

**File No. A-42/13/2021-LOKPAL**



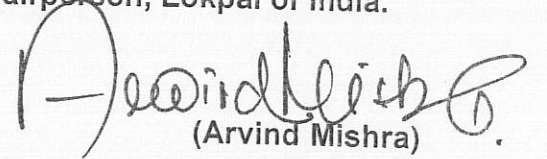
**भारत के लोकपाल  
Lokpal of India**

Plot No-6, Phase II,  
Institutional Area, Vasant Kunj,  
New Delhi-110070, dated 21/09/2021.

**Subject: Procedure for Preliminary Inquiry under the Lokpal and Lokayuktas Act, 2013.**

The undersigned is directed to enclose herewith a copy of Circular Number 03/2021 dated 09.09.2021 regarding the procedure for Preliminary Inquiry under the Lokpal and Lokayuktas Act, 2013

2. This issues with the approval of the Hon'ble Chairperson, Lokpal of India.

  
(Arvind Mishra)  
Deputy Registrar,  
Lokpal of India.

To

1. PPS to Hon'ble Chairperson, Lokpal of India.
2. PPS to all the Hon'ble Members, Lokpal of India.
3. PPS to Secretary, Lokpal of India.
4. Director, Central Bureau of Investigation, New Delhi.
5. Secretary, Central Vigilance Commission, New Delhi.
6. Under Secretary (Complaint), Lokpal of India.
7. Court Masters, Lokpal of India.
8. Section Officer (Judicial Branch), Lokpal of India.
9. NIC for uploading on the website of the Lokpal of India.

Encl:- As Above.

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Institutional Area, Vasant Kunj,  
New Delhi-110070, dated 09/09/2021.

**C I R C U L A R N O. 03/2021**

**Subject: Procedure for Preliminary Inquiry under the Lokpal and Lokayuktas Act, 2013.**

**General**

1. The basic objective of conducting a preliminary inquiry is to ascertain whether there is any basis to the allegations made in the complaint and to decide whether Lokpal of India should proceed further in the matter. This step has been provided to avoid unnecessary harassment of public servants by eliminating malicious, vexatious, and frivolous complaints.
2. The term 'preliminary inquiry' is defined in section 2(m) of the Lokpal and Lokayuktas Act 2013 (hereinafter referred to as 'the Act') as 'an inquiry conducted under this Act'. Therefore a preliminary inquiry ordered by the Lokpal of India is required to be conducted as per provisions of the Lokpal and Lokayuktas Act, 2013 and rules, regulations, circulars, and guidelines issued thereunder.
3. As per provisions contained in Section 56 of the Act, these guidelines will override anything inconsistent in any other enactment or any instrument having effect by virtue of any enactment.

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4. The guidelines contained herein will be applicable for conducting preliminary inquiry in the following categories of complaints:-
- a) Complaints referred to Central Vigilance Commission (CVC) under provisions of Section 20 (1)
  - b) Complaints in which Preliminary Inquiry has been ordered to be done through:-
    - (1) Inquiry Wing of Lokpal
    - (2) Delhi Special Police Establishment
    - (3) Any other agency
  - c) Complaints in which Lokpal has, for the purpose of the preliminary inquiry, decided to utilize services of any officer, or organization, or investigating agency of the Central Government or any State Government as provided in Section 28 of the Act.
5. A preliminary inquiry is ordered by the Lokpal of India after considering all the relevant aspects of the complaint. Therefore, no further sanction of any authority will be required to be taken by the Inquiry Agency for conducting the preliminary inquiry.
6. A complaint before the Lokpal of India is filed in the form prescribed in the Lokpal (Complaint) Rules, 2020. The form includes *inter-alia*, identity proof, and an affidavit of the complainant in the form prescribed. Therefore, the inquiry agency is not required to take any action to verify the identity of the complainant.
7. As per Rule 4 of the Lokpal (Complaint) Rules, 2020, the identity of the complainant and the public servant is required to be protected till the conclusion of the preliminary inquiry or investigation. Therefore, the inquiry agency will take utmost care not to reveal the identity of the

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complainant. The identity of the public servant will also be protected unless it is essential for conducting the preliminary inquiry.

8. As per Section 20(2) of the Act, the report of the preliminary inquiry will be submitted by the inquiry agency within sixty days. The inquiry agency is expected to complete the preliminary inquiry within the statutory limit. Extension of time may be sought in exceptional circumstances giving adequate justification for the same.

