


MANIPUR GAZETTE
सत्यमेव जयते

**EXTRAORDINARY
PUBLISHED BY AUTHORITY**

No. 364

Imphal, Wednesday, February 3, 2021

(Magha 14, 1942)

**GOVERNMENT OF MANIPUR
SECRETARIAT : HEALTH DEPARTMENT**

NOTIFICATION

Imphal, the 12th January, 2021

No. MACS-701/1/2020-HS-HEALTH: In exercise of powers conferred by Section 49 read with Sections 23, 24 and 25 of the Human Immunodeficiency Virus And Acquired Immune Deficiency Syndrome(Prevention And Control)Act,2017 (Central Act 16 of 2017), to provide for the appointment, terms and conditions, qualifications and manner of inquiry by Ombudsman, the Government of Manipur hereby makes the following rules:-

THE MANIPUR STATE HUMAN IMMUNODEFICIENCY VIRUS AND ACQUIRED IMMUNE DEFICIENCY SYNDROME (OMBUDSMAN AND LEGAL PROCEEDINGS) RULES 2020.

**Chapter – I
Preliminary**

1. Short title and commencement

- (1) These Rules shall be called the Manipur State Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Ombudsman and Legal Proceedings) Rules, 2020.
- (2) They shall come into force from the date of their publication in the Official Gazette.

2. Definitions

In these rules unless the context otherwise requires, -

- (a) “Act” means the Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Prevention and Control) Act, 2017 (No.16 of 2017);
- (b) Appropriate authority” means, unless otherwise notified, the National AIDS Control Organisation in the case of the Central Government and the Manipur State AIDS Control Society in the case of the State Government;
- (c) “Form” means the forms annexed to these Rules and such as may be notified from time to time by the State Government to be used for the purposes of the Act and these Rules;
- (d) “High burden districts” means districts notified as such by the appropriate authority under the Central Government of India from time to time;
- (e) “High Risk Groups (HRG)” means populations with high risk behavior for contracting HIV include Female Sex Workers (FSW), Men who have Sex with Men (MSM), Injecting Drug Users (IDU);

- (f) “Ombudsman” means an Officer appointed or designated by the State Government as the case may be, under section 23 of the Act;
- (g) “Protected Persons” means a person who is :-
 - (i) HIV-positive; or
 - (ii) ordinarily living, residing or cohabiting with a person who is HIV-positive; or
 - (iii) ordinarily lived, resided or cohabited with a person who was HIV-positive;
- (h) “Rules” means Manipur State Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome (Ombudsman and Legal Proceedings) Rules, 2020; and
- (i) Words and expressions used and not defined in these rules but defined in the Act shall have the meanings assigned to them in the Act.

Chapter- II

3. Appointment & Jurisdiction of Ombudsman

The State Government shall appoint one Ombudsman within 3 months from the date of publication of these Rules in the Official Gazette.

4. Qualification and experience of Ombudsman

Any person who is a retired District and Sessions Judge, or who has minimum ten years working experience or extensive knowledge in matters relating to public health or health delivery systems, or is a qualified health care provider who is a physician with a minimum of ten years works experience, or is a person working in non-governmental organization with similar experience and knowledge:

Provided that where a person other than a retired District and Sessions Judge is appointed as an Ombudsman, the State Government shall provide him with assistance from the Department of Law and Legislative Affairs on legal issues that may arise in the course of his work, if so requested.

5. Capacity Building and Sensitization:Capacity building and sensitization shall be organised to all stakeholders including Ombudsman within thirty days of appointment of the Ombudsman.

6. Terms and conditions of services of Ombudsman

- (1) The place of sitting including court room for the Ombudsman shall be at the office of the Manipur State AIDS Control Society, Imphal.
- (2) A person appointed as Ombudsman shall be conferred the rank of Director, Health Services.
- (3) The Ombudsman, he shall be provided with office vehicle and driver by the Health Department, Government of Manipur if he is not provided already by the

Government. In the event of appointment of retired Judicial Officer, he shall be paid the last pay minus pension plus other amenities entitled as per relevant Rules.

