

Government of India  
Ministry of Rural Development  
(Mahatma Gandhi NREGA Division)

Krishi Bhavan, New Delhi-110114  
Dated: 15<sup>th</sup> March, 2010.

No. J-11011/21/2008-MGNREGA (Pt.)

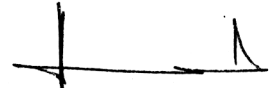
To,  
The Principal Secretary/Secretary  
Department of Rural Development  
All States/UTs

Subject: Clarification of issues in regard to selection of Ombudsman by State Governments as per Order dated 07.09.09 issued by the Ministry under Section 27(1) of Mahatma Gandhi NREGA.

Sir/Madam,

Please find enclosed a copy of clarifications on the issues and doubts raised by various States on the above subject for information and necessary action.

Yours faithfully,



(R.K. Sood)

Under Secretary(Mahatma Gandhi NREGA)

Copy to:

1. Sr. PPS to Secretary(RD)
2. PS to JS (S).
3. All official representatives of Ministry of Rural Development on the State Selection Committee for Ombudsman

Clarification of issues in implementation of Ombudsman by the States

Sl.No	Issue	Clarification
1.	As per Para 2.1 of the instruction dated 07.09.2009 'The State Government may appoint one or more persons, but not more than three persons, as the Ombudsman in a District'. In Para 7 of above mentioned instructions 'In case of heavy load of cases not more than two Deputy Ombudsman may be provided to assist the Ombudsman in disposal of cases in each district'. Whether in case of appointment of more than one Ombudsman or Deputy Ombudsman they will have separate entity and how the work will be distributed among them.	As per Para 1.8 of the instruction 'Ombudsman means any person appointed under clause 3 of the instructions and includes the Deputy Ombudsman'. As the State Government may appoint not more than 3 Ombudsman/Deputy Ombudsman, Deputy Ombudsman so appointed will assist the Ombudsman in disposal of cases in each districts and their territorial jurisdiction under the Ombudsman will be as specified by the State Government under Para 5 of the instruction.
2.	Para 8.1.5 provides for lodging FIRs against the erring parties. Whether prior permission of the competent authority is necessary before lodging an FIR against the erring officer of the State Government.	The office of Ombudsman has no Legal status and as such the provisions of the relevant service rules framed under the concerned State laws have to be observed.
3.	Whether official vehicle or TA/DA will be admissible for conducting spot investigation.	Yes. The said facilities may be provided as per relevant State rules.
4.	The Ombudsman shall be allowed a compensation of Rs.500 per sitting. How many sittings can be held in a month is not mentioned.?	The frequency of sittings by Ombudsman would be need based and no capping in absolute terms can be made in this regard.
5.	Para 9.1.1 of the instructions provide for filing of a complaint against the Gram Sabha with the Ombudsman. Whether a group complaint can be lodged against all persons present in the Gram Sabha.?	Yes. A joint complaint may be lodged against a group of persons present in the Gram Sabha, the actions of which is the cause of the complaint.
6.	Para 8.1.3 empowers the Ombudsman to seek any information or get certified copies of any document relating to the subject matter of the complainant and in case of any failure in this regard, the ombudsman may draw unfavorable inference against the concerned Mahatma Gandhi NREGA authority and in such a case FIR can be lodged against the erring officer. In view of this whether the Ombudsman can recommend any action to be taken against the State level implementing	Para 8.1.3 and Para 8.1.5 are separate and not connected in all cases. Para 8.2.3 clearly mentions the duty of the Ombudsman to send a monthly report to the Chief Secretary and Secretary, State Nodal Department recommending appropriate action. The report shall specifically highlight cases where action needs to be taken against erring Mahatma Gandhi NREGA functionaries for their failure to redress the grievance'. The provision has to be observed irrespective of the

	officer.	status of the erring Mahatma Gandhi NREGA functionary.
7.	Whether social service includes Journalists/ Media	As per Para 2.2.2 of the instructions on Ombudsman, ' 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 , law, academics, social work or management'. The basic feature of social service is that it is provided free of cost and should be for a social cause and in the ultimate interest of the humanity. Journalists/media persons being professionals in their respective field do not come under the category 'social work'.
8.	Police verification of final selected panel.	The very essence of the selection of Ombudsman is that the candidates should be persons of eminent standing and impeccable in their respective field. As per Para 2.2.1 'Prior to appointment, the panel prepared by the Selection Committee may be published on the official website of the State to invite comments from the public. On expiry of 30 days of publication, the comments may be examined by the Selection Committee. All comments and objections may be settled within 30 days of the date of expiry of the period for inviting comments'. In order to have a full proof selection, it is advisable to conduct police verification of final selected panel.
9.	No concurrent power- first as based on the course set in law, then refer to Ombudsman.	The Ombudsman shall have the powers to receive complaints from Mahatma Gandhi NREGA workers & others and consider such complaints in accordance with law. He can even initiate proceedings suo-motu in the event of any circumstance arising within his jurisdiction that may cause any grievance. He can direct redressal, disciplinary and punitive actions. The only bar under Para 10.6 of the instructions is that 'No complaint to the Ombudsman shall lie if the complaint is 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'. Similarly under Para 10.7 ' No complaint shall be made to the Mahatma Gandhi NREGA 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'.
10.	Whether a candidate residing outside the district may be considered	In the selection, preference may be given to a candidate resident of the concerned district so as to take advantage of his first hand knowledge about the district and to have saving on TA/DA etc.