### **Conducting the Preliminary Inquiry**

9. On receipt of an order of the Lokpal of India for preliminary inquiry, the inquiry agency will appoint an inquiry officer to conduct the preliminary inquiry. The name and designation of the inquiry officer will be conveyed to the Lokpal of India as soon as possible. The inquiry officer may not be changed or transferred during the course of conducting a Preliminary Inquiry. In exceptional circumstances, when it becomes necessary to change/transfer the Inquiry Officer, an intimation to this effect should be made to the Lokpal.
10. The jurisdiction of the Lokpal of India to conduct the preliminary inquiry against the public servant is contained in section 14 of the Act. There is also a limitation, in Section 53, on the inquiry into any complaint which is made seven years after the commission of the alleged offence. The preliminary inquiry is initiated only against the persons into the offences which fall under the jurisdiction of the Lokpal of India as per the information given by the complainant. If during the inquiry, any fact affecting the jurisdiction of the Lokpal of India comes to the notice of the inquiry officer, a reference, with full facts and relevant documents may be sent to the Lokpal of India for further directions. The Inquiry may not be stopped unless specific orders are issued by the Lokpal.

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11. The inquiry agency may bring to the notice of the Lokpal of India any complaint containing the same or similar allegations pending before any authority giving the details of allegations and present status of such pending complaint. Further action may be taken as per the order of the Lokpal of India in this regard.
12. The inquiry officer may list each of the allegations and collect material, information, and documents pertaining to each of them.
13. No request for withdrawal of the complaint by the complainant may be entertained by the inquiry agency.
14. The inquiry officer may adopt the following procedure to enquire into the allegations depending upon the nature of the allegation.
  - i. If the allegations contain information that can be verified from the documents, the inquiry officer should, without loss of time, personally inspect such documents. The relevant documents containing evidence should be taken into custody by the inquiry officer to guard against the possibility of tampering with the evidence. The original documents may be replaced with authenticated copies wherever feasible without affecting the official work. If it is not feasible to take custody of the original documents, the officials of the department having custody of the documents should be made responsible for the safe custody of these documents and authenticated copies should be retained by the inquiry officer.
  - ii. Where the facts regarding allegations are likely to be in the knowledge of any official or non-official person, the inquiry officer should record his/ her statement and obtain signatures as confirmation of the statement given. Documentary and/or other forms of evidence should be collected that relate to any additional information that emerges out of the statement recorded.

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- iii. Wherever needed, the inquiry officer should make a site visit to verify the facts on the spot and take suitable action to ensure that the evidence available on the site is not disturbed. Photographs of the site should be taken if these are relevant to prove any allegation in the complaint.
15. Subject to the superintendence and directions of the Lokpal of India, the inquiry agency or officer shall have powers as mentioned in Section 28 of the Act to conduct the preliminary inquiry.
16. Under Section 22 of the Act an inquiry agency, for a preliminary inquiry, may require a public servant or any other person to furnish information or produce documents relevant to such preliminary inquiry.
17. Under Section 20(9) of the Act, the Lokpal of India may pass appropriate orders for the safe custody of the documents relevant to the preliminary inquiry or investigation. Wherever necessary, a request may be made to the Lokpal of India for issuing orders under this provision of the law with full details of the proposed action and its justification.
18. Under Section 33 of the Act, the Lokpal of India may issue appropriate directions to a public servant to prevent destruction, damage, or alteration of a document or record. The Lokpal of India may also issue directions to prevent a public servant from transferring or alienating any assets allegedly acquired by him through corrupt means. If required, a request may be made to the Lokpal of India for acting under this provision of the law with full details of the proposed action and its justification.

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### **Comments of Public Servant and Competent Authority**

19. As per Section 20(2), the inquiry agency shall seek the comments on the allegations made in the complaint from the public servant and the Competent Authority (defined in section 2(c) of the Act) based on material, information, and documents collected during the preliminary inquiry. It may be ensured that comments of the public servant and the competent authority are invariably included in the inquiry report sent to the Lokpal of India. In case, comments of the public servant or the competent authority are not received within a reasonable time, the report of the preliminary inquiry may be sent to the Lokpal without such comments. In such cases, the evidence of delivery of communication of the inquiry officer to the public servant and the competent authority may be enclosed with the report. The report of the preliminary inquiry should also include the details of efforts made by the inquiry officer to obtain comments of the public servant and the competent authority. The statutory time limit of sixty days from the date of receipt of a reference from Lokpal for completing the inquiry and submitting the report must be adhered to.