- (4) Sufficient manpower is to be provided for the office of the Ombudsman for the discharge of the duty of Ombudsman along with office expenses by the Health Department, Government of Manipur.
- (5) The Ombudsman shall carry out his functions as an officer of the Department of Health & Family Welfare.
- (6) The jurisdiction of the Ombudsman shall extend to the whole of the State of Manipur.
- (7) The Ombudsman shall be eligible for salary and allowances at such rates as the rank he holds or held in the State Government or according to the applicable Civil Service Rules.
- (8) The Ombudsman shall hold office for a term of three years and shall be eligible for reappointment for another three years:

Provided that no Ombudsman shall hold office as such after he has attained the age of seventy years.

- (9) The Ombudsman may relinquish office by giving written notice of not less than three months to the State Government.
- (10) The State Government shall remove an Ombudsman from office who:-
 - (i) is, or at any time has been, adjudged insolvent;
 - (ii) has become physically or mentally incapable of acting as Ombudsman;
 - (iii) has been convicted of any offence or has acquired such financial or other interest which is in the opinion of the State Government likely to prejudicially affect such person's functions as the Ombudsman; or
 - (iv) has so abused the position as to render continuation in office detrimental to the public interest:

Provided that an Ombudsman shall not be removed from office without getting a reasonable opportunity of being heard in the matter.

7. Manner of inquiring into complaints by Ombudsman

- (a) The Ombudsman shall act in an objective and independent manner when inquiring into complaints made under the Act.
- (b) The inquiry shall satisfy the basic principles of natural justice and both the complainant and the opposite party shall be given an opportunity of being heard.

- (c) The Ombudsman shall conduct inquiry in a friendly manner and will not use adversarial or accusatory words or words that adversely impact the dignity or self-esteem of the complainant and concerned officials.
- (d) The Ombudsman may, in the interests of justice, take the assistance of experts, including protected persons and persons vulnerable to HIV and persons working in the fields of HIV and AIDS, public health or health delivery systems.
- (e) The Ombudsman shall have the power to pass interim orders in cases of medical emergency without hearing the parties.
- (f) The Ombudsman shall have the power to pass orders, including to, withdrawal and rectification of the violation, counseling, social service etc.
- (g) The enquiry of Ombudsman shall be completed within 30 days from receiving the complaint (as per section 26 of the Act).
- (h) The Ombudsman shall inform the complainant of the action taken in relation to the complaint within 2 weeks from the date of filing complaint; and shall be responsible for ensuring that the complaints, their number and nature, and the action taken and orders passed in relation to such complaint are informed to the complainant through telephone, SMS, email or Whatsapp.
- (i) The Ombudsman shall submit a Quarterly Report to Department of Health & Family Welfare, Department of Law and Legislative Affairs and Manipur State AIDS Control Society on disposal of cases and pendency of cases in manner as may be prescribed in Form-I for review of pendency of cases.
- (j) The Ombudsman shall inform the parties to the complaint of their right to seek judicial review from the Ombudsman's order.

8 Manner of maintaining records by Ombudsman:

Under Section 24(3)

- (1) The Ombudsman shall –
 - (a) immediately on receipt of a complaint, record it by assigning a sequential unique complaint number in a register maintained solely for that purpose in physical or computerized form;
 - (b) on receipt of the complaint, acknowledge it including by sending the unique complaint number by SMS or e-mail to the complainant where available;
 - (c) record the time of the complaint and the action taken on the complaint in the register; and
 - (d) maintain the register of complaints in a manner that ensures confidentiality of data as specified in Rule 11.

- (2) The Ombudsman shall comply with data protection measures in accordance with Section 11 of the Act.

9. Manner of making complaints to Ombudsman

(Under Section 25)

- (1) Any person may make a complaint to the Ombudsman, within three months from the date the person making the complaint became aware of the alleged violation of the Act:

Provided that the Ombudsman may, for reasons to be recorded in writing, extend the time limit to make the complaint by a further period of three months, if he is satisfied that circumstances prevented the complainant from making the complaint within the stipulated period.

- (2) All complaints shall be made to the Ombudsman in writing in accordance with Form -II appended to these rules:

Provided that where a complaint cannot be made in writing the Ombudsman shall render all reasonable assistance to the complainant to reduce the complaint in writing.

- (3) In case of medical emergency, the Ombudsman or his assistant may visit the complainant at the location of the alleged violation or any other convenient place to enable written documentation of the complaint.
- (4) The Ombudsman may receive complaints made in person, via post, telephonically, SMS or Whatsapp.

