

THIRD SCHEDULE

[See Section 134(6)]

ORGANISATION, DUTIES AND POWERS OF ZILA MOHTASIB

1. SELECTION.

- (1) The Government shall constitute a selection committee comprising the following three members:-
 - (i) a Judge of the High Court nominated by the Chief Justice of the High Court;
 - (ii) a member of Public Service Commission;
 - (iii) the Provincial Mohtasib.
- (2) The selection committee shall advertise the position specifying the criteria of qualifications and experience for the appointment of Mohtasib.
- (3) A person selected by the selection committee to be a Zila Mohtasib shall be appointed through a notification by the Zila Council.
- (4) The Mohtasib shall take oath before the Zila Council.

2. MOHTASIB NOT TO HOLD ANY OTHER OFFICE OF PROFIT, ETC.

The Mohtasib shall not hold any other office of profit in the service of Pakistan; or, occupy any other position carrying the right to remuneration for rendering of services.

3. TERMS AND CONDITIONS OF SERVICE.

- (1) The Mohtasib shall be entitled to such salary, allowances and privileges and other terms and conditions of service as the Government may determine.
- (2) The Mohtasib shall not be governed by the Civil Servants (Efficiency & Discipline) Rules.
- (3) The Mohtasib may be removed from office by the Zila Council on ground of physical or mental incapacity only.
- (4) A Mohtasib removed from office on the ground under sub-section (3) shall not be eligible to hold any office of profit in the service of Local Government in the District.

4. JURISDICTION, FUNCTIONS, AND POWERS OF THE MOHTASIB.

- (1) The Zila Mohtasib shall on a complaint by any aggrieved person or of his own motion, undertake any investigation into any allegation of mal-administration on the part of any office or Local Government or any of its officers or employees.
- (2) The Zila Mohtasib shall, on a complaint by an official employed at any level of Local Government, under take investigation into allegation of an unlawful or motivated order passed by a Nazim, Naib Nazim or any superior or supervisory officer:

Provided that the Mohtasib shall not have any jurisdiction to investigate or inquire into any matter which:

- (3) is sub-judice before a Court of competent jurisdiction or tribunal or board in Pakistan on the date of the receipt of a complaint, reference or motion by him; or,
- (4) relates to any matter outside the purview of the Local Government.
- (5) Notwithstanding anything contained in sub-clause (1), the Mohtasib shall not accept for investigation any complaint by or on behalf of a public servant or functionary concerning any matters relating to the department in which he is, or has been, working in respect of any personal grievance relating to his service therein.

5. PROCEDURE AND EVIDENCE.

- (1) A complaint shall be made on solemn affirmation in writing addressed to the Zila Mohtasib by the person aggrieved or, in the case of his death, by his legal representative.
- (2) No anonymous or pseudonymous complaints shall be entertained.
- (3) A complaint shall be made not later than six months from the date on which the person aggrieved first had the notice of the matter alleged in the complaint, but the Mohtasib may conduct any investigation pursuant to a complaint which is not within time if he considers that there are special circumstances which make it proper for him to do so.
- (4) On acceptance of a complaint, the Mohtasib shall issue to the Executive District Officer of the office concerned, and any other person who is alleged in the complaint, a notice to rebut or redress the complaint:

Provided that the Mohtasib may proceed with the investigation if no response to the notice is received within thirty days of the receipt of the notice or, extension as may be allowed by the Mohtasib.

- (5) The Mohtasib may adopt any lawful procedure he considers appropriate for investigation.
- (6) A person shall be entitled to appear in person or be represented before the Mohtasib.
- (7) The conduct of an investigation shall not affect any action taken by the department concerned, or any power or duty of that department to take further action with respect to any matter subject to the investigation.
- (8) For the purposes of an investigation, the Mohtasib may require any officer or member of the office concerned to furnish any information or to produce any document, which is considered relevant and helpful in the investigation:

Provided that the Mohtasib may, in his discretion, on grounds of its being a secret, allow claim of privilege with respect to any information or document.

- (9) In any case where the Mohtasib decides not to conduct an investigation, he shall send to the complainant a statement of his reasons for not conducting the investigation.
- (10) The Mohtasib shall regulate the procedure for the conduct of business or the exercise of powers subject to this Ordinance.

6. RECOMMENDATIONS FOR IMPLEMENTATION.

- (1) After having considered a matter, on his own motion, or on a complaint or on a reference by the Zila Nazim, the Zila Council, or on a motion by the District Judge, as the case may be, if the Mohtasib determines that it amounts to mal-administration, he shall specify a corrective/redressal measure and communicate his recommendation to the office concerned along with a copy to the complainant or the office making a reference to:
 - (a) consider the matter further;
 - (b) modify or cancel the decision, process or recommendation;
 - (c) explain more carefully the act or decision in question;
 - (d) take disciplinary action against any public servant of any office under the relevant laws applicable to him;
 - (e) dispose of the matter or case within a specified time;
 - (f) implement his recommendations to improve the working and efficiency of the office, within a specified time; or
 - (g) take any other step as deemed appropriate by the Mohtasib.
- (2) The office concerned shall, within such time as may be specified by the Mohtasib, inform him about the implementation of his recommendation or the reasons for not complying with the same.

7. NON-COMPLIANCE OF RECOMMENDATION.

- (1) In case of 'Non-compliance' of his recommendations, the Mohtasib may refer the matter to the Zila Nazim who shall direct the office concerned to implement the Mohtasib's recommendations within the specified time limit and inform the Mohtasib accordingly.
- (2) In case the Zila Nazim believes that implementation of the Mohtasib's recommendation is not in the public interest, he shall refer the matter to the Mohtasib for reconsideration stating the reasons for non-implementation.
- (3) If the Mohtasib reaffirms his earlier recommendation, the Zila Nazim may refer the matter to the Chairman, Local Government Commission stating the grounds for not implementing the Mohtasib's recommendation in a particular case.
- (4) The Chairman, Local Government Commission's decision on a reference by Zila Nazim under sub-section ²¹⁴[(3)], shall be dispositive.

