

## LOKAYUKTA HARYANA

### ANNUAL REPORT FOR THE YEAR 2008-2009 (01.04.2008 TO 31.03.2009)

**A-1** During the financial year 2008-2009 a total number of 158 complaints were received, which have been listed in Annexure-I. In addition to this, there were 112 complaints pending at the end of the preceding year i.e. on 31.03.2008 at various stages of investigation. A total of 179 complaints were disposed of during the financial year. A list of the complaints/ grievances disposed of with gist of the orders passed therein, is enclosed herewith as Annexure-II.

**A-II** In order to ensure that action is taken against the erring public servants, in some cases the reports were not finalized until the action had been taken and reported to this office. A list of such cases is enclosed herewith as Annexure-III. In other cases, where the allegations or grievances were wholly or partly substantiated, the report containing the findings alongwith recommendations for appropriate action were forwarded to the Competent Authority under section 17(1)(b) of the Act. A list of such cases alongwith gist of recommendations has been annexed herewith as **A-III** Annexure IV.

**A-IV** In my last report I had pointed out that as per the provisions of Section 17(2) of the Haryana Lokayukta Act, 2002 (hereinafter referred to as the “Act”), the competent authority was required to examine the reports and intimate this office within three months about the action taken on such reports. However, the requisite reports were not being submitted within the stipulated time although even the Chief Secretary had issued two circulars dated 31.7.2007 and 4.12.2007 to all the Heads of the

**A-V**

Departments, Commissioners, Deputy Commissioners and Universities for complying with the provisions of Section 17(2) of the Act. Annexure –V of this report gives the detail of the cases pertaining to financial year 2008-09 in which reports in terms of Section 17(2) of the Act have not been received.

It may also be pointed out that reports in terms of Section 17(2) of the Act have also not been submitted in one case pertaining to the financial year 2006-2007 and in 10 cases pertaining to the financial year 2007-2008.

### **Public Relations**

During the financial year 2008-2009 I visited the District Headquarters at Bhiwani, Rewari, Jhajjar, Sonapat and Faridabad in connection with the investigation of certain complaints. On my request the Deputy Commissioners had organized meetings where district officials, representatives of NGOs, members of the Bar and General Public were present. They were made aware of the provisions of the Act and the Rules which could be invoked by them for lodging complaints against public servants or for redressal of their grievances.

### **Need for amendment of the Haryana Lokayukta Act, 2002.**

Sub Section (2) of Section 12 of the Act provides that the Lokayukta shall complete the enquiry within one year. However, there are several factors because of which the enquiry cannot be completed within one year. During the course of investigation, reports have to be sought from various departments. Such reports are not submitted within the time frame either due to slackness of the official machinery

or because at times reference has to be made to some old records for furnishing reply to queries raised in the complaint which takes a lot of time.

However, an enquiry cannot be completed without receiving complete reports from the concerned quarters merely because the period of one year is elapsing. There are matters which are complicated in nature and require reference to old files. This process sometimes takes more than a year for completion of enquiry.

It is, therefore, recommended that the provisions of Sub Section (2) of Section 12 of the Act be suitably amended. It presently reads as under:-

*“The Lokayukta shall complete the inquiry within one year.”*

It should be amended by addition of the words “in so far as possible” after the word “shall” so as to read as under:-

*“The lokayukta shall, in so far as possible, complete the enquiry within one year”*

It is, however, clarified that wherever delay is attributable to the slackness of the official machinery, necessary explanation is sought from the concerned officials and action is recommended against the persons found responsible for causing delay without any reasonable cause.

### **Departmental Proceedings –Delays**

In my last report I had pointed out that the departments were unnecessarily dragging their feet in taking action against the delinquent officials. As a result of this delay many delinquent officials attain the age of superannuation and proceedings are dropped against them on the ground that they have already retired. First the enquiry is

allowed to go on and on for an indefinite period and when an adverse report is finally received, it transpires that no action can be taken against the delinquent official as he or she has already retired.

