II Establishment of the office of NREGS Ombudsman**

3. **Appointment, Tenure and Removal.**
  - 3.1 On the recommendations of the Selection Committee consisting of the

following persons :-

- (a) Chief Justice of the High Court --- Chairperson
- (b) Chief Secretary of the State Government ---- Member
- (c) Secretary, State Department of Personnel --- Member
- (d) Representative of Union Ministry of Rural Development -- Member
- (e) Nominee of the Chief Justice of the High Court----Member
- (f) State Chief Information Commissioner---Member
- (g) Secretary, State Nodal Department --- Member Convenor

the State Government may appoint one or more persons as the Ombudsman. Four members, including the Chairperson and the Member convenor present personally shall be the Quorum of the meeting unless specified otherwise by the Chairperson.

3.2 The selection of Ombudsman shall be made from among persons of eminent standing and impeccable integrity with at least twenty years of experience in public administration

3.4 The Ombudsman shall be appointed for a tenure of 2 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. Performance appraisal shall be made by the Selection Committee.

3.5 On unsatisfactory performance, the Ombudsman may be removed by the State Government on the recommendation of the Selection Committee.

#### 4 **Autonomy of Ombudsman**

The Ombudsman shall be independent of the jurisdiction of the Central or State Government.

#### 5. **Remuneration**

The Ombudsman shall be allowed pay and allowances as applicable to a State Government Officer in the pay scale of Rs.24,500-600-26,000. Any pension to which he may be entitled from Central Government/State Government shall be deducted from the salary.

#### 6. **Territorial Jurisdiction**

The State Government shall specify the territorial jurisdiction of each Ombudsman.

#### 7. **Location of offices**

The office of NREGS Ombudsman shall be located at the District Headquarters. The State Government may notify additional locations and appoint a Deputy Ombudsman, with identical powers as the Ombudsman, for each location having regard to the nature and quantum of cases.

8. **Secretariat for Technical and Administrative Support**

State Government shall provide to each Ombudsman suitable technical and administrative support as provided in the Schedule of the Rules. The nature of the Secretariat support may be determined according to the work load of the Office of Ombudsman. In case of large territorial jurisdiction, heavy load of cases or high sensitivity of complaints, one or more Deputy Ombudsman with identical powers of Ombudsman may be appointed to deal with cases as committed to them by the Ombudsman. The duties and functions of the officers and staff of the Secretariat will be as prescribed in the Schedule.

**Chapter III**

9. **Powers and Duties**

- 9.1 The Ombudsman shall have the powers to :
- 9.1.1 Receive complaints from NREGA workers and others on any matters specified in clause 9.
  - 9.1.2 Consider such complaints and facilitate their satisfaction or settlement by agreement, through conciliation and mediation between the NREGA Authority and the aggrieved parties or by passing an 'award' in accordance with the Rules.
  - 9.1.3 Require the NREGA Authority complained against to provide any information or furnish certified copies of any document 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 deems fit, draw the inference that the information, if provided or copies if furnished, would be unfavourable to the concerned NREGA Authority.
  - 9.1.4 Issue direction for conducting spot investigation.
  - 9.1.5 Conduct mobile Courts and Lok Adalats
  - 9.1.6 Engage experts for facilitating the disposal of the complaint.
  - 9.1.7 Suggest remedial measures for redressal of grievances.
  - 9.1.8 Report his findings to the Chief Secretary of the State and the Secretary, State Nodal Department for appropriate action against erring persons.
- 9.2 The Ombudsman shall have the same powers as are vested in a Civil Court while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters, namely –
- 9.2.1 Summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;
  - 9.2.2 Requiring the discovery, production and inspection of documents;
  - 9.2.3 Receiving evidence on affidavit;
  - 9.2.4 Requisitioning any public record or document or copies thereof from any Court or office;

- 9.2.5 Issuing commissions for examination of witnesses or documents;
- 9.2.6 Reviewing its decisions;
- 9.2.7 Recovery of sums due from parties; and
- 9.2.8 Dismissing a representation on default or deciding it *ex parte*;
- 9.2.9 Setting aside any order of dismissal of any representation for default or any order passed by it *ex parte*; and
- 9.2.10 Any other matter which may be prescribed by the State Government.

9.3 **Proceedings before Ombudsman to be Judicial**

All proceedings before the Ombudsman shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code (45 of 1860) and the Ombudsman shall be deemed to be a Civil Court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973 (2 of 1974).