Government of India  
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No. J-11011/21/2008-MGNREGA(Pt.)

Krishi Bhavan, New Delhi 110001  
Dated: 21<sup>st</sup> January 2010

To,

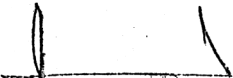
**The Principal Secretary/Secretary**  
Department of Rural Development  
All States/UTs

**Subject: Clarification of issues discussed in Review Meeting on progress in regard to selection of Ombudsman by State Governments as per Order dated 07.09.09 issued by the Ministry under Section 27(1) of Mahatma Gandhi NREGA**

Sir/Madam,

Please find enclosed a copy of clarifications on the issues and doubts raised by the representatives of the States in the meeting on the above subject held on 14.01.2010 at Unnati Hall in Ministry of Rural Development, Krishi Bhava, New Delhi under the Chairpersonship of Secretary (Rural Development.

Yours Sincerely,

  
(R.K. Sood)

Under Secretary Mahatma Gandhi NREGA

Copy to:

1. Sr. PPS to Secretary (RD)
2. PS to JS (S)
3. All official representatives of Ministry of Rural Development on the State Selection committee for Ombudsman.

**Clarification of issues in implementation of ombudsman by the States in the meeting held on 14.01.10.**

Based on the discussions to get feedback from the states who had exercised first level implementation of the ombudsman process following issues arose which are clarified below.

	<b>Issue</b>	<b>Clarification</b>
1.	Request to increase the remuneration of Ombudsman from Rs. 500 to Rs. 1000 (Chattisgarh, Rajasthan)	Remuneration costs are consciously kept low so as to invite those with public spirit as opposed to monetary inclinations.
2.	Lower age limit for Ombudsman applicants (Karnataka)	Twenty years of work experience was sufficient to address the issue and no lower age limit would be set.
3.	Upper age limit for Ombudsman applicants (Uttarakhand)	Upper age limit could not be relaxed and would remain at 65 years.
4.	Bearing of logistics and functioning costs of Ombudsman (Gujarat)	Office expenditure and other logistic costs shall be borne by States under 6% administrative expenditure permitted under section 22 (1) (C) of Mahatma Gandhi NREGA
5.	Ombudsman selection process: suggested names vs. open advertisements. (Gujarat)	Uniformity and transparency should be the hallmark of selection process. Open advertisements was suggested for open and fair selection processes. Names suggested by DPC's should only be taken into consideration, in case, where no responses to advertisements are received
6.	Disciplinary proceedings regarding Ombudsman (Kerala)	Ombudsman is not a judicial body. Ombudsman should direct the State Government to take disciplinary action against an officer found guilty following the laid down procedure for such disciplinary and punitive action. The findings of Ombudsman will be investigated and action will be taken by the government if deemed necessary. It was added that if the ombudsman

		refers a complaint to the government it will be granted due importance and regard, but the ombudsman cannot directly hand out punishments.
7.	Selection Committee Members to submit names for Ombudsman posts. (Rajasthan)	Selection Committee members do not have the authority/permission to submit names for Ombudsman posts as it interferes with transparent procedures installed for the selection process.
8.	The State Government shall specify the territorial jurisdiction of each Ombudsman in terms of a district. (Haryana)	One Ombudsman can have more than one district as jurisdiction. There can be more than one Ombudsman in one district depending on the volume of complaints. Such deputy Ombudsman are included within the meaning of Ombudsman as per para 1.8 of instruction of Ombudsman.
9.	Penalty cap of Rs. 1000 and if it could be exceeded on imposition of costs prescribed by the ombudsman on a District Collector. (Rajasthan)	Penalty as under section 25 of Mahatma Gandhi NREGA and costs as per para 13.2.6 of instruction of Ombudsman is different from each other. The penalty on the convicted person shall not exceed Rs. 1000. Ombudsman Order clause 13.2 states that award passed under sub clause 13.1 shall be a speaking order consisting of a few components including 13.2.6 "Costs, if any" that shall be decided by the Ombudsman.
10.	Publishing of list of all ombudsman applicants without approval of selection committee. (Nagaland)	There must be commitment for publishing a panel of suitable persons for appointment as Ombudsman after approval of selection committee. A final list to be published on the website, inviting comments. The Ombudsman selection committee has to be present on

		both occasions, during the preliminary review of candidates and during the short listing process post public scrutiny.
11.	Intimation for convening for meeting of selection committee to approve the panel for appointment as Ombudsman.	Committee members representing Ministry of rural Development and eminent civil society persons should be intimated at least 15 days in advance to attend the meeting.
12.	Selection process having written tests and interviews for selection of Ombudsman with similar background (Orissa)	Tests were not permitted and that an internal marking system could be created by the committee in order to create a balance between applications from each category of eligible persons.
13.	Independence of Ombudsman from DRDA. (Andhra Pradesh)	Combined synergy of the ombudsman and DRDA would be tried for a period of one year, and if changes were necessary later, appropriate action would be taken for the same.