The delay is caused because of the unnecessarily long time taken in issuing the charge-sheets and then giving a long rope to the delinquent officials to file their replies. Even in cases in which the delinquent officials fail to even acknowledge the receipt of the charge-sheet, much less file their replies to the same, several reminders are issued to them in a routine manner for furnishing their replies. It is well settled law that if a person fails to furnish any explanation in response to a show cause notice without any reasonable cause then it has to be presumed that he or she has nothing further to say in the matter. However, instead of drawing such a legal presumption, the proceedings are allowed to drag on in the hope that some day a reply shall be filed by the delinquent official. This approach encourages the delinquent officials to keep delaying the furnishing of their explanations. This not only results in miscarriage of justice in as much as the delinquent public servants go unpunished but also causes a lot of resentment in general public which feels that an attempt is being made to shield the delinquent officials. Some instances on this point are as under:-

- i) In complaint No. 102 of 2006 the State Vigilance Bureau had submitted its report on 22.2.2005 with the recommendation that the delinquent officials be charge-sheeted under Rule 7 of the Haryana Civil Services (Punishment & Appeal) Rules, 1987. However, the charge-sheet was issued to the delinquent official after an inordinate delay of three years

on 10.3.2008 and that too after the matter had been raised by way of the complaint in this office. The final decision in that matter was still pending at the time of submission of my report dated 10.07.2008.

- ii)* In complaint No. 17 of 2007 allegations had been made against the Secondary Education Department for not taking action against the Managing Committee of an educational institution for committing various financial irregularities and violations of rules. On receiving a complaint from the residents of the locality, the Secretariat of the President of India had forwarded the complaint to the Chief Secretary vide letter dated 9.12.2004 for taking appropriate action on the same. Still further the District Education Officer had in his successive reports dated 10.5.2006 and 4.12.2006 to the Commissioner & Director General, Secondary Education had pointed out various irregularities and violations of rules by the managing committee. However, no action had been taken against the managing committee. The complainant was, therefore, constrained to file a complaint in this office. It was only after the Secondary Education Department had been asked to furnish its comments that action was initiated against the erring managing committee and the matter has now become subjudice. Had action been taken immediately on receipt of the complaint from the Secretariat of the President of India or on receipt of the reports of the District Education Officer dated 10.5.2006 and 4.12.2006, the State

Government would have been saved from being involved in the unnecessary litigation. Another interesting feature of this case is that the file containing certain important documents, which would have proved violations by the managing committee, was reported to be not traceable. These factors fortify the allegation of the complainant that the officials of the department themselves were in collusion with the management and attempts were being made to shield it from punitive action. Thus, the Commissioner & Director General was asked to fix responsibility on officials responsible for the delay in taking action on the reports of the District Education Officer; for putting up unwarranted noting on the file; and for disappearance of the record and take action in accordance with law. No information has been received about action taken against such employees upto this date. However, unless such employees are sternly dealt with, such incidents shall keep on happening.

- iii) In complaint No. 118 of 2007 a Sub Divisional Officer (Civil) had submitted his report dated 18.01.2008 to the Deputy Commissioner, Fatehabad in which one Block Development & Panchayat Officer had been found guilty of certain irregularities in the construction of toilets. Accordingly, the said complaint was disposed off vide report dated 25.03.2008 asking the Deputy Commissioner to take appropriate action against the delinquent official. Thereafter, vide communication dated 21.10.2008, the Financial Commissioner & Principal Secretary,

Development & Panchayats Department had intimated that a proposal to charge-sheet the concerned BDPO under Rule 7 of the Haryana Civil Services (Punishment & Appeal) Rules, 1987 had been submitted to the competent authority and further action would be taken as per the orders of the competent authority. However, no action taken report has been submitted in this office upto this date.

It is, therefore, recommended that steps should be taken for streamlining the procedure for departmental enquiries so that timely action can be taken in departmental proceedings. It is recommended that reasonable time limits be specified for the following:-

- i) Preliminary enquiry
- ii) Issue of charge-sheet after the preliminary enquiry.
- iii) For furnishing the reply by the delinquent official.
- iv) For giving report in the regular enquiry.
- v) For taking action against the delinquent official.