- 9.4 The Ombudsman shall have the following duties :
  - 9.4.1 To be responsible for the conduct of business in his office.
  - 9.4.2 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 a 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.
  - 9.3.3 To send a monthly report to the Chief Secretary and Secretary, State Nodal Department recommending appropriate action. The report shall specially highlight cases where action needs to be taken against erring NREGA functionaries for their failure to redress the grievance. The report will be accompanied with primary evidence needed to initiate action against the delinquent persons.
  - 9.4.4 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 the Secretary, State Nodal Department along with such other information as may be considered necessary by him. In the annual report, the Ombudsman, on the basis of grievances handled by him, will review the quality of the working of the NREGA authorities and make recommendations to improve implementation of NREGA. The report shall be put on the NREGA website.
  - 9.4.5 To compile a list of 'awards' passed by it between April and March of each financial year in respect of every NREGA Authority complained against and report it to the Chief Secretary of the State and the State Nodal Department. Text of award shall also be put on the NREGA website.



## Chapter IV

### Procedure for redressal of grievances

10. **Grounds on which complaint shall be filed :**
  - 10.1 A complaint pertaining to any one or more of the following subjects alleging deficiency in the implementation of the NREG Scheme may be filed with the Ombudsman :
    - 10.1.1 Gram Sabha
    - 10.1.2 Registration of households and issue of job cards
    - 10.1.3 Custody of job cards.
    - 10.1.4 Demand for work
    - 10.1.5 Issue of dated acknowledgement receipt against submission of application for work.
    - 10.1.6 Payment of wages.
    - 10.1.7 Payment of unemployment allowance.
    - 10.1.8 Discrimination on the basis of gender.
    - 10.1.9 Worksite facilities.
    - 10.1.10 Measurement of work.
    - 10.1.11 Quality of work
    - 10.1.12 Use of machines
    - 10.1.13 Engagement of contractors
    - 10.1.14 Operation of accounts in the bank or post offices
    - 10.1.15 Registration and disposal of complaints.
    - 10.1.16 Verification of muster rolls
    - 10.1.17 Inspection of documents
    - 10.1.18 Use of funds
    - 10.1.19 Release of funds
    - 10.1.20 Social audit
    - 10.1.21 Maintenance of record
  - 10.2 State Nodal Department may include any other ground on which a complaint may be filed with the Ombudsman.
11. **Procedure for filing the complaint**
  - 11.1 Any person, who has a grievance against the NREGA Authority, may, himself or through his authorised representative, make a complaint against the NREGA Authority in writing to the Ombudsman.
  - 11.2 The complaint shall be duly signed by the complainant and his authorised 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 documents, if any, relied on by the complainant and the relief sought from the Ombudsman.
  - 11.3 A complaint made through electronic means shall also be accepted by the Ombudsman and a print out of such complaint shall be taken on the record of the Ombudsman.
  - 11.4 A printout of the complaint made through electronic means shall be signed by the complainant at the earliest possible opportunity before the

Ombudsman takes steps for disposal.

- 11.5 The signed printout shall be deemed to be the complaint and it shall relate back to the date on which the complaint was made through electronic means.
- 11.6 No complaint to the Ombudsman shall lie unless :
  - 11.6.1 The complainant had, before making a complaint to the Ombudsman, made a written representation to the NREGA authority superior to the one complained against and either such authority had rejected the complaint or the complainant had not received any reply within a period of one month after such authority had received his representation or the complainant is not satisfied with the reply given to him by such authority.
  - 11.6.2 The complaint is made not later than one year after the complainant has received the reply of the NREGA Authority to his representation or, in case, where no reply is received, not later than one year and one month after the representation to the NREGA Authority.
  - 11.6.3 The complaint is not in respect of the same subject matter which was disposed by the Office of the Ombudsman in any previous proceedings whether or not received from the same complainant or along with any one or more complainants or any one or more of the parties concerned with the subject matter.
- 11.7 No complaint shall be made to the NREGS 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.

12. **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.

13. **Settlement of complaints by agreement**

- 13.1 As soon as it may be practicable to do so, the Ombudsman shall cause a notice of the receipt of any complaint along with a copy of the complaint to be sent to the NREGA Authority complained against and endeavour to promote a settlement of the complaint by agreement between the complainant and such authority through conciliation or mediation.
- 13.2 For the purpose of promoting a settlement of the complaint, the Ombudsman may follow such procedure as he may consider appropriate.

