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EXTRAORDINARY

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GOVERNMENT OF ARUNACHAL PRADESH
DEPARTMENT OF HEALTH AND FAMILY WELFARE
NAHARLAGUN

NOTIFICATION

The 4th May, 2022

No. MAIDS-IEC/HACT/2018-19.— **1. Short title, extent and commencement :** (1) These Rules may be called the Arunachal Pradesh Human Immunodeficiency Virus and Acquired Immune Deficiency Syndrome Ombudsman (Legal Proceedings) Rules, 2020.

(2) These Rules shall come into force on 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 Arunachal Pradesh State AIDS Control Society in the case of the Government of Arunachal Pradesh;
- (c) "High burden districts" means districts notified as such by the appropriate authority from time to time;
- (d) "Ombudsman" means an Officer appointed or designated by the Government of Arunachal Pradesh, as the case may be, under section 23 of the Act;
- (e) "State Government" means the Government of Arunachal Pradesh.
- (f) 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.

3. Provision of Diagnostic Facilities of HIV/AIDS, ART and Opportunistic Infections management : The State Government shall ensure measures to provide free diagnostic facilities relating to HIV/AIDS, Anti-Retroviral therapy and opportunistic infections management people living with HIV/AIDS and for the prevention of spread of HIV/AIDS in accordance with the guidelines under Sec 14 issued by the Central Government.

4. Qualification and experience of Ombudsman : The person to be appointed as ombudsman shall have the following qualification and experience : A retired District/Session Judge : or A person with minimum 10 years working experience and having extensive knowledge in the matters relating to Public Health or Health Delivery System ; or A person with minimum 10 years working experience in Health Care Provider; or A person working in an Non-Governmental Organization with working experience and knowledge in matters relating to Public Health.

5. Terms and conditions of services of Ombudsman : (1) A person appointed as Ombudsman shall be conferred the rank of Director, Health Services.

- (2) The Ombudsman shall carry out his functions as a legal person and quasi-judicial authority shall undergo capacity building and sensitisation within 30 (thirty) days from the date appointment.
- (3) The Ombudsman shall be eligible for salary and allowances (including pay and perk) at such rates as the rank of a Director in the State Government or according to the applicable Civil Service Rules.
- (4) The salary and allowances of the Ombudsman shall be maintained by the Department of Health Services.

- (5) 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.

- (6) The Ombudsman may relinquish office by giving written notice of not less than three months to the State Government.

- (7) The State Government shall remove an Ombudsman from office who is, or at any time has been, adjudged insolvent; has become physically or mentally incapable of acting as Ombudsman; 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 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.

- 6. Manner of inquiring into complaints by Ombudsman :** The Ombudsman shall act in an objective and independent manner when inquiring into complaints made under the Act. While inquiring into complaints under the Act, the Ombudsman shall not be strictly bound by any rules of evidence and may follow such procedure as he considers just and proper.

No cross-examination shall be permitted in inquiries before the Ombudsman.

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.

The Ombudsman shall have the power to pass interim orders in cases of medical emergency without hearing the parties.

The Ombudsman shall have the power to pass orders, including to, withdrawal and rectification of the violation, counselling, social service etc.

The Ombudsman shall inform the complainant of the action taken within a reasonable time period.

The Ombudsman shall inform the parties to the complaint of their right to seek judicial review from the Ombudsman's order.

- 7. Manner of maintaining records by Ombudsman :** (1) The Ombudsman shall -

- 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;
 - on receipt of the complaint, acknowledge it including by sending the unique complaint number by SMS or e-mail to the complainant where available;
 - record the time of the complaint and the action taken on the complaint in the register; and
 - maintain the register of complaints in a manner that ensures confidentiality of data as specified in clause (a) of this rule.
- (2) The Ombudsman shall comply with data protection measures in accordance with section 11 of the Act.

- 8. Manner of making complaints to Ombudsman :** (1) Any person may make a complaint to the Ombudsman within whose jurisdiction the alleged violation took place, within three months from the date that 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 the form set out in the Appendix to the 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.

- In cases 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.
- The Ombudsman may also receive complaints made in person, via post, telephonically, or through electronic form through the Ombudsman's website.

Provided that the State Government shall within seven days of the appointment of the Ombudsman establish a website of the Ombudsman for this purpose.

9. **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, including the Ombudsman's jurisdiction, 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 services authorities and civil authorities.

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

(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 Registrar of the court shall direct all parties involved to: -

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; and 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 Registrar 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 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, 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.

P. Parthiban, IAS
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