10. State Government to disseminate information on Ombudsman:

- (1) Within thirty days of the appointment of the Ombudsman, the appropriate authority under the State Government shall disseminate information about the office of the Ombudsman, role, functioning and procedures, and the manner in which complaints can be made to the Ombudsman.
- (2) Such dissemination shall be undertaken to advance the understanding, in particular, of protected persons, healthcare workers, legal aid service authorities, civil authorities and law enforcement agencies.

11. Manner of recording pseudonym and providing suppression of identity in legal proceedings:

[Under Section 34(1)(a)]

- (1) In any legal proceeding where a court, pursuant to section 34(1) (a) of the Act directs, on an application made by a protected person or any other person, that in the

interests of justice the proceeding or any part thereof be conducted by suppressing the identity of such protected person, the court shall direct all parties involved to:-

- (i) File one copy of the documents bearing the full name, identity and identifying details of the parties concerned before the court, which shall be kept in a sealed cover and in safe custody with the Registrar or Bench Clerk of the court; and
 - (ii) Serve one copy of documents bearing the full name, identity and identifying details of the parties concerned upon other parties in the proceeding with a requirement to ensure that the full name and identity of the parties concerned are kept confidential.
- (2) The court shall provide pseudonyms to protected persons involved in the legal proceedings in the documents filed before the court in such manner that the identity and identifying details of the protected person involved in the legal proceeding are kept confidential.
 - (3) The Registrar or Bench Clerk of the court shall place the sealed covered documents before the court on the first date the legal proceeding is listed for hearing before the court, if so required by the court.
 - (4) The identities of the protected person involved in the legal proceeding and their identifying details shall be displayed in pseudonym in all documentation generated by the court in relation to the legal proceeding, including listing of the case on the Court Board or Court Room Display, interim orders and final judgments.
 - (5) The identity and identifying details of the protected person involved in the legal proceeding shall not be revealed by any person or their representatives including assistants and staff.

Exception: Where in the interest of justice the name and identity of the protected person needs to be revealed to a third party, it shall only be allowed by an order of the court.

- (6) Printing or publishing any matter in relation to the aforementioned legal proceedings in electronic or any other form, shall be lawful only if the same is done by ensuring the suppression of identities of the parties in the legal proceeding.
- (7) In any legal proceeding before it under the Act, the court shall comply with data protection measures in accordance with section 11 of the Act.

Chapter III **Miscellaneous**

12. Prevention of transmission of HIV:

An HIV infected person shall take every precaution by disclosing his or her HIV status to his or her sexual partner so as to prevent transmission of HIV.

13. Care and protection of children:

State Government shall take appropriate awareness for care and protection of all children affected by HIV or HIV positive children which also include HIV prevention, counseling and testing activities.

14. Elimination of Mother to Child Transmission (EMTCT) of HIV:

State Government shall take appropriate awareness and steps for screening of all pregnant women.

15. Protection of HRGs:

State Government shall take appropriate awareness and steps for the protection of human rights of HRGs.

16. This is issued in pursuance of Cabinet decision taken on 19/12/2020.

V. VUMLUNMANG,
Principal Secretary (Health and Family Welfare),
Government of Manipur.

APPENDIX

FORM –I

Quarterly Report
In respect of the complaints filed in the office of Ombudsman.
(under Rules 7(i))

Period from to

Sl No.	Complaint Case No.	Name of Complainant(s)	Date of Filing	Matter	Status of Complaint/ Case	Date of Disposed	Remarks
1							
2							
3							
4							
5							

1. No. of Case (s) disposed of :-
2. No. of Case (s) pending:-

Imphal, Dated:.....

Signature of Reporting Authority

Name:.....

Designation:

FORM – II

Form for making Complaint to Ombudsman under Rule 9(2)

(1) Date of Incident -----

(2) Place of Incident

(3) Description of Incident

(4) Person /Institution responsible for the incident

(5) Signature /Thumb Impression of Complainant*

Name:

Date:.....

Mobile No/email/Fax/Address:

For Official Use only:

Unique Complaint Number:

*Where the complaint is received telephonically and reduced to writing by the Ombudsman, the Ombudsman shall sign the Form