

IMMEDIATE

No.14040/45/2009-UTP
 Government of India
 Ministry of Home Affairs

North Block, New Delhi
 Dated the March, 2010

To

1. Shri Rakesh Mehta, Chief Secretary, Govt. of NCT of Delhi, Delhi Secretariat, I.P. Estate, New Delhi.
2. Shri R. Chandramohan, Chief Secretary, Puducherry
3. Shri Vivek Rae, Chief Secretary, Andaman & Nicobar Islands, Port Blair.
4. Shri Pradip Mehra, Advisor to the Administrator, UT of Chandigarh, Chandigarh.
5. Shri Satya Gopal, Administrator, Dadra & Nagar Haveli, Silvassa.
6. Shri Satya Gopal, Administrator, Daman & Diu, Moti Daman.
7. Shri J. K. Dadoo, Administrator, Lakshadweep, Kavaratti.

Sub: Constitution of Police Complaints Authorities in Union Territories in pursuance of the directions of the Hon'ble Supreme Court in WP (C) No.310/1996, titled Prakash Singh & Ors Vs. Union of India & Ors.

Sir,

I am directed to say that in pursuance of the judgment dated the 22nd September, 2006 of the Hon'ble Supreme Court in W. P. (C) No.310 of 1996, titled Prakash Singh & Ors Vs. Union of India & Ors, it has been decided that Police Complaints Authority may be set up at the Union Territory level. The composition of the Authority, terms and conditions of appointment of Chairperson and Members of the Authority, powers and functions of the Authority, etc shall be as follows:

I. Composition:

- (a) **Daman & Diu, Dadra & Nagar Haveli and Lakshadweep:** The Police Complaints Authority will comprise of one Member, i.e. the Chairperson, who may be from amongst any of the following categories:
 - i. A retired District Judge or retired Civil Service Officer of the rank of Additional Secretary and above;
 - ii. A person having 10 years of experience in law, either as Judicial officer, Public Prosecutor, Lawyer, or Professor of Law; and
 - iii. A retired officer with experience in Public Administration.
- (b) **Puducherry, A&N Islands and Chandigarh:** The Police Complaints Authority will comprise of the Chairperson and two Members. The Chairperson may be from the category (i) below and the Members

may be drawn from amongst any of the remaining categories and one of the Members should be a woman:

- (i) A retired High Court/District Judge or retired Civil Service Officer of the rank of Secretary;
 - (ii) A person having 10 years of experience in law, either as Judicial officer, Public Prosecutor, Lawyer, or Professor of Law;
 - (iii) A person of repute and stature from civil society;
 - (iv) A retired officer with experience in Public Administration; and
 - (v) A retired Police Officer of appropriate rank.
- (c) **Delhi:** The Police Complaints Authority will comprise of the Chairperson and three Members. The Chairperson may be from the category (i) below and the Members may be drawn from any of the remaining categories and one of the Members should be a woman:

- (i) A retired High Court/District Judge or retired Civil Service Officer of the rank of Secretary;
- (ii) A person having 10 years of experience in law, either as Judicial officer, Public Prosecutor, Lawyer, or Professor of Law;
- (iii) A person of repute and stature from civil society;
- (iv) A retired officer with experience in Public Administration; and
- (v) A retired Police Officer of appropriate rank.

II. Terms and conditions

(a) The term of the office of the Chairperson and the Members will be for three years and they may be entitled to the following remunerations:

- i. Delhi, A&N Islands, Chandigarh and Puducherry -
 - a. Chairperson - Rs.3500/- per sitting, subject to the condition that the annual amount may not exceed Rs.4.8 lakh; and
 - b. Members - Rs.3000/- per sitting subject to the condition that the annual amount may not exceed Rs.4.8 lakh.
- ii. Lakshadweep, Daman & Diu and Dadra & Nagar Haveli –
 - Chairperson - Rs.3000/- per sitting subject to the condition that the annual amount may not exceed Rs.4.8 lakh.