### **Inquiry Report**

20. In the preliminary inquiry report, the inquiry officer should give all relevant facts in respect of each of the allegations made in the complaint to enable Lokpal of India to decide a further course of action. In the report, each allegation should be reproduced (para number of the complaint should also be referred) and findings of the preliminary inquiry should be given in respect of each allegation. No allegation should be omitted in the report.
21. No allegation should be taken as proved or unproved only based on the findings of any previous report. If the inquiry officer relies on any such report, he should examine it to ensure that allegations were the same as

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in the present complaint and all the aspects of the allegations had been properly inquired. He may base his findings on such a previous report only if he is satisfied that the previous inquiry had comprehensively inquired into the allegation and holding a further inquiry will be futile. A copy of the report of such a previous inquiry must be attached along with his inquiry report.

22. If the inquiry officer finds that the allegations mentioned in the previous inquiry report were not the same as in the present complaint or the allegations have not been inquired in detail in the previous inquiry, he should inquire again and give his report accordingly.
23. Along with the report of the preliminary inquiry, the following documents/ information should also be submitted:
  - a. Copies of the documents on which the inquiry report is based.
  - b. Copies of recorded statements, comments of the public servant, and the competent authority.
  - c. A summary of the findings of the preliminary inquiry, comments of the public servant, and comments of the competent authority on each allegation in a tabular form as per Annexure A.
  - d. Service Record of the public servant(s) and details of competent authorities in respect of each public servant as per Annexure B
  - e. The opinion of the Inquiry Agency on the following points:
    - i. Whether prima facie a case exists for investigation or departmental proceedings?
    - ii. Whether the conduct of any person other than the accused public servant is required to be inquired into? If yes, details thereof.



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- iii. Whether the allegations have been enquired into earlier? If yes, copy of the Inquiry Report.
- f. Inquiry Agency may also include the following by way of an interim report or in the final report.
- i. Whether order under Section 20(9) – safe custody of documents is required to be passed.
  - ii. Whether any order prohibiting the transfer of assets (acquired through corrupt means) under section 33 is required to be passed?
  - iii. Whether, in accordance with the provisions of Section 29, a case for provisional attachment of assets is made out? If yes, the reasons thereof may be mentioned.



(Arvind Mishra)  
Deputy Registrar,  
Lokpal of India.

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Annexure A


**Summary of the Inquiry Report**

Complaint No.....

Name of Public Servant....

(Separate summary may be prepared for each public servant named in the complaint)

Sl. No.	Allegation in complaint (each allegation should be written in a separate row)	Summary of findings in the inquiry	Comments of the public servant	Comments of the competent authority

  
(Arvind Mishra)  
Deputy Registrar,  
Lokpal of India.

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**Annexure B**

**Details of Public Servant (against whom the complaint has been made) and Competent Authority**

(Details of each public servant may be given on separate proforma)

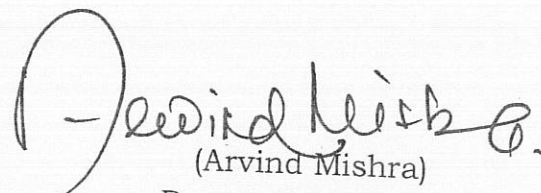
**Public Servant**

1. Name of the Public Servant
2. Name of organization and designation
  - i. At present
  - ii. At the time of the alleged offence
3. Category of Public Servant as per Section 14 of the Lokpal and Lokayuktas Act 2013
4. Disciplinary Rules and Conduct Rules applicable to the public servant
5. Date of superannuation or end of employment/term/contract
6. Address
  - i. Office
  - ii. Residence
7. E-mail
8. Phone No.
  - i. Land Line
  - ii. Mobile

**Competent Authority for the public servant**

(As defined in section 2 (c) of the Lokpal and Lokayuktas Act 2013)

9. Designation
10. Name of Organization
11. Address
12. Phone No.
13. E-mail.

  
(Arvind Mishra)  
Deputy Registrar,  
Lokpal of India.