

THE KERALA WOMEN'S COMMISSION (PROCEDURE FOR INVESTIGATION AND INQUIRY INTO UNFAIR PRACTICES) RULES, 2003

S.R.O.No.1125/2003.— In exercise of the powers conferred by Clauses (d) and (e) of sub-section (2) of section 28 of the Kerala Women's Commission Act, 1990 (17 of 1995) the Government of Kerala hereby make the following Rules for regulating the procedure for enquiries and investigations under sections 17 and 18 of the said Act, namely:-

RULES

Chapter I

PRELIMINARY

1. Short title and commencement.— (1) These Rules may be called the Kerala Women's Commission (Procedure for Investigation and Inquiry into Unfair Practices) Rules, 2003.

(2) They shall come into force atonce.

2. Definitions.— (1) in these Rules, unless the context otherwise requires,—

(a) 'Act' means the Kerala Women's Commission Act, 1990 (17 of 1995);

(b) 'Chairperson' means the Chairperson of the Commission;

(c) 'Complaint' means a complaint referred to in sub-section (1) of section 17 of the Act;

(d) 'Director' means the Director appointed under Section 12 of the Act;

(e) 'Form' means a Form appended to these Rules;

(f) 'Officer authorized' means an Officer appointed by the Government to assist the Director in the preliminary investigation;

(g) 'Preliminary Investigation' means the collection of facts, materials and other data, in respect of a complaint under section 17 of the Act by the Director;

(h) 'Registering Officer' means an Officer authorised by the Commission to register complaints;

(2) The words and expressions used in these rules and not defined shall have the same meaning assigned to them in the Act.

Chapter II

PRELIMINARY ACTION ON RECEIPT OF COMPLAINT

3. Registration of complaints and preliminary investigation.- (1) The Registering Officer shall register,—

(a) all complaints received under clause (a) of sub-section (1) of section 17;

(b) details of the information regarding unfair practice received by the Commission and reduced to writing and forwarded to the Registering Officer under clause (b) of sub-section (1) of section 17;

(c) request in writing received by the Commission from the Government and forwarded to the Registering Officer under clause (c) of sub-section (1) of section 17 in the Register in Form A and assign the register number and shall submit the same to the Commission in docket sheet in Form B.

(2) The Registering Officer shall acknowledge the receipt of the complaints in Form C.

(3) The Director or the Officer authorised shall conduct a scrutiny of the complaint and if he is of opinion that the complaint is not maintainable he shall place the complaint before the Commission for necessary orders.

4. Rejection of complaint.- If after considering the complaint it is found that the same is not maintainable the decision shall be communicated in writing to the complainant.

5. Preliminary investigation by the Director.- (1) Where a complaint is forwarded to the Director by the Commission for preliminary investigation under sub-section (2) of section 17, the Director shall cause a preliminary investigation into the complaint and collect such details and facts as required by the Commission and as he may deem necessary.

(2) After completing the preliminary investigation, the Director shall submit a report to the Commission within the period specified by the Commission. The report shall be accompanied by documents, statements, if any, recorded and other materials collected during the course of the preliminary investigation.

(3) On receipt of the report from the Director, the Chairperson shall cause the matter to be placed before the next sitting of the Commission.

Chapter III

6. Inquiry.— (1) After considering the complaint and the report placed before it, if the Commission is of opinion that there are sufficient grounds for proceeding further, it shall issue notice in Form D, along with a copy of the complaint, to the person complained against and to the material witness in Form E, directing him/ them to appear and show cause on the day appointed for that purpose.

(2) The Commission shall hear the parties and examine the witnesses, if any, present, on the date of hearing specified in the notice and the substance of such examination, shall be reduced to writing which shall be signed by the person examined and also by the Commission.

(3) If on the date fixed for appearance the person against whom the complaint has been made fails to appear or to show cause, the Commission may in his absence proceed to enquire into the matter in the complaint.

(4) The parties to the complaint shall have the right to cross-examine the witnesses examined by the Commission.

(5) The Commission shall have power to summon and examine any person as witness for the purpose of inquiring into the complaint.

(6) If any of the parties to the complaint desires to examine witnesses and files application in that behalf, the Commission may issue summons to such witnesses.

(7) The Commission may at any stage of the inquiry after due notice to the parties visit and inspect any place which in its opinion is necessary for the purpose of the enquiry and shall without unnecessary delay record a memorandum of the relevant facts observed at such inspection and such memorandum shall form part of the record. The inspection may be conducted by one or more members and the report thereon shall be furnished to the Commission as early as possible.

7. Findings and orders of the Commission.—(1) On conclusion of the enquiry, after considering the complaint, statement, reports, documents and other materials on record, the Commission shall pass an order recording its findings and such order shall be signed by the Chairperson and Members of the Commission.

(2) If the unfair practice found as in the opinion of the Commission is of such a nature that it is for the Government to take action in the matter the Commission shall forward its order with its recommendations to the Government regarding the action to be taken in the matter.