14. **Award by the Ombudsman**

- 14.1 If a complaint is not settled by agreement within a period of one month from the date of receipt of the complaint or such further period as the

Ombudsman may consider necessary, he may pass an award after affording the parties reasonable opportunity to present their case. He shall be guided by the evidence placed before him by the parties, the provisions of NREG Act and Scheme and practice, directions, and instructions issued by the State Government or the Central Government from time to time and such other factors which in his opinion are necessary in the interest of justice.

- 14.2 The 'award' passed under sub-clause (1) above shall be a speaking order consisting of the following components :
  - 14.2.1 Details of the parties of the case.
  - 14.2.2 Brief facts of the case.
  - 14.2.3 Issues for consideration
  - 14.2.4 Findings against issues along with reasons.
  - 14.2.5 Direction to the concerned NREGA Authority such as performance of its obligations like expediting delayed matters, giving reasons for decisions and issuing apology to complainants, etc. except imposition of penalties under the NREG Act.
  - 14.2.6 Costs, if any.
- 14.3 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.
- 14.4 A copy of the 'award' shall be sent to the complainant and the NREGA Authority complained against.
- 14.5 The 'award' shall be final and binding on the NREGA Authority and on the complainant.
- 14.6 The NREGA Authority complained against shall within one month from the date of the award, comply with the award and intimate compliance to the Ombudsman failing which the Ombudsman may impose on the NREGA Authority a penalty of Rs.50 per day of delay in complying with the award,  
Provided the NREGA Authority shall be given adequate opportunity of hearing before any penalty is imposed.

## **Chapter V**

### **Miscellaneous**

- 15. **Bar of jurisdiction of Courts.**

No Court shall entertain any suit, application or other proceeding in respect of any order made under this Act and no such order shall be called in question.
- 16. **Amount received to be deposited in the State Employment Guarantee Fund**

All sums payable by the parties to the Ombudsman and received by him shall be deposited in the account of the State Employment Guarantee Fund.

**Removal of difficulties**

If any difficulty arises in giving effect to the provisions of the Rules, the State Government may make such provisions not inconsistent with the NREGA Act or the Scheme as it appears to it to be necessary or expedient for removing the difficulty.

## Schedule (Part-I)

### Staffing Pattern of the Office of Ombudsman

Sl.No.	Description of Posts	Number
1.	Ombudsman	1
2.	Deputy Ombudsman	2
3.	Legal Officer	1
4.	Superintending Engineer (Civil)	1
5.	Investigation Officer	1
6.	Chief Information Officer	1
7.	Private Secretary/Personal Assistant/Stenographer	7
8.	Executive Supervisor	5
9.	Executive Assistant	21
10.	Help Desk Executive	2
11.	Record Keeper/Supplier	2
12.	Peon	5

## Schedule (Part-II)

### **Duties, Functions and Competencies of Officers and Staff of the Office of Ombudsman.**

- 1 **Deputy Ombudsman** will have the same powers as that of Ombudsman and will handle complaints assigned to him by the Ombudsman. He may be provided a cluster of Blocks within his territorial jurisdiction by the Ombudsman. He will also act as the officiating Ombudsman in his absence. He shall be a person having experience of at least 5 years as a Judicial Magistrate / Civil Judge, or a reputed advocate with at least 10 years of work experience in any District or High Court. There may be one or more such officers in the office of Ombudsman.
- 2 **Legal Officer** shall be a reputed advocate having at least 7 years of work experience in a District or High Court. He will provide assistance on legal matters.
- 3 **Superintending Engineer (Civil) (S.E.)** will provide engineering support in investigation of complaints relating to quality of work, work measurement, payment for work and other related matters.
- 4 **Chief Information Officer** will have the overall responsibility of management of computer based information system, providing the ICT support to the office and of maintaining the website of the office of Ombudsman. He will ensure that complaints are entered on the website and disposal is indicated on the website after orders are issued. He will also ensure putting up all final orders of Ombudsman and Deputy Ombudsman and all other information on the website in accordance with the Right to Information Act. He may be a graduate in B.Tech with at least 7 years of experience in government or any large private organization.
- 5 **Investigation Officer (I.O.)** shall be an officer of the State Police Department having at least 10 years work experience of investigating criminal offences. He will assist in investigating complaints that involve commission of any criminal offence.
- 6 **Private Secretary / Personal Assistant/ Stenographers** will provide stenographic assistance to senior officers in the office of Ombudsman. They should have the competence to work on computers, internet, etc. and have good knowledge of spreadsheet, word processing, database management and presentation software.
- 7 **Executive Supervisors** will head the Section in the office of Ombudsman where complaints will be processed. They will ensure timely submission of cases to the Ombudsman and Deputy Ombudsman and maintain case diaries properly. They will print the electronic complaints received by email and process them in accordance with the Scheme. They should have the competence to work on computers, internet, etc. and have good knowledge of spreadsheet, word processing, and database management and presentation software. They should have at least an L.L.B. degree from a recognized University.
8. **Executive Assistants** will constitute the Section and will examine complaints from all angles and propose further line of action. They will print the electronic complaints and process them in accordance with the Scheme. They will assist the Executive Supervisors in performance of their duties. They will maintain the records and case diaries, issue processes to the parties and provide all assistance as the Section Officer and other senior officers may require. They will also assist the Chief

