

**THE AZAD GOVT. OF THE STATE OF JAMMU & KASHMIR,
LAW AND PARLIMENTARY AFFAIRS SECRETARIAT,
MUZAFFARABAD.**

Dated the June, 1, 1978.

No- 2025/SL/78. The following Ordinance made by the President on the 1st day of June, 1978, is hereby published for general information:-

(ORDINANCE XXXIX OF 1978)

AN

ORDINANCE

to provide for law relating to the appointment of Commission of Inquiry

WHEREAS it is expedient to provide for law relating to the appointment of Commission of Inquiry for the purpose of making inquiry into any matter of public importance in the manner hereinafter appearing;

AND WHEREAS the President is satisfied that circumstances exist which render it necessary to take immediate action ;

NOW, THEREFORE, in exercise of the powers conferred by sub-section (1) of Section 41 of the Azad Jammu and Kashmir Interim Constitution Act, 1974, the President is pleased to make and promulgate the following Ordinance :-

1. **Short title, extent and commencement:-** (1) This Ordinance may be called the Commissions of Inquiry Ordinance, 1978.
 - (2) It extends to the whole of Azad Jammu and Kashmir and shall apply to all State Subjects wherever they may be.
 - (3) It shall come into force at once.
2. **Definitions:-** In this Ordinance, unless there is anything repugnant in the subject or context,-
 - (1) 'Chief Executive' means the Chief Executive of Azad Jammu and Kashmir; and
 - (2) 'Government ' means the Azad Government of the State of Jammu and Kashmir.

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3. (1) The Chief Executive may, if is of opinion that it is necessary so to do by order in writing appoint a Commission of Inquiry hereinafter referred to as Commission, for the purpose of making an inquiry into any matter of public importance and performing such functions and within such time as he may specify and the Commission so appointed shall make the inquiry and perform the functions accordingly.
 - (2) The Commission may consist of two or more members from the following:-
 - (i) a person who is a Judge of the Supreme Court or High Court of Azad Jammu and Kashmir;
 - (ii) a person who is or has been a Sessions Judge; or
 - (iii) a Magistrate with power under Section 30 of the Code of Criminal Procedure, 1898 ;
 - (iv) an officer nominated by the Chief Executive.
 - (3) The Chief Executive may appoint a President from amongst the members.
4. The Commission shall have the powers of a Civil Court, while trying a suit under the Code of Civil Procedure, 1908 in respect of the following matters :-
 - (a) summoning and enforcing the attendance of any person and examining him on oath ;
 - (b) requiring the discovery and production of any documents;
 - (c) receiving evidence on affidavits ;
 - (d) issuing commissions for the examination of witnesses or documents; and
 - (e) requisitioning any public record or copy thereof from any court or office.
5. (1) Where the Chief Executive is of opinion that, having regard to the nature of the inquiry to be made and other circumstances of the case, all or any of the provisions of sub-section (2) to (5) should be made applicable to a Commission, the Chief Executive may direct, by order in writing, that all or

such of the said provisions as may be specified in the order shall apply to that Commission and on the making of such an order the said provisions shall apply accordingly.

(2) The Commission shall have power to require any person, subject to any privilege which may be claimed by that person under any law for the time being in force to furnish information on such points or matters as, in the opinion of the Commission, may be useful for, or relevant to the subject matter of the inquiry.

(3) The President of the Commission or any officer, not below the rank of a Gazetted Officer, specially authorised in this behalf by the President of the Commission may enter any building or place where the Commission has reason to believe that any books of account or other documents relating to the subject matter of the inquiry may be found and may seize any such books of account or documents or take extracts or copies there from, subject to the provisions of section 102 and section 103 of the Code of Criminal Procedure, 1898, in so far as they may be applicable.

(4) The Commission shall be deemed to be a civil Court and when any offence as is described in section 175, section 178, section 179, section 180 or section 228 of the Azad Kashmir Penal Code, is committed in the view or presence of the Commission, the Commission may, after recording the facts constituting the offence and the statement of the accused as provided for in the Code of Criminal Procedure, 1898, forward the case to Criminal Court having jurisdiction to try the same and the Court to whom any such case is forwarded shall proceed to try accused.

(5) Any proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Azad Kashmir Penal Code.

6. If the President or any member of the Commission through death, illness or any other reason is unable to perform his functions, the Chief Executive may, by order in writing, declare the office of the President or such member to be vacant and appoint thereto another person qualified to hold the office.
7. If, in the course of an inquiry, the President or any member of the Commission is, for any reason, unable to attend any sitting thereof, the proceedings of the Commission may continue before the remaining person comprising the Commission.

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8. The Commission shall not merely by reason of any change of the President or in its membership or the absence of its President or any of its members from any sitting, be bound to recall and rehear any witness who has already given any evidence and may act on the evidence already given or produced before it.
9. In the event of any difference of opinion among the members of the Commission, the opinion of the majority shall prevail and the recommendation of the Commission shall be expressed in terms of the views of the majority, but in case the Commission consists of only a President and a member, the opinion of the President shall prevail.
10. The Chief Executive may, if is of opinion that the continued existence of a Commission is un-necessary, by order in writing, declare that the Commission shall cease to exist from such date as may be specified in this behalf in such order, and thereupon, the Commission shall cease to exist.
11. The Commission shall subject to any rules that may be made in this behalf, have power to regulate its own procedure including the fixing of places and times of its sittings and deciding whether to sit in public or in private and may act notwithstanding the temporary absence of any member or the existence of a vacancy among its members.
12. In case the Commission has been appointed to enquire into allegations against a particular person, such person shall be present during the examination of witnesses appearing before the Commission against such person and shall have the right to cross-examine such witnesses if he so chooses and if he fails to appear before the Commission on a date fixed for hearing, the Commission may proceed ex-parte and presume that he has nothing to say in answer to the allegations.
13. Before commencement of the proceedings, the President of the Commission may, with the permission of the Chief Executive release a concise statement of the case to the press to enable members of the public who may have some knowledge of the case to appear before the Commission and make a statement in respect thereof:

Provided that such a person shall be liable to be cross-examined by any person who may have some interest in the subject matter of the inquiry.

14. No suit or other legal proceedings shall lie against the Chief Executive, the Commission or any member thereof, or any person acting under the direction either of the Chief-Executive or of the Commission in respect of anything which is in good faith done or intended to be done in pursuance of this Ordinance or in respect of the publication, by or under the authority of the Chief Executive or the Commission, of any report, paper or proceedings.
15. (1) The Chief Executive may, by order in writing and subject to such conditions or restrictions, if any, as may be mentioned in the order, confer upon the Commission power to order a Police investigation into any matter coming before it.
- (2) In conducting an investigation ordered under sub-section (1) the Police shall exercise the powers conferred on the Police in respect of a cognizable case by Chapter XIV of the Code of Criminal Procedure, 1898.
16. The Chief Executive may, by order in writing, make rules for carrying out the purposes of this Ordinance.
17. The Commission shall have the same power as the High Court has to punish any person for contempt of Court and the Contempt of Court Act, 1926 (XII of 1926), as inforce in Azad Jammu and Kashmir, shall have effect accordingly as if reference therein to a 'Court' and to a 'Judge' were a reference, respectively, to the 'Commission' and a member of a Commission.

(Mohammad Ibrahim Khan)
President,
Azad Jammu & Kashmir.

Sd/- Secretary Law
Aftab Ahmed Khan
Azad Govt. of the State of
Jammu & Kashmir