(3) If it is found that a person has committed any act which amount to a criminal offence, the Commission may direct its Director or any other Officer authorized by the Commission in that regard to initiate prosecution. In such cases the Commission shall forward a copy of its order along with the documents and other records to the concerned officer.

8. Abatement of complaints.—(1) A complaint on which an inquiry has been initiated shall not abate on the death of the complainant.

(2) If the complainant fails to appear on any day without sufficient cause or does not co-operate with the Commission in the conduct of the enquiry, the Commission may in its discretion dismiss the complaint.

Chapter IV

9. General Provisions.- (1) The Commission may at any stage of the inquiry, either *suo motu* or on application by a party, adjourn the hearing of any complaint to a date to be notified by the Commission on its Notice Board.

(2) If there is no sitting of the Commission on the date fixed for hearing or if that day happens to be a holiday, the complaint posted to that day shall be adjourned to a date notified by the Commission on its Notice Board.

(3) The date fixed for hearing may be advanced by the Commission under intimation to the parties either *suo motu* or on application.

10. Restoration of complaints.- In any case, where an order is passed or the complaint is disposed of *ex parte*, the aggrieved party may apply to the Commission, within 15 days from the date of such order, with notice to the opposite party for an order to set aside the order and if he satisfies the Commission that he was prevented by sufficient cause from appearing when the complaint was enquired into the Commission shall set aside the order or restore the complaint to the file as the case may be.

11. Extension of time.- Except as otherwise expressly provided in the Act or in any other rules under the Act where any period is fixed or granted for doing any act, the Commission may in its discretion grant extension of time and such extension at a time shall not exceed a period equal to the span of time originally granted or fixed.

12. Proceedings to be held *in camera*.- In every enquiry proceedings, the proceedings may be held *in camera*, if the Commission so decided or if either party so requests.

13. Securing assistance of Expert.- In any inquiry, the Commission so decides, it may secure the assistance of an expert.

14. Residuary provision.- For the purposes of issuing notices, summons, warrants, etc. the Commission shall adopt the forms prescribed under the Civil Rules of Practice, Kerala, 1971 with necessary modifications.

APPENDIX

FORM A

Register of Complaints

[See Rule 3(1)]

1. Complaint No. of
2. Date of registration
3. Name and Address of complainant
4. Name and Address of opposite party

5. Date of submission to Chairperson
6. Date of acknowledgement
7. Date of reference to the Director
8. Date of receipt of report from Director with finding
9. Date and decision of Commission on Report
10. Date of posting for hearing
11. Date of notice of parties
12. Date of order on Inquiry
13. Date of reference to Government/Director
14. Nature of final disposal
15. Remarks

FORM B

[See rule 3 (1)]

DOCKET SHEET

(Outer Cover Page)

Dates of posting

**IN THE OFFICE OF THE
KERALA WOMEN'S COMMISSION
THIRUVANANTHAPURAM.**

Complaint No.....of 20.....

Between

Complainant.....

.....
.....
.....
Opposite Party

.....
.....
.....
DOCKET SHEET;
(Inner Cover Page)

Complaint No..... of 20..... dated ;

Complainant ;

Opposite Party:

- (a) Reference by Registering officer
- (b) Reference by Chairperson/Commission to the Director/
For Investigation
- (c) Report of the Director-in-brief
- (d) Decision of the Commission on the Report

(ചട്ടം 3 കാണുക)

കേരള വനിതാ കമ്മീഷൻ

തിരുവനന്തപുരം

പരാതി നമ്പർ.....

കൈപ്പാഠ് ചീട്ട്

താങ്കളുടെ..... തീയതിയിലെ പരാതി കൈപ്പാഠിയിരിക്കുന്നു. നമ്പർ മുകളിൽ കാണിച്ചിരിക്കുന്നു.

(പ്രസ്തുത പരാതിയിൽമേൽ പ്രാഥമിക അന്വേഷണം നടത്തി ആവശ്യമായ നടപടി കൈക്കൊള്ളുന്നതും പ്രസ്തുത വിവരം അറിയിക്കുന്നതുംമാണ്.

ഇതു സംബന്ധിച്ച കത്തിടപാടുകളിൽ പരാതി നമ്പർ കാണിക്കേണ്ടതാണ്.

ഡയറക്ടർ,

കേരള വനിതാ കമ്മീഷനുവേണ്ടി.

അടിക്കുറിപ്പ്:—താങ്കൾ അയച്ച പരാതി നിർദ്ദേശിച്ച് രീതിയിൽ അല്ലാത്തതിനാലും ആവശ്യമായ വിവരങ്ങൾ അതിൽ അടങ്ങിയിട്ടില്ലാത്തതിനാലും ഇതോടൊപ്പം വച്ചിട്ടുള്ള മാതൃകയിൽ പരാതി തയ്യാറാക്കി അയച്ചുതരണമെന്ന് താല്പര്യപ്പെടുന്നു.