8. PUNITIVE ACTION ON REFERENCE BY MOHTASIB.

- (1) Where the Mohtasib is satisfied that any public servant is guilty of mal-administration, he may also recommend initiation of disciplinary action against the concerned official.
- (2) In case the Mohtasib has reason to believe that any public servant has committed an offence, he may ask the concerned authority to institute criminal proceedings against such official.

9. POWERS OF THE MOHTASIB.

- (1) The Mohtasib shall, for the purposes of this Ordinance, have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Act V of 1908), in respect of the following matters, namely:-
 - (a) summoning and enforcing the attendance of any person and examining him on oath;
 - (b) compelling the production of documents;
 - (c) receiving evidence on affidavits; and
 - (d) issuing commission for the examination of witnesses.
- (2) The Mohtasib shall have the power to require any person to furnish information on such points or matters as, in the opinion of the Mohtasib, may be useful for, or relevant to, the subject matter of any inspection or investigation.
- (3) The powers referred to in sub-clause (1) may be exercised by the Mohtasib or any person authorised in writing by the Mohtasib.
- (4) Where the Mohtasib finds a complaint or reference to be false, frivolous, vexatious or malafide, he may award reasonable compensation to the office, public servant or other functionary against whom the complaint was made, and the amount of such compensation shall be recoverable from the complainant as arrears of land revenue:

Provided that the award of compensation under this clause shall not debar the aggrieved person from seeking civil and criminal remedy.
- (5) If any office, public servant or other functionary fails to comply with a direction of the Mohtasib, he may in addition to taking other actions under this Ordinance, refer the matter to the appropriate authority for taking disciplinary action against the person who disregarded the direction of the Mohtasib.

10. POWER TO INSPECT.

Subject to the provisions of the Code of Criminal Procedure, 1898 (Act V of 1898), the Mohtasib or any official authorised by him may:

- (1) inspect any article, book of accounts or other documents;
- (2) take extract or copies of such books of accounts and documents;
- (3) impound or seal any articles, books of accounts and documents.

11. AWARD OF COSTS, COMPENSATION AND REFUNDS OF AMOUNTS.

The Mohtasib may, where he deems necessary, call upon a public servant, or any office to show cause why compensation be not awarded to an aggrieved party for any loss or damage suffered by him on account of any mal-administration committed by such public servant or office, and after hearing such public servant or office, may award reasonable costs or compensation to the aggrieved person from the public servant or office or may withdraw the show cause notice.

12. ASSISTANCE AND ADVICE TO MOHTASIB.

- (1) The Local Government and its officials shall provide assistance to the Mohtasib in the performance of his functions under this Ordinance.

- (2) All officers of any office and any person whose assistance has been sought by the Mohtasib in the performance of his functions shall render such assistance to the extent it is within their power or capacity.
- (3) No statement made by a person or authority in the course of giving evidence before the Mohtasib or his staff shall subject him to, or be used against him in any civil or criminal proceedings except for prosecution of such person for giving false evidence.

13. CONDUCT OF BUSINESS.

- (1) The Mohtasib shall be the executive head of his office.
- (2) The District Government shall provide budgetary allocation for the office of the Mohtasib.
- (3) The Mohtasib shall be the Principal Accounting Officer of the office in respect of the expenditure incurred against budget grant or grants controlled by the Mohtasib and shall, for this purpose, exercise all the financial and administrative powers delegated to the District Coordination Officer.

14. AFFIDAVITS.

The Mohtasib may require any complainant or any party connected or concerned with a complaint or with any inquiry or reference, to submit affidavit attested or notarised before any competent authority in that behalf within the time specified by the Mohtasib or his staff.

15. MOHTASIB AND STAFF TO BE PUBLIC SERVANTS.

The Mohtasib, the employees, officers and all other staff of the office shall be deemed to be public servants within the meaning of Section 21 of the Pakistan Penal Code (Act XLV of 1860).

16. ANNUAL AND OTHER REPORTS.

- (1) Within three months of conclusion of the calendar year to which the report pertains, the Mohtasib shall present an annual report to the Zila Council stating the objectives achieved during a year including the relief provided to the complainants having grievance against mal-administration by the District Government, and to the Taluka/Town Council, in relation to redressal of grievances in respect of mal-administration by Taluka/Town or Union Municipal Administration.
- (2) Simultaneously, reports referred to in sub-section (1) shall be released for publication and copies thereof shall be provided to the public at reasonable cost.
- (3) The Mohtasib may also, from time to time, make public any of his studies, research, conclusions, recommendations, ideas or suggestions in respect of any matters being dealt with by the office.

17. BAR OR JURISDICTION.

No Court or other authority shall have jurisdiction to grant an injunction or stay or to make any interim order in relation to any proceeding sub-judice before the Mohtasib.

18. LIMITED IMMUNITY.

No suit, prosecution or other legal proceeding shall lie against the Mohtasib, his staff, nominees, or any person authorised by the Mohtasib for any action or decision taken in good faith to carry out his duties and responsibilities.

19. INFORMAL RESOLUTION OF DISPUTES.

Notwithstanding any thing contained in the Ordinance, the Mohtasib and a member of the staff shall have the authority to informally conciliate, amicably resolve, stipulate, settle or ameliorate any grievance without written memorandum and without the necessity of docketing any complaint or issuing any official notice.