(b) The Chairperson and members of the Authority of the Andman & Nicobar Islands, Chandigarh, Delhi and Puducherry may be appointed by the Administrator of the Union Territory concerned. The Chairperson of the Authority of the Dadra & Nagar Haveli, Daman & Diu and Lakshadweep may be appointed by the UT Administration in consultation with the Central Government.

(c) The Chairperson or member of the Police Complaints Authority may be removed from office by the Administrator of the UT after giving him/her an opportunity to be heard. However, the Administrator shall, on receipt of the response, record his/her findings and forward the entire case with his/her recommendations to the Central Government for obtaining its prior approval before issuing the orders.

(d) The Chairperson and Members of the Police Complaints Authority shall not engage himself/herself, during his/her term of office, in any paid employment, outside the duties of office without permission of the Union Territory Administration.

III. Powers and functions

(a) The functions of the Police Complaints Authority will be as under:

- (i) The Authority shall inquire into allegations of “serious misconduct” against police personnel, as detailed below, either *suo moto* or on a complaint received from any of the following:
- (a) a victim or any person on his/her behalf;
 - (b) the National or the State Human Rights Commission;
 - (c) the police; or
 - (d) any other source.

Explanation: “Serious misconduct” for the purpose of this chapter shall mean any act or omission of a police officer that leads to or amounts to:

- (a) death in police custody ;
- (b) grievous hurt, as defined in Section 320 of the Indian Penal Code, 1860;
- (c) rape or attempt to commit rape;
- (d) arrest or detention without due process of law;
- (e) extortion;
- (f) land/house grabbing; or
- (g) any incident involving serious abuse of authority

Provided that the Authority shall inquire into a complaint of such arrest or detention, only if it is satisfied *prima facie* about the veracity of the complaint.

- (ii) The Authority may also inquire into any other case referred to it by the Administrator/Central Government.

(b) The power of the Police Complaints Authority may be as under:

- (i) The Authority may require any person or authority to furnish information on such points or matters as in the opinion of the Authority may be useful for or relevant to the subject matter of enquiry;
- (ii) The Authority, before finalising its opinion, shall give the Police Officer heading the police force in the UT an opportunity to

present the department's view and additional facts, if any, not already in the notice of the Authority and in such cases, the Authority may review its findings upon receipt of additional information from the Police Officer heading the police force in the UT that may have a material bearing on the case.

- (iii) In the cases directly inquired by the Authority, it may, upon completion of the inquiry, communicate its findings to the police officer heading the police force in the UT with a direction to:-
 (a) register a First Information Report; and/or
 (b) initiate departmental action based on such findings,

duly forwarding the evidence collected by it to the police.

- (iv) The directions of the Authority shall ordinarily be binding, unless for the reasons to be recorded in writing, the UT Administration decides to disagree with the findings of the Authority.

2. The Authority may submit its findings in a case within a period of 60 days from the date of receipt of the complaint and in case of inability to meet the deadline, the Authority may submit a report showing reasons therefor to the Administrator.

3. Each Police Complaints Authority will be provided the support staff of not more than three officials – one computer-knowing stenographer, one office superintendent (PB 2, Grade Pay – 4200) for running the office and one employee with multitasks. The UT Administrations will provide the stenographer and office superintendent from their strength. The employee with multitasks would be outsourced by the UT Administration. The UT Administrations will also provide other infrastructure and logistical support to the PCAs from their own resources. A serving officer of the UT Administration not below the rank of Joint Secretary to the UT Administration may be designated as Convenor cum Secretary to the Police Complaints Authority of the respective Union Territory.

4. The Police Complaints Authority would be a computer-based office.

5. You are requested to take necessary steps immediately for setting up of the Police Complaints Authority on the above lines, under intimation to this Ministry.

6. This issues with the approval of the Union Home Minister.

Yours faithfully,

(Ashwani Kumar)
 Director (Services)
 Telefax: 23092436

Copy forwarded for information to:

1. Shri Y. S. Dadwal, Commissioner of Police, Police Headquarters, New Delhi.
2. Shri S. Suresh Kumar, JS (PM), MHA, Jaisalmer House, New Delhi.
3. IT Cell, MHA for uploading on the website of MHA.

(Ashwani Kumar)
Director (Services)
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