Information Officer in the administration of the website, uploading/downloading of information, and perform such other tasks as assigned by the Chief Information Officer. They will also provide support to other senior officers of the office such as Deputy Ombudsman, Legal officer, S.E., and I.O. They should have the competence to work on computers, internet, etc. and have good knowledge of spreadsheet, word processing, database management and presentation software. They should have at least an L.L.B. degree from a recognized University.

**9. Help Desk Executive** will provide assistance and guidance to persons who contact the office of Ombudsman to seek redressal of their grievances. He will receive telephone calls from outsiders and inform them of the procedure for accessing help from Ombudsman. He will be trained to be courteous, accessible, amicable and patient. He should have good inter-personal and communication skills. He should endeavour to build good relations with the public. He should have the competence to work on computers, internet, etc. and have good knowledge of spreadsheet, word processing, database management and presentation software.

**10 Record Keeper/Supplier** will maintain complaint files and supply records to the staff of Ombudsman. He will also be responsible for providing copies of Final or interim Orders of the Ombudsman or Deputy Ombudsman to the parties.

**11. General:** The officers and staff may be appointed on the basis of deputation or contract for a temporary period as prescribed by the State Government. All of them must have the competence to work on computers and internet. They will work under the control and superintendence of Ombudsman and will be removed by the State Government on the recommendations of Ombudsman for reasons given in writing to the State Government.

## **Model One, Two and Three of Ombudsman**

**Model One** : The complainant will, before making a complaint to the Ombudsman, make a written representation to the NREGA authority superior to the one complained against. Either such an authority rejects the complaint or the complainant does not receive any reply within a period of one month after such authority had received his representation or the complainant is not satisfied with the reply given to him by such authority, then only he should submit a complaint to the Ombudsman.

The complaint is made not later than one year after the complainant has received the reply of the NREGA Authority to his representation or, in case, where no reply is received, not later than one year and one month after the representation to the NREGA Authority.

**Model Two** : Parallel Ombudsman taking complaints directly along with the NREGA Authorities.

Ombudsman will receive all the complaints arising in relation to the implementation of NREGA from any person directly without the complaints being heard by the NREGA Authorities as enacted in the NREG Act. At the same time, complainants may approach NREGA Authorities. However, no complaint will be made to both Ombudsman and NREGA Authorities simultaneously.

Administrative, Financial implications :

In this Model, larger number of complaints will be received by the Ombudsman than Model One. In order to deal with the larger number of complaints, the posts of Deputy Ombudsman and supporting staff may be created in such numbers as may be required. The requirement will vary from district to district as the population of the districts vary from less than 5 lakhs to over 40 lakhs.

**Model Three** : Compromise Model between Model One and Model proposed by Principal Secretary, Rural Development, Government of Kerala.

Under this Model, complaints from Gram Panchayat only will be submitted to Programme Officer. In case of no disposal of the complaints within 7 days, the complainant will be entitled to refer the complaint to Ombudsman. All other complaints, (except against Gram Panchayat, as this is governed by Section 23 of the NREG Act), can directly be submitted to Ombudsman. Under this Model also there may be requirement for additional posts for Deputy Ombudsman and supporting staff. As stated earlier, the administrative and financial requirement will vary from district to district.



**SCHEME ON SUPPORTING THE IMPLEMENTATION OF NREGS  
THROUGH STATE LEGAL SERVICES AUTHORITIES**

**NATIONAL LEGAL SERVICES AUTHORITY  
12/11, Jam Nagar House, Shajahan Road, New Delhi-110011**

## **SCHEME ON SUPPORTING THE IMPLEMENTATION OF NREGS THROUGH STATE LEGAL SERVICES AUTHORITIES 2008-09**

### **1. Name of the Scheme:**

Scheme on Supporting the Implementation of NREGS through  
State Legal Services Authorities

### **2. Object:**

A Scheme on Supporting the Implementation of NREGS by generating awareness through Legal Literacy and Awareness Campaigns and to establish a grievance redressal forum by organizing Lok Adalats to resolve the disputes/complaints or legal problems of any person in respect of implementation of the scheme and employment guaranteed under NREGA.

