

SCHEME FOR THE REDRESSAL OF PUBLIC COMPLAINTS

The Pakistan Law Commission examined the problem of piling up of public complaints against the government institutions and the lack of any effective system of reporting grievances to the concerned department/agency for seeking redressal and relief. Currently there is no administrative mechanism at the Federal or Provincial level for entertaining complaints and giving redressal when such complaint is found to be justified. The only forum for offering relief in this area is the office of Wafaqi Mohtasib. However, as is evident from experience, the Wafaqi Mohtasib has limited jurisdiction and powers to offer effective and adequate relief.

The Wafaqi Mohtasib in his annual report for the year 1984 explains that in several complaints reported to him, he found that the grievance was not necessarily intentional but caused by oversight or some misunderstanding on the part of official, dealing with the case. He, therefore, suggests that such complaints rather than brought to his office, should appropriately been dealt with by the concerned agency. Therefore, the Wafaqi Mohtasib Secretariat through public notice advised the public to approach the concerned agency for remedy before addressing a complaint to this effect to the Ombudsman office. The report also states that in a number of cases, grievances were removed on mere intimation of threat to the government department/agency that unless the grievance is removed, a formal complaint to this effect will be lodged with the Wafaqi Mohtasib. The Commission, therefore, takes the view that it would be proper if grievances are first addressed to the concerned agency before reported to the Wafaqi Mohtasib. This will naturally save time and money of the public and reduce the workload of the Wafaqi Mohtasib, enabling this office to play its role more effectively. However, at present there is no formal forum available for the purpose nor any mechanism exists to deal with such complaints. This is not to say that there are absolutely no channels whatsoever for resolving public complaints. Indeed some channels do exist but they operate in an informal manner. For example, open katchehries are held by public functionaries and public complaint boxes have been installed in a few departments/offices. Besides, certain departments/agencies have

prescribed timings for entertaining public complaints. However, these measures are informal, generally unregulated, therefore, are not of permanent character and could not provide effective remedy.

The Islamic history speak of the existence of the system of administrative corrections, called Hisba. This system has remained in operation side by side with the judicial system. This system was borrowed by the West in the form of Ombudsman. The office of Ombudsman was established in Pakistan in 1983. The Commission, however, takes the view that an effective redressal of public grievance at the department/agency level should be introduced before a formal complaint is made to the Wafaqi Mohtasib. This measure will supplement the work of the Ombudsman and help the public in getting cheap and expeditious relief at the lower level. Therefore, the Commission proposes a draft legislation, titled, the Public Complaints (Removal of Grievances) Act, 1992 to provide a mechanism of systematic redressal of complaints by the head of the concerned agency under the overall check/supervision of Wafaqi Mohtasib. The salient features of the proposed scheme are:-

- (a) all complaints will be addressed to an officer incharge of the government agency;
- (b) if such officer thinks that no action is required on the complaint, he will inform the complainant within fifteen days of receipt of such complaint. In case action is required, he should decide the case within thirty days and inform the complainant within next seven days thereafter;
- (c) in case the proceedings take a period exceeding thirty days, the complainant, if not participating in the proceedings, will be informed of the progress of the proceedings, fortnightly;
- (d) if no decision is reached within ninety days of receipt of complaint, the officer concerned will report the matter to the Wafaqi Mohtasib who will pass an appropriate order in the case;

- (e) violation of any provision of the proposed legislation will be an act of maladministration, liable to an action under the Establishment of Office of Wafaqi Mohtasib (Ombudsman) Order, 1983.**

The Commission recommends that the proposed draft legislation may be given legislative effect by the Federal Government. The Commission further recommends that similar legislation may be made by the Government of Sind where the Office of Provincial Mohtasib exists. The Commission reiterates its earlier recommendation that Provincial Mohtasibs be appointed at the earliest in the Provinces of Punjab, NWFP and Baluchistan.

PUBLIC COMPLAINTS (REMOVAL OF GRIEVANCE) ACT, 1992

Whereas it is expedient to provide mechanism for speedy removal of public grievances against the acts of omission or commission of a State Agency, and to provide a procedure for disposal of complaints;

It is hereby enacted as follows:

1. **Short title and commencement.-** (1) This Act may be called the **Public Complaints (Removal of Grievance) Act, 1992.**
 - (2) It extends to the whole of Pakistan.
 - (3) It shall come into force at once.

2. **Definitions.-** In this Act, unless there is anything repugnant in the subject or context.-
 - (a) "Act of Public Grievance" includes an act of omission or commission, default or negligent in discharge of duty or obligation imposed by law or the Constitution of Islamic Republic of Pakistan, 1973".

 - (b) "Agency" includes any body politic or corporate, any authority of or under the control of Federal Government or of a Provincial Government, or any statutory corporation or body, or any corporation owned or controlled by the State or any office, department of the Federal Government in relation to which the Wafaqi Mohtasib has jurisdiction to take any action.

 - (c) "Competent Authority" includes an officer incharge of an agency competent to take any action upon a complaint in relation to its functions.

3. Complaints against act of public grievance.- (1) The competent authority on receipt of a complaint in relation to an act of public grievance shall, within fifteen days of receipt of complaint, inform the complainant of its decision whether an action by such authority is required to be taken upon such complaint or not, and if no action is required to be taken, the reasons thereof.

(2) Where the competent authority proceeds to take an action, it shall be decided within 30 days and the complainant shall be informed about the result within seven days of such decision.

Provided that if such a decision could not be reached within thirty days, the complainant, if not already participating in such proceedings, shall be informed of progress within seven days and thereafter within every fortnight.

4. Report to Wafaqi Mohtasib.- Where the decision under sub-section (2) of Section 3, could not be taken within ninety days from the date of receipt of complaint, the competent authority shall, within the next seven days submit a report in this behalf to the Wafaqi Mohtasib who may pass any direction as he may deem fit.

5. Violation of provision of the Law.- A violation of provision of this law shall be an act of maladministration as defined in Article 2, clause (2) of the Establishment of office of Wafaqi Mohtasib (Ombudsman) Order, 1983 and shall be placed on the service record of the competent authority concerned.

STATEMENT OF OBJECTS AND REASONS

This recommendation of the Pakistan Law Commission seeks to enact a new legislation for providing a mechanism for speedy removal of public grievances and to empower the Wafaqi Mohtasib to exercise his authority in case of default by the State agency.