I also recommend that the enquiries in case of public servants who are due to retire should be expedited in order to ensure that the proceedings are concluded preferably before the date of his retirement. However even if a public servant, who is found guilty in an enquiry, retires during the pendency of the proceedings, action against him should not be dropped merely on the ground that such public servant has already retired.

**Slackness in dealing with public representations.**

In my previous reports I had highlighted the slackness of the official machinery in dealing with the representations of the general public. There has not been any improvement in this behalf as is evident from the following:-

- i) In complaint No. 77 of 2007 disposed of vide report dated 08.04.2008 an employee of a Government aided educational institution who had retired on 31.12.2002 was not released his retiral benefits in time. He had been approaching the college management and the Commissioner, Higher Education of Haryana for redressal of his grievance without any success. It was only after he had filed a complaint in this office and report on the same had been called for, that an order came to be passed by the Commissioner on 16.01.2008 awarding him the necessary relief. The educational institution took its own time in implementing that order. Accordingly, the Higher Education Commissioner had to be asked to take steps to ensure that the employees of the aided institutions should not be unnecessarily harassed by the managements.
- ii) In complaint No. 15 of 2008 the claim of a widow for exgratia grant of Rs. 5.00 lakhs had remained pending for three years. Her husband, who was working as a Field Worker in the office of the Biologist, Urban Malaria Scheme, Karnal, had died on 30.11.2005. When her representation for ex-gratia payment under the Government instructions dated 30.11.2005 failed to evoke any response, she had to approach this

office by filing the complaint. It was only after an explanation had been sought from the concerned department that the amount due to her was sanctioned on 12.03.2008.

- iii) In complaint No. 5 of 2008 a poor man was not being given possession of 100 Sq. yards plot allotted to him on 16.12.1993 because the Sarpanch and the Panchayat were allegedly pressurizing him to accept a smaller plot. However, when, after receipt of the complaint, the matter was taken up with the Deputy Commissioner it was, vide letter dated 16.04.2008, intimated that the possession had been handed over to the complainant. A poor man had remained deprived of the possession of his plot for 15 long years.
- iv) In complaint No. 144 of 2007 a Municipal Council had ordered ejection of a person who was illegally running a service station in a shop allotted to him for a different purpose. The Civil Court, vide its order dated 8.6.2005, had refused to grant him any injunction against his eviction order. His appeal had also been dismissed by the Additional District Judge vide judgment dated 18.9.2007. However, despite these orders he was not evicted until the matter was raised by way of a complaint in this office. The service station was closed only in January, 2008. The delay was attributed to the then Executive Officer but no action was taken by the Deputy Commissioner on the ground that the said official has since been transferred.

- v) In complaint No. 59 of 2006 a public servant had made a representation against his reversion on 22.5.2002 by relying upon a judgment of the jurisdiction High Court dated 25.7.2000. The representation, despite being covered by the judgment of the Jurisdiction High Court, had remained pending for six long years and relief was granted only after the matter had been raised by way of the complaint in this office.

### **Gram Panchayats.**

A number of complaints are received against the Sarpanches and Panches of various Gram Panchayats. The allegations made in these complaints fall mainly into two categories:-

- (a) Embezzlements/misappropriation of funds.
- (b) Encroachments on panchayats' land with the connivance of the Sarpanches or Panches.

During the investigation of various complaints I have observed that the records which the Gram Panchayat is required to maintain were either not available at all or were incomplete or had not been properly maintained. In some cases the same were found to be fabricated. When confronted with such situation, pleas of ignorance and illiteracy are raised by the concerned Sarpanches or Panches which the authorities tend to accept also. However, in the administrative set-up there are supervisory authorities like the Block Development & Panchayat Officers and the District Development & Panchayat Officers who are duty bound to check the records of the Gram Panchayats from time to time. It is, therefore, necessary that wherever the

necessary records are not maintained or are not properly maintained, the supervisory authorities should also be held responsible alongwith the Sarpanches, Panches and the Gram Sachivs and strict action taken against them.

The other issue about the encroachments on panchayats land also requires serious consideration and attention of the State Government.