### **3. Legal Literacy and Awareness Campaign:**

There shall be a team for conducting Legal Literacy and Awareness Campaign consists of :

- a. A judicial officer
- b. Two panel lawyers, preferably one lawyer from the area where the legal literacy camp is to be organized.
- c. One person from District Administration
- d. Councillor or the ward member or Panchayati Raj Member of the area
- e. Social worker/s
- f. Educationalist

#### **4. Places where Campaign to be conducted:**

In the Blocks and Gram Panchayats which are identified for the implementation of the NREGS.

#### **5. Subjects for campaign:**

- i) Rights under the NREGA, 2005
- ii) Entitlements and benefits under NREGS
- iii) The essential guarantees under NREGS
- iv) Role and responsibilities of Key Agencies
- v) Role and responsibilities of Key players
- vi) Rights and benefits under Legal Services Authorities Act, 1987
- vii) The Concept of Lok Adalat

#### **6. Methodology of the legal literacy and awareness campaign:**

- The District Authorities/Taluk Legal Services Committees shall form Teams in the manner aforesaid and the team shall conduct legal literacy camps at the places mentioned above.
- The team before proceeding to the place shall equip themselves about the various provisions of NREGA and NREGS to be addressed in local language to the public concerned.
- The materials like pamphlets, posters, booklets highlighting the benefits of NREGA shall be supplied by the District Legal Services Authority/Taluk Legal services Committee
- More than one team may be constituted which can be delegated to different places.
- The District Authorities/Taluk Legal Services Committees shall prepare a calendar for the year 2008-2009 for Legal Literacy and Awareness Camps and shall display in the notice Board of the respective committees and Authorities containing the place of Legal

literacy camps, subjects to be taken, timings etc. so that the public could know about the same.

- More focus shall be on the NREGA and NREGS materials maybe used and NREGA functionaries may be involved.
- The duration of the camps shall be 2 to 3 hours either in the morning or in the evening.
- The camp shall be conducted in a simple manner. Dais, garlanding, putting shawl, lunch or dinner, shall be strictly avoided.
- Public Address system (mike arrangements) shall be arranged if necessary.
- The camp shall be one of interactive and lengthy speech shall be avoided.

## **7. Lok Adalats**

1. The State, District and Taluka Legal Services Authorities/ Committees shall organize Lok Adalats under Section 19 of the Legal Services Authorities Act, 1987 to deal with the disputes arising out of NREGS between the rural worker and implementing agencies and any other person connected thereof.
2. Every Lok Adalat shall consist of:
  - (a) Serving or retired judicial officer
  - (b) A social worker or a retired Engineer not below the rank of Assistant Engineer of PWD or retired Revenue Officer not below the rank of Tehsildar
3. Lok Adalat shall have jurisdiction to determine and to arrive at compromise or settlement between the parties to a dispute in respect of complaints arise in course of implementation of NREGA, as that of pre-litigative case. Some of the disputes which can be brought before the Lok Adalat for compromise or settlement between the Rural Workers and the implementing agency are;
  1. Registration
  2. Allocation of work
  3. Custody of Job Cards
  4. Wages
  5. Unemployment Allowance
  6. worksite facilities
  7. Measurement of work
  8. banks and post office accounts

9. Muster rolls
4. Cognizance of cases by Lok Adalat
  - i). The Centre/State Government;
  - ii) Any Officer of the Ministry of Rural Development;
  - iii).State Legal Services Authority/District Legal Services Authority/  
Taluka Legal Services Committee
  - iv)Any person or on behalf of any person who is holding a job card/given a Job/entitled for a Job Card or a Job;  
may refer any dispute to the Lok Adalat.
5.
  - i) The Lok Adalat shall have the powers as under Section 22 of the Legal Services Authorities Act.
  - ii).The Ministry of Rural Development (Centre or State) shall issue guidelines to the Gram Panchayat, Sarpanch,anyNREGA functionaries or to any person in charge of implementation of NREGA to appear before the Lok Adalat in respect of any dispute brought before the Lok Adalat in the event of receiving a summon from Lok Adalat.
6. Sittings of Lok Adalats
  - i). As many as Lok Adalats may be organized as required, however, there shall be at least five Lok Adalat per month in five Blocks or in a group of Gram Panchayats.
  - ii). The place of Lok Adalats sitting will be at respective Block/Gram Panchayat.