ഫോറം-ഡി

(ചട്ടം 6 കളണ്ടുക)

കേരള വനിതാ കമ്മീഷൻ

തിരുവനന്തപുരം

പരാതി നമ്പർ.....

പരാതിക്കാരൻ
.....
.....

എതിർ കക്ഷി
.....
.....

പരാതിക്കാരൻ/എതിർ കക്ഷിക്കുള്ള നോട്ടീസ്

മേൽ നമ്പർ പരാതിയിൽമേൽ നേർ വിചാരണ നടത്തുന്നതിന് കമ്മീഷൻ നിശ്ചയിച്ചിരിക്കുന്നതിനാൽ, ആയതിലേക്കായി താങ്കൾ 20...-ാം ആണ്ട് മാസം തീയതി മണിക്കൂർ തിരുവനന്തപുരത്ത് കമ്മീഷൻ ഓഫീസിൽ നേരിട്ട് ഹാജരാകണമെന്ന് ഇതിനാൽ അറിയിക്കുന്നു.

അപ്രകാരം ഹാജരാകാതിരുന്നാൽ താങ്കളുടെ അസാന്നിദ്ധ്യത്തിൽ പരാതി കേൾക്കുകയും തീർപ്പാക്കുകയും ചെയ്യുമെന്നും അറിയിക്കുന്നു.

കൈയ്യൊപ്പും മുദ്രയോടുംകൂടി

ഡയറക്ടർ,

കേരള വനിതാ കമ്മീഷൻ

തീയതി:

ഫാറം-ഇ

(ചട്ടം 6 കാണുക)

സാക്ഷിക്കുള്ള നോട്ടീസ്

കേരള വനിതാ കമ്മീഷൻ

തിരുവനന്തപുരം

പരാതി നമ്പർ :
പരാതിക്കാരൻ :
എതിർകക്ഷി :

.....(സാക്ഷിയുടെ പേരും, മേൽവിലാസവും)
.....
.....നം

മുകളിൽ പറഞ്ഞ പരാതിയിൽ.....നുമ്പേഴി സാക്ഷിയായി വിസ്തരിക്കുന്നതിന്/തെളിവ് ഹാജരായി മൊഴി നൽകുന്നതിനായി താങ്കൾ ഈ കമ്മീഷൻ മുൻപാകെ രണ്ടായിരത്തി..... മരണം.....തീയതി രാവിലെ/ ഉച്ചകഴിഞ്ഞ..... മണിക്ക് നേരിട്ട് ഹാജരാകാനും താഴെ പറഞ്ഞിട്ടുള്ള രേഖകൾ കൊണ്ടുവരാനും ഇതിനാൽ ആവശ്യപ്പെടുന്നു.

നിയമാനുസൃതമായി ന്യായീകരണം കൂടാതെ നിങ്ങൾ ഈ ഉത്തരവ് അനുസരിച്ച് പ്രവർത്തിക്കാതിരിക്കുന്നുവെങ്കിൽ അതിന് സിവിൽ നടപടി നിയമസംഹിത 16-ാം ഓർഡർ 12-ാം ചട്ടത്തിൽ പ്രതിപാദിക്കുന്ന അനന്തര ഫലങ്ങൾക്ക് വിധേയനാകുന്നതാണ്.

.....മാൺ.....മരണം.....
തീയതി ആയ ഇന്നേ ദിവസം കൈയൊപ്പും മുദ്രയും വച്ച് നൽകുന്നു.

ഡയറക്ടർ.

കുറിപ്പ്:—നിങ്ങൾ സമൺ ചെയ്യപ്പെട്ടിരിക്കുന്നത് രേഖ ഹാജരാക്കാൻ മാത്രം ആയിരിക്കുകയും തെളിവ് നൽകാൻ അല്ലാതിരിക്കുകയും ചെയ്യുന്നുവെങ്കിൽ അങ്ങനെയുള്ള രേഖ മുൻ പറഞ്ഞ തീയതിയിലും സമയത്തും നിങ്ങൾ ഈ കോടതിയിൽ ഹാജരാക്കിയിട്ടുണ്ടെങ്കിൽ നിങ്ങൾ സമൺസ് അനുസരിച്ചതായി കണക്കാക്കപ്പെടുന്നതാണ്.

By order of the Governor,
LIDA JACOB,
Secretary to Government.

Explanatory Note

(This does not form part of the notification, but is intended to indicate its general purport.)

As per item (1) of sub-section (1) of section 16 of the Kerala Women's Commission Act, 1990 one of the functions of the Commission is to inquire into unfair practices take decision thereon and to recommend to the Government action to be taken in the matter. Section 17 of the Act provides for conduct of inquiry/preliminary investigation into complaints of unfair practice, recommendation to the Government the action to be taken thereon and to initiate prosecution in such cases. Items (d) and (e) of sub-section (2) of section 28 require that rules shall be made regarding the procedure for inquires under section 17 of the Act and investigations by the Director.

This Notification is intended to achieve the above objects.