In complaint No. 68 of 2006 it was alleged that a public street of the village had been encroached upon by an individual who had extended his house by encroaching upon it. I had made a spot inspection and found that prima facie the allegation appeared to be correct. Accordingly, the Deputy Commissioner was asked to order an enquiry and submit a report. However, the Deputy Commissioner expressed his helplessness submitting that there were no revenue record and Shajra Abadi of the village and, therefore, the demarcation of the public street, which fell in the abadi deh, could not be made. The Aksh Shajra and field book were stated to have been destroyed in a fire in the year 1926 whereafter no records had been prepared. Thus, according to the Deputy Commissioner, the only remedy available with the complainant was to file an application for eviction under Section 7 of the Punjab Village Common Lands Act, 1961. The matter was then taken up with the Financial Commissioner & Principal Secretary, Revenue & Disaster Management Department but he too submitted that in the absence of Aksh Shajra of the land within the Lal Dora it was not possible to make any demarcation of the public street nor was it possible to make any duplicate record. As a result thereof vide my report dated 13.01.2009 I had observed as under:-

*“I have purposely given the details of the proceedings undertaken by me in the above complaint to show that all possible efforts were made by me to resolve the issue but I am constrained to say that in the facts and circumstances of the case it is not possible for me to opine one way or the other. It has been stated that most of the Panchayats don't have the maps/ site plans of the Abadi Deh within the LAL DORA. It is thus open to any unscrupulous person to encroach upon the Panchayat land in connivance with the Sarpanch or other influential persons of the village. The only remedy available against such illegal action is by way of filing an application under Section 7 of the Village Common Lands Act. It is the primary duty of the Sarpanch and Gram Panchayat to take action against the encroachers. However, in case the Sarpanch is interested in the encroacher for one reason or the other, he shall not initiate any proceedings against such an encroacher even under the Village Common Lands Act. It is, therefore, left to the other residents of the village to file such an application which would involve a lot of time and expenditure. Thus, not many persons would come forward to avail this remedy. Further even if such an application is filed it may be very difficult to prove the encroachments in the absence of the site plan/ map of the Abadi Deh. In case such site plans/ maps are available the encroachments can easily be identified and removed without any litigation.*

*I, therefore, recommend that the Government should take immediate steps to prepare the maps of Abadi Deh within the LAL DORA of all such villages where the original records are not available. This will not only check encroachments but also avoid unnecessary litigation lessening the burden of the courts.”*

Encroachments on the panchayat land are generally made with the connivance of the Sarpanches and the Panches who either don't take any action against the encroachers or delay the same unnecessarily. Even the supervisory officers tend to condone such actions.

In complaint No. 82 of 2008 it was found that the panchayat land had been encroached upon by three individuals but no action had been taken against them until report on the said complaint had been sought from the Deputy Commissioner. On the basis of a fresh demarcation made with the police help on 30.7.2008 it was found that one person had constructed a house on 3 marla land of the panchayat while the other two were cultivating the agricultural land belonging to the Gram Panchayat. The Block Development & Panchayat Officer, who had conducted the fresh enquiry, had initially tried to justify the encroachments as being “very old” and thereafter had falsely reported that the two individuals who were cultivating the panchayat land had handed back the possession of the same to the Gram Panchayat at the time of demarcation on 30.7.2008. However, when the fact about handing back the possession was questioned by the complainant, it was stated that the same persons had again occupied the said land after two days and therefore an eviction petition

against them had been filed in the court of Assistant Collector. Had the said complaint not been filed, the encroachers would have continued to enjoy the fruits of their illegal possession. In my report dated 26.11.2008 I had observed as under:-

*“From the above factual position it is clear that the Panchayat land had been encroached upon by Shri Des Raj, Shri Net Ram and Shri Mohinder Singh but no action against them had been taken until report on the present complaint had been sought from the Deputy Commissioner. Shri Mohinder Singh had constructed a house on 3 marla land of the Panchayat whereas Shri Des Raj and Shri Net Ram had been cultivating the Panchayat land. It is not possible to believe that the Sarpanch was not aware of these illegal actions which lends credence to the allegation of the complainant that he was in collusion with the encroachers. At any rate, even if his collusion is ruled out, it is a case of gross negligence and dereliction of duty on his part in protecting the Panchayat property. Had this complaint not been filed, the encroachers would have continued to enjoy the fruits of their illegal possession.*