### **Expense for Legal Literacy and Awareness Campaign:**

- A minimum of 4 camps shall be conducted in a month in the manner above mentioned.
- A sum of Rs. 3000/- may be permitted to be spent by each team for conducting one camp in the following manner.

Transportation	: Rs. 1000/-
Printing of pamphlets	: Rs. 250/-
Miscellaneous expenses:	Rs. 250/
Other Fees	: Rs. 1500/-

(Fees to the team members, if permissible, shall be as per the schedule of fees)

### **Expense for Lok Adalats:**

- Transportation : Rs. 1,000/-
  - Stationary : Rs. 250/-
  - Miscellaneous expenses : Rs. 250/-
  - Honorarium to the Members of the Lok Adalat Rs. 1500/-
- Total Rs.3000/-**

### **BUDGETARY EXPENSES (2008-09)**

#### **Legal Literacy Camps**

Rs.3000/- per camp.

Total number of District Authorities: 600

600 x 4 camps x Rs. 3000/- x 5 months (November to March 09) : **Rs. 3.60 Crores (A)**

#### **Lok Adalats**

Rs. 3000/- per Lok Adalat

Total Number of District Authorities : 600

600X3000X5 months X 5 (November to March 09) : **Rs 4.50Crores (B)**

**Total A+B = Rs. 3.60+4.50= Rs8.10Crores**

**Register to be maintained of Legal Literacy and Awareness Campaign:**

S.No.	App. No.	Date	Name and address Of applicant with Address	Nature of Relief	Entrusted to (Name of the lawyer)	Action Taken/Results
(1)	(2)	(3)	(4)	(5)	(6)	(7)

**Monthly statement:**

No. of Legal Literacy Camps held (with month and date)	Places where Legal Literacy camps held	No. of Applications Received		Action taken /Not taken
		Legal	Non-Legal	
(1)	(2)	(3)	(4)	(5)

**Lok Adalat Monthly Statement:**

No. of Lok Adalats held (with month and date)	Places where Lok Adalats held	No. of Cases referred	No. of cases settled	Amount Awarded
(1)	(2)	(3)	(4)	(5)

**(G.M. AKBAR ALI)**  
MEMBERSECRETARY, NALSA

**PROFORMA FOR BRINGING THE DISPUTE TO THE LOK ADALAT**

Name of the Applicant : \_\_\_\_\_

Father /Husband Name : \_\_\_\_\_

Job Card No. : \_\_\_\_\_

Address : \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Nature of complaint : \_\_\_\_\_

\_\_\_\_\_

Respondents;

Name \_\_\_\_\_

Designation

Address \_\_\_\_\_

\_\_\_\_\_

To

The Chairman,  
District/Taluk Legal Services  
Authority/Committee  
----- Taluk/District



# **YOUR RIGHTS UNDER THE EMPLOYMENT GUARANTEE ACT**

## **WORK APPLICATIONS**

1. With this Job Card, you are entitled to apply for work at any time. You can submit your application to the Gram Panchayat, or to the Block office.
2. If you apply for work, employment has to be given to you within 15 days.
3. When you apply for work, make sure that you get a dated and signed receipt.
4. If you do not get employment within 15 days, you are entitled to the unemployment allowance.

## **WORKERS' ENTITLEMENTS**

5. All workers are entitled to the statutory minimum wage.
6. Men and women should be paid equally.
7. Wages should be paid within a week, or fifteen days at most.
8. Wages should be paid in public. When wages are paid, muster rolls should be read out and Job Card entries should be made.
9. Sign the muster roll after receiving your wages and checking the entries. Never sign a blank muster roll.
10. If you live more than 5 km away from the worksite, you are entitled to a travel and subsistence allowance (10% of the minimum wage).

## **AT THE WORKSITE**

11. Muster rolls should be available and maintained at the worksite. You are entitled to check the muster roll at any time.
12. Shade, drinking water and first-aid should be available at every worksite.
13. If more than five children under the age of six years are present, child care facilities should also be provided at the worksite.

### **UNEMPLOYMENT ALLOWANCE**

14. If you have not been given work within 15 days of applying, you are entitled to the “unemployment allowance”.
15. The unemployment allowance amounts to one fourth of the minimum wage for the first 30 days, and one half thereafter.
16. You can apply for the unemployment allowance to the Gram Panchayat or Block Office (you will need the receipt showing when you applied for work).

### **WATCH YOUR JOB CARD!**

17. This Job Card (with photograph) should be given to you free of cost. Don't let anyone charge you for it.
18. Every household is entitled to a separate Job Card.
19. Keep this Job Card with you. No-one has the right to take it away.
20. Entries have to be made in front of you when your wages are paid.
21. Make sure that no false entries are made in the Job Card.
22. If you lose this Job Card, you can apply for a new one from the Gram Panchayat.

### **HELP AND COMPLAINTS**

23. If you have a problem, you should first approach the Gram Panchayat. If this does not help, you can submit a complaint to the Programme Officer at the Block level.
24. If you complain to the Programme Officer, it is his duty to register your complaint and take action within 7 days.

## **WHAT A RURAL EMPLOYMENT GUARANTEE SCHEME SHOULD HAVE?**

**A Rural Employment Guarantee Scheme (NREGS) will be expected to clarify, inter alia, the following matters:**

- (a) Specify the implementing Department in the State.
- (b) Specify a senior officer in the State as State Programme Coordinator.
- (c) Specify the District Programme Coordinator.
- (d) Lay down the mode of recruitment for Programme Officers, supportive staff and other required professional services, and make interim arrangements till regular Programme Officer is appointed.
- (e) Define the relationship with the Block Development Officer.
- (f) Clearly delineate Agency-wise the roles and responsibilities for each task mandated in the Act and elaborated in the Guidelines. Establish coordination mechanisms among them, fixing clear accountability for each task, since activities under the Act are justiciable and the people and the Implementing Agency should know in whom the legal obligation for getting a task done vests.
- (g) Delineate the Fund Flow system for the Rural Employment Guarantee Scheme.
- (h) Specify the cheque-signing authorities at the District, Block (Programme Officer) and Gram Panchayat levels.
- (i) Specify the procedure for payment of unemployment allowance.
- (j) Specify the authorities for administrative and technical approval of works and define their powers.
- (k) Specify the procedure for maintenance of accounts, maintenance of muster rolls, material, unskilled wage and skilled wage content of the works and audit arrangements for internal and social audit.
- (l) Specify procedures for making entries in the job cards and for cross-checking them to avoid wrong entries.
- (m) Specify systems for measurement of works and rates of payment thereof and methods for making this information transparent.

- (n) Specify the system of payment of wages. Possibility of payment through accounts in the bank or post office may be considered.
- (o) Specify procedures for social audit, public accountability and implementation of the Right to Information Act.
- (p) Specify grievance redressal mechanisms at the Gram Panchayat, Intermediate Panchayat, District and State levels.
- (q) Specify the terms and conditions of the Chairperson and Members of the State Employment Guarantee Council, time, place and procedure of meetings.

**Any other matter considered necessary by the State Government.**

## **ROLES AND RESPONSIBILITIES OF KEY AGENCIES**

### **1. CENTRAL GOVERNMENT**

- Make Rules.
- Issue Guidelines.
- Notify areas of application of Act.
- Communication.
- Budget Provision for and Release of Central share.
- Set up Central Employment Guarantee Council.
- Set up Central Employment Guarantee Fund
- Facilitate technical support.
- Monitoring and Evaluation and Research.

### **2. CENTRAL EMPLOYMENT GUARANTEE COUNCIL**

- Establish a central evaluation and monitoring system.
- Advise the Central Government on all matters concerning the implementation of this Act.
- Review the monitoring and redressal mechanisms from time to time and recommend improvements required.
- Promote the widest possible dissemination of information about the Schemes made under this Act.
- Monitor the implementation of this Act.
- Prepare of annual reports to be laid before Parliament by the Central Government on the implementation of this Act.
- Any other duty or function as may be assigned to it by the Central Government.
- The Central Council shall have the power to undertake evaluation of the various Schemes made under this Act and for that purpose collect or cause to be collected statistics pertaining to the rural economy and the implementation of the Schemes.

### **3. STATE GOVERNMENT**

- Make Rules on matters pertaining to state responsibilities under the Act(32(1)).
- Make and notify the Rural Employment Guarantee Scheme.
- Communication.
- Set up the State Employment Guarantee Council.
- Set up the State Employment Guarantee Fund.
- Budget Provision for and Release of State share.
- Planning and implementation of Rural Employment Guarantee Scheme.
- Provide technical support.
- Training.
- Pay Unemployment Allowance if employment is not given within 15 days despite adequate funds being available.
- Monitoring and Evaluation and Research.