*I would, therefore, recommend that the Deputy Commissioner should enquire into this aspect and take appropriate action, if warranted by law and facts of the case. The complainant's contention that the encroachers are related to the Sarpanch also needs to be probed because in case it is found to be true, the clear inference would be that encroachments had been made in connivance with the Sarpanch. The Deputy Commissioner shall submit his report in this behalf in this office and also intimate about the progress of the*

*eviction petitions filed in the court of Assistant Collector Ist Grade, Ambala, within two months.”*

In complaint No. 99 of 2007 the Gram Panchayat had passed resolution on 11.09.2006 asking the Block Development & Panchayat Officer to seek police help for removal of encroachments. Since the Block Development & Panchayat Officer had failed to take any action on the same a complaint was made to the Deputy Commissioner. From the report of the Deputy Commissioner it was observed that although the police help had been provided to the Block Development & Panchayat Officer on 07.05.2007 yet the BDPO had failed to remove the encroachments. The encroachments had been removed only in November, 2007 only after the said complaint had been filed in this office and explanation of the concerned authorities had been sought on the same. This is clearly an instance of the supervisory officers dragging their feet for removal of the encroachments on the panchayat land.

### **Police**

Many complaints are received against the police officials for their highhandedness or for unnecessarily delaying investigation in certain cases in order to help the accused.

In complaint 132 of 2007 it was alleged that certain police officials had forcibly entered the house of the complainant and badly assaulted his 16 years old nephew who was thereafter forcibly dragged out of the house and taken away in a private jeep. A telephonic complaint in this behalf was made to the Superintendent of Police on that very day which was followed by a written complaint on the next day but

no action was taken on the same. However, when the aforesaid complaint was filed in this office and report was sought from the Superintendent of Police, the allegation was found to be correct. In enquiry, the Superintendent of Police had found that a criminal offence had been found to have been committed by four police officials. However, instead of taking any criminal proceedings against them, they were proceeded against departmentally and awarded a paltry punishment of stoppage of one annual increment. Commission of a criminal offence by the police officials is indeed a serious matter and the above case shows how such matters are treated so lightly by the police department.

In complaint No. 19 of 2008 the complainant had lodged an FIR on 17.05.2007 against some persons who had obtained a court decree in respect of land belonging to the complainant by fraud. It was quite apparent from the court decree that some lady had appeared as defendant by impersonating as the complainant. Even in such an open and shut case the police had not taken any action for almost 10 months. The action was taken only after a complaint had been filed in this office. The Senior Superintendent of Police had strangely accepted the vague explanation of the concerned S.H.O., to whom the investigation had been marked, that he was pre-occupied in the investigation of another case. Accordingly, the Senior Superintendent of Police was, vide report dated 28.1.2009, asked to seek a detailed explanation from the concerned S.H.O. and after considering his reply take further action in accordance with law. However, the Superintendent of Police, vide his letter dated 29.6.2009, has intimated that necessary sanction for proceeding against the said S.H.O. had not been received from the Deputy Commissioner upto now.

Delays in taking action on the complaints of citizens prima facie lends credence to the allegations that the efforts are made to protect the accused. It is, therefore, necessary that such delays should be viewed seriously and strict action should be taken against the delinquent police officials.

**Delay in pursuing court cases.**

A number of cases are filed in courts by the State Government. Law prescribes period of limitation within which actions have to be taken. It is a common complaint that filing of cases is sometimes intentionally delayed in order to help the other party. In many cases such delays are not condoned by the courts and the cases are decided against the State Government. It is, therefore, necessary that the officials dealing with the same should be made answerable for such delays.

In complaint No. 74 of 2007 it was found that six appeals of the State Government against the order of enhancement of compensation allowed by the Additional Sessions Judge in a land acquisition case were dismissed by the Hon'ble Punjab & Haryana High Court on the ground that there was an uncalled for delay of about 905 days in filing the appeals. It may be mentioned that several other cases in which similar enhancement had been granted by the District Judge had been set-aside by the Hon'ble Punjab & Haryana High Court in appeal. If the appeals in the said six cases had been filed in time, the enhancement would also have been set-aside. Thus, delay in filing these six appeals has caused a huge financial loss to the State exchequer. The Government should, therefore, ensure that immediate action is taken on judicial orders received by it so that in case any appeals/revisions are to be filed,

the same can be done within the period of limitation prescribed under the law. In cases of delay responsibility should be fixed and action taken against the official found responsible for causing the delay.

**Arbitrary release of land from acquisition.**

In complaint No. 67 of 2006 it was observed that the land acquired vide notifications dated 4.6.1997 and 2.6.1998 had been released from acquisition in undue haste by disregarding the well settled norms. A substantial part of the released land had been purchased by the concerned person after the issue of notifications under Sections 4 and Section 6 of the Land Acquisition Act, 1894. It was also observed that the application for release had been entertained even though the ownership of the land had already vested in the State Government. This had apparently been done because the applicant was politically a well connected person. In an allied complaint No. 127 of 2007 it was also observed that the application of the complainants for release of their land situated in the same khasra numbers (as the land of the applicant in complaint No. 67 of 2006) had remained pending for 8 years without any rhyme or reason whereas the application for release of land in complaint No. 67 of 2006 filed subsequently had been entertained and disposed of within four months.

It is, therefore, necessary that the State Government should formulate a well defined and transparent policy for release of land under acquisition in order to avoid any allegations of arbitrariness and favouritism.

**Need for amendment of Rule 17 of Schedule B (General Instructions Tenderers).**

While examining a complaint against the Dakshin Haryana Bijli Vitran Nigam Ltd. (for short DHBVN) regarding irregularities committed in disposal of metal scrap recommendation was made to amend the said rule in order to bring about full transparency in the following terms:-

*“However, there is merit in the contention of the complainant that unguided discretion has been conferred on the Nigam by Rule 17 of the Schedule B (GIT) for varying the quantity signified in the Notice Inviting Tenders (NIT) without assigning any reason. For instance, the tenders may be invited for disposal of a small quantity of scrap which may not interest many parties and therefore, there may not be many bidders. However, by virtue of the unfettered discretion conferred by Rule 17, the officials of the Nigam may allocate a substantial quantity to the successful bidder and that too without assigning any reason. This discretion is, therefore, open to misuse. It is, therefore, recommended that in order to bring about full transparency in the process of disposal by the Nigam, Rule 17 should be amended laying down objective guidelines for varying the quantity in an NIT.”*

**Submission of false reports.**

Whenever complaints are received in this office copies of the same are forwarded to the concerned departments for their comments and report. In some cases false reports are submitted to shield the wrong doers. Submission of such false report

is by itself a serious matter and has been viewed seriously and action has been recommended against persons submitting such false reports.

In complaint No. 153 of 2007 a retired Air Force Officer had complained that HUDA authorities were not taking any action against the violations of building bylaws by two neighbouring houses. On being asked to submit a report on the complaint, the Estate Officer submitted that the complainant was in the habit of filing “frivolous” complaints and used “profane” and “abusive language” against each and every person residing in his Sector. He pointed out that a Junior Engineer had visited the site and had found the construction in the two houses was as per building plan and thus there were no violations. However, when the complainant persisted with his complaint, the S.D.O. re-visited the site and found the allegation to be true. Thus, it was clear that the Junior Engineer had filed a false report earlier in order to shield the owners of the two houses and, therefore, action was recommended against him.