### **4. STATE EMPLOYMENT GUARANTEE COUNCIL**

- Advising the State Government on all matters concerning the Scheme and its implementation in the State.
- Determining the preferred works.
- Reviewing the monitoring and redressal mechanisms from time to time and recommending improvements.
- Promoting the widest possible dissemination of information about this Act and the Schemes under it.
- Monitoring the implementation of this Act and the Schemes in the State and coordinating such implementation with the Central Council.
- Preparing the annual report to be laid before the State Legislature by the State Government
- Any other duty or function as may be assigned to it by the Central Council or the State Government.
- The State Council shall have the power to undertake an evaluation of the Schemes operating in the State and for that purpose to collect or cause to be collected statistics pertaining to the rural economy and the implementation of the Schemes and Programmes in the State.

- Terms and conditions of the Chairperson and Members of the State Employment Guarantee Council shall be prescribed by the State Government.

#### **4. DISTRICT**

##### 4.1 Gram Sabha

- Assist in identification of beneficiaries.
- Recommend developmental works.
- Social audit of all projects within the Gram Panchayat jurisdiction.

#### **4.2 PANCHAYATI RAJ INSTITUTIONS**

- The Village, Intermediate and District Panchayats shall be the principal authorities for planning and implementation of the scheme made under the NREG Act.
- The Panchayats at all levels can be the Implementing Agencies under the Act.
- At least 50% of the works in terms of cost will be allotted to Gram Panchayats for implementation.
- The Gram Panchayat shall be responsible for identification of the projects to be taken up in its area under the scheme as per the recommendations of the Gram/ward Sabha and the same shall be forwarded to Programme Officer for scrutiny and preliminary approval.
- The Gram Panchayat shall prepare a development plan and maintain shelf of possible works to be taken up under the scheme as and when demand for work arises.
- The Intermediate Panchayat shall approve the Block level plan and forward the same to the District Panchayat for approval.
- The District Panchayat shall finalise and approve Block-wise shelf of projects to be taken up for implementation under the Scheme.
- The plan approved by District Panchayat will assign implementation responsibilities to various agencies like Panchayats, line departments, NGOs etc.

### **4.3 PROGRAMME OFFICER**

- Responsible for matching the demand for employment with the employment opportunities arising from projects in the area under his jurisdiction.
- Overall supervision and coordination of registration of applicants for employment and for providing wage employment in accordance with the provisions of the Act and the Scheme notified by the State.
- Prepare a Plan for the Block under his jurisdiction by consolidating the project proposals prepared by the Gram Panchayats and the proposals received from the Intermediate Panchayat.
- Receive resources from District Programme Coordinator and release them to the Implementing Agencies in accordance with these Guidelines and the Scheme of the State Government.
- Maintain proper accounts of the resources received, released and utilized.
- Monitoring of projects taken up by the Gram Panchayats and other Implementing/Agencies within his jurisdiction.
- Sanctioning and ensuring payment of unemployment allowance to the eligible households.
- Ensuring prompt and fair payment of wages to all labourers employed under a programme of the Scheme within his jurisdiction.
- Ensuring that regular social audits of all works within the jurisdiction of the Gram Panchayat are carried out by the Gram Sabha and that prompt action is taken on the objections raised in the social audit.
- Dealing promptly with all complaints that may arise in connection with the implementation of the Scheme within the Block.
- Other work as may be assigned to him by the District Programme Coordinator or the State Government.
- The Programme Officers shall function under the direction, control and superintendence of the District Programme Coordinator.



#### **4.4 DISTRICT PROGRAMME COORDINATOR**

- To assist the District Panchayat in discharging its functions under this Act and any Scheme made there under.
- To consolidate the plans prepared by the Blocks and project proposals received from other implementing agencies for inclusion in the shelf of projects to be approved by the Panchayat at District level.
- To accord necessary sanction and administrative clearance, wherever necessary.
- To coordinate with the Programme Officers functioning within his jurisdiction and the implementing agencies to ensure that the applicants are provided employment as per their entitlements under this Act.
- To review, monitor and supervise the performance of the Programme Officers.
- To conduct periodic inspection of the works in progress.
- To redress the grievances of the applicants.
- To prepare in the month of December every year a labour budget for the next financial year containing the details of anticipated demand for unskilled manual work in the District and the plan for engagement of labourers in the works covered under the Scheme and submit it to the District Panchayat.

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