Similarly, in complaint No. 172 of 2007 it was alleged that some industrial units had been established in a residential locality and were causing air and sound pollution but no action was being taken by the authorities despite representations having been made to them. When a report on the complaint was sought, it was stated that the Sub Divisional Magistrate had conducted a spot inspection and after hearing both the parties had reached the conclusion that no sound pollution was being caused by the D.G. Sets in the industrial units as the noise could not be heard outside the factory premises. This, incidently, was contrary to the report submitted by the Haryana State Pollution Control Board. In view of the conflicting claims I made a

spot inspection and found that the allegation of sound pollution to be true . Accordingly, the matter was taken up with the Deputy Commissioner and the Sub Divisional Officer (Civil) who undertook to submit another report. Interestingly, the same S.D.O. (Civil) after second inspection passed an order under Section 133 Cr.P.C. directing the industrial units to shift out of the residential area to an industrial area. Accordingly, following observations were made in my report dated 13.01.2009:-

*“It is clear that the matter about the industrial units functioning from residential area of Ganpat Nagar, Rewari and also about noise pollution with the D.G. Sets installed therein had been brought to the notice of the Deputy Commissioner, Rewari by the Pollution Control Board as early as on 29.01.2008 and yet no action was taken either by the Municipal Council or the S.D.M. Rewari in this behalf. In fact, when a report was sought by me in the present complaint no response was received for about four months. When the matter was perused persistently the S.D.M., Rewari submitted a false report that no noise or air pollution was being caused by the D.G. Sets installed in these industrial units. In fact that report was merely based on the representation of Nilamber Dutt and Ghanshyam Dass received in this office on 16.5.2008. The report was totally silent about the legality of establishment of such units in the residential area. It was only when I had personally inspected the site on 11.9.2008 and verified the pollution being caused by these units that the administration had swung into action. The same S.D.M. i.e. S.D.O.*

*(Civil), Rewari who had submitted the earlier report dated 16.5.2008, made a fresh inspection and passed the order under Section 133 Cr.P.C. dated 30.10.2008 restraining the erring units to stop the use of Generating Sets/D.G. Sets forthwith and also asking them to shift out of the residential to the industrial area within three months. It is, therefore, clear that the administration had not only chosen to ignore the genuine complaint of the complainant but had also attempted to shield the erring industrial units by submitting a false report. The order asking these units to shift out of the residential area to the industrial area had come to be made only after I had persistently asked the administration whether these units could be legally allowed to operate from the residential area or not. This aspect had totally been ignored by the S.D.M. while submitting his earlier report. In fact, instead of doing justice to the complainant by redressing his genuine grievance he was made out to be a villain by describing him as a quarrelsome person in the habit of making frivolous complaints.*

*I am, therefore, of the considered view that action needs to be taken in this behalf against the officials/ officers responsible for not taking any action on the report of the Regional Office, Haryana State Pollution Control Board, Dharuhera, forwarded to the Deputy Commissioner vide letter No. HSPCB/DHR/2008/2314 dated 29.01.2008 and against the S.D.M. Rewari for submitting a false report dated 16.5.2008.”*

**Food & Supplies Department.**

There are numerous complaints against the failure of the officials of the Food & Supplies Department in taking action against the depot holders who were found to have misappropriated the supplies made to them. In many cases the depot holders had been found to have sold large quantities of ration in black market instead of distributing the same to the card holders. The only action taken against such depot holders is forfeiture of their security of Rs. 1,000/- which, in my opinion, is grossly inadequate in view of the gravity of the offence. Although misappropriation of Government property is also a criminal offence punishable under the law, no criminal proceedings are initiated against such depot holders. Thus, the erring depot holders should not only be asked to make good the financial loss but also be prosecuted. A case on this point is complaint No. 44 of 2006 wherein it was found that an unfettered discretion is vested in the District Food & Supplies Controller for taking action against the erring depot holders. Such an unfettered discretion is bound to be misused for various extraneous considerations. In that case it was found that the District Food & Supplies Controller had been applying different yardsticks in different cases. In the said complaint the District Food & Supplies Controller had even attempted to justify the misdoings of some depot holders by producing some ration cards in which certain pages had been changed or some entries had been superimposed at a later stage. Accordingly, the complaint was disposed of vide report dated 06.11.2008 with the following observations:-

*“The fact of superimposition of entries in the ration cards/ change in the pages of the ration cards clearly showed that the depot holders had not distributed the ration to the ration card holders while they had received the supplies from the department. These entries were superimposed in the ration cards or pages of some ration cards were changed only after the matter had been raised in this office. The first logical inference from these facts was that the depot holders had misappropriated the supplies made to them and strict action ought to have been taken against them. However, they were let off with mild action of forfeiture of their security and/or cancellation of licence. Misappropriation of Government property is also a criminal offence punishable under the law. Accordingly, the Additional Director Shri Lila Dhar as well as the District Food & Supplies Controller Shri Bhadu, who were present on 14.7.2008, were asked to explain as to why criminal case had not been registered against the two depot holders namely Shri Adish Kumar and Shri Amrit Lal who had misappropriated the ration supplied to them. Shri Lila Dhar had stated that the issue for taking action against the defaulters was within the domain of the District Food & Supplies Controller under the provisions of the Public Distribution System Control Order and as such neither he nor the Financial Commissioner & Principal Secretary had any concern with such matters. Shri Bhadu stated that security of Rs. 1,000/- of Shri Adish Kumar, who was the depot holder, upto February, 2007, had been forfeited. Similarly the depot of Shri Amrit Lal, who was the depot holder from March,*

2006 to June, 2006, had been cancelled and his security of Rs. 1,000/- forfeited. Regarding criminal proceedings he stated that since there were no guidelines for launching any criminal case against the erring depot holders he did not file any criminal complaint. He, however, could not explain as to how, in the absence of such guidelines, FIR had been lodged by him against one Smt. Giano Devi.

From the above, it is clear that an unfettered discretion is vested in the District Food & Supplies Controller for taking action against the erring depot holders. Such an unfettered discretion is bound to be misused for various extraneous considerations which appears to be the case in the present complaint. Thus the allegation of the complainant that Shri Bhadu had adopted different yardsticks for different depot holders stands established. His explanation that in the absence of guidelines no prosecution could have been launched by him also stands falsified from the fact that he could not explain as to how prosecution in the case of Smt. Giano Devi had been launched. This also substantiates the allegation of the complainant that he was in collusion with Shri Adish Kumar and some other depot holders. Interestingly during the course of these proceedings, Shri Adish Kumar sent in his resignation from the depot to the District Food & Supplies Controller vide letter dated 23.2.2007 a copy of which was also endorsed to this office. This appeared to be an attempt on his part to escape further action on account of the serious discrepancies found in his depot.

*On 5.5.2008 the complainant had referred to the copy of show cause notice dated 1.3.2006 issued by the District Food & Supplies Controller Shri Bhadu jointly addressed to 14 depot holders including the complainant. According to the complainant, in his case a shortage of only 3.5 kgs. Rice had been found for which a penalty of Rs. 5,000/- was imposed on him and further supplies to him were also stopped for two months. On the other hand more serious discrepancies had been found in the case of Shri Bharat Bhushan, depot holder, Ward No. 4, Jind and Shri Om Parkash, depot holder, Julana, whose supplies were not stopped for extraneous considerations. The allegation against Shri Bharat Bhushan was that he was over-charging for the kerosene oil and had made bogus entries in the BPL ration cards. Similarly, allegations against Shri Om Parkash were that he had made bogus entries about distribution of kerosene of 5 ration cards, had over-charged for kerosene oil and had destroyed the record and had made bogus entries in 25 BPL ration cards.*

*From the above, it is clear that Shri Bhadu has been undoubtedly applying different yardsticks to different depot holders. The only inference which can be drawn from his conduct is that undue favour had been shown to certain depot holders for extraneous considerations while harassment was caused to those who raised their voice against him. He has also not given any satisfactory explanation as to why no criminal cases were lodged against the depot holder Shri Adish Kumar and Shri Amrit Lal.*

*I, therefore, recommend that the Financial Commissioner & Principal Secretary to Government, Haryana, Food & Supplies Department, should take appropriate action against Shri Bhadu and the erring depot holders Shri Adish Kumar and Shri Amrit Lal in accordance with law.”*

I have tried to put in my best efforts to ensure that the grievances and complaints filed in this office are dealt with in a fair and judicial manner. Wherever necessary, recommendations for taking corrective measures have been made in order to promote transparency in the working of the Governmental machinery so that the faith of the common man in the same gets strengthened.

**Dated: 06.07.2009**  
saini

Sd/-  
**(N.K. SUD)**  
**Lokayukta, Haryana**