

**THE AZAD JAMMU AND KASHMIR ACQUISITION AND
TRANSFERS OF PROPERTY (SPECIAL PROVISIONS)
ORDINANCE, 1969
(Ordinance IV of 1969)**

*(Passed under Government Order No. 2396-2440|SL|69,
dated the September 27, 1969)*

WHEREAS it is expedient to provide for the submission of statements relating to acquisitions and transfers of properties and assets by certain persons and scrutiny of such statements and for matters ancillary thereto ;

AND WHEREAS the State Council is not in session and the President is satisfied that immediate legislation is necessary ;

Now, THEREFORE, in exercise of the powers conferred by section 17 of the Azad Jammu and Kashmir Government Act, 1968, the President, with the concurrence of the Chief Adviser, is pleased to make and promulgate the following Ordinance :-

1. **Short title, extent and commencement:-** (1) This Ordinance may be called the Azad Jammu and Kashmir Acquisitions and Transfers of Property (Special Provisions) Ordinance, 1969.
 - (2) It extends to the whole of Azad Jammu and Kashmir Territory.
 - (3) It shall come into force at once.
2. **Application:-** This Ordinance applies to:
 - (a) every person who draws his salary from the revenues of the Azad Government of the State of Jammu and Kashmir and holds office not inferior to that of a Gazetted Officer ;
 - (b) every person who is serving in or under the Azad Kashmir Logging and Saw-mill Corporation established under the Azad Kashmir Logging and Saw-mill Corporation Ordinance 1968 (Ordinance IV of 1968), and receives a pay not less than the minimum of the scale of pay of a Gazetted Officer; and
 - (c) every person or class of persons to whom the Government

may, by general or special order declare this Ordinance to apply.

3. **Definitions:-** In this Ordinance, unless there is anything repugnant in the subject or context,
- (a) 'appointing authority' means the President;
 - (b) 'Family', in relation to a person to whom this Ordinance applies, means his spouse or spouses, separated spouse or spouses, parents, sons, and married or unmarried daughters ;
 - (c) 'President' means the President of the Azad Government of the State of Jammu and Kashmir ;
 - (d) 'Special Committee', in relation to a person or class of persons, means a Special Committee set up under section 4 for such person or class ; and
 - (e) reference to the Penal Code, the Code of Criminal Procedure and the Code of Civil Procedure shall be construed as references respectively to the Pakistan Penal Code (Act XIV of 1860), the Code of Criminal Procedure, 1898 (Act V of 1898), and the Code of Civil Procedure, 1908 (Act V of 1908), is in force in Azad Jammu and Kashmir territory.
4. **Special Committee:-** (1) For the purpose of inquiring into the acquisitions and transfers of properties by persons to whom this Ordinance applies, the Government shall by notification in the official Gazette, set up one or more Special Committees for such persons or classes of persons and consisting of such number of members as may, from time to time, be deemed necessary by the Government.
- (2) The Government shall, before setting up a Special Committee, consult the Chief Adviser in writing regarding the persons to be appointed as members of the Special Committee and the Chief Adviser shall tender advice in writing, and the Government shall consider such advice.
5. **Statement regarding properties:-** (1) Every person to whom this Ordinance applies shall, in the first week of July every year, submit to the Special Committee, in such manner and form as the Government may direct, a statement of properties and assets, both movable and immovable, whether within or outside Azad

Jammu and Kashmir which he owns, or has in his possession or under his control, directly or indirectly, either in his own name or in the name of any member of his family, and shall also furnish such information relating to such properties and assets as the Government or the Special Committee may require.

(2) A person who is required to submit to the Special Committee a statement of his properties and assets shall also set out in that statement the particulars including the value of all properties and assets:

- (a) which have been transferred by him by sale, gift or otherwise, at any time during the last one year, together with the particulars of the persons in whose favour they have been so transferred; and
- (b) which have been acquired by him, as gift or otherwise, at any time during the last one-year, from any person, together with the particulars of the person from whom they have been acquired, the consideration money, if any, paid therefore and the source from which such money was obtained.

6. **Special provision relating to the submission of statements on the first occasion under this Ordinance:-** (1) Notwithstanding anything contained in this Ordinance,—

- (a) the date for the submission of statements on the first occasion under this Ordinance shall be the first day of December, 1969, and the period for which such statements are to be submitted shall be the period beginning on the first day of July, 1968, and ending on the 30th day of June, 1969;
- (b) on the first occasion of submission of statements under this Ordinance, the statements shall include information regarding the amounts spent on the marriages of the children and wards of the declarant and on the education of the children and wards in a foreign country.

(2) All other provisions of this Ordinance shall apply to such statements as if they were statements submitted under section 5.

7. **Presumption in certain cases:-** If a person is in possession of, or has control over, any properties and assets which appear to be disproportionate to his known sources of income and for which he cannot give satisfactory explanation of the income out of

which such properties and assets were acquired, it shall, for the purpose of this Ordinance, be presumed, unless the contrary is proved, that he acquired the properties and assets by unlawful or improper means or by means of bribery, corruption, jobbery, favouritism, nepotism, wilful maladministration, wilful misapplication or diversion of public money or by abuse of official power or position.

8. **Action upon the statement of properties, etc:-** (1) Upon receiving a statement under section 5 from a person, the Special Committee shall, after making such inquiries as it may think fit, determine the correctness or otherwise of the Statement and also the legality or propriety of acquisition by such person of any property or assets.

(2) If the Special Committee is of opinion that a person has acquired any property or assets by unlawful or improper means or by means of bribery, corruption, jobbery, favouritism, nepotism, wilful maladministration, wilful misapplication or diversion of public money or by abuse of whatever kind of official power or position, it shall, after giving such person an opportunity to explain any fact or circumstances appearing against him, and also giving him an opportunity of being heard in person, record its finding, and forward it to the appointing authority.

(3) The appointing authority, if it is satisfied that a person referred to in subsection (2) has not surrendered the properties and assets as required by section 15 or the value of properties and assets transferred by him as required by section 17, may, after consultation with the Public Service Commission, award to him any one or more of the following punishments, namely :—

(i) Confiscation of the whole or part of the property;

(ii) Dismissal from public service ;

(iii) Removal from public service ;

(iv) Compulsory retirement;

(v) Reduction in rank ;

(vi) Stoppage "of increments;

(vii) Censure.

9. **Powers of the Special Committee:-** (1) The Special Committee shall have the powers of a Civil Court trying a suit under the Code of Civil Procedure in respect of the following matters, namely :

(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.

(2) The Special Committee may require any person, subject to any privilege which, he may claim under any law for the time being in force, to furnish such information as, in the opinion of the Committee, may be of assistance to it for the purpose of an inquiry under this Ordinance.

(3) The Special Committee, may, by an order in writing, direct any police officer to enter any building or place where it has reason to believe that any books of accounts or other documents relating to any matter before it may be found, and may, in the said order, direct the police officer to seize such books or documents or to take copies thereof or of any part thereof; and the provisions of sections 102 and 103 of the Code of Criminal Procedure shall, so far as may be, apply to the proceedings of such officer.

(4) The Special Committee shall have all the powers of Criminal Courts under the Code of Criminal Procedure.

(5) Every proceeding before the special Committee shall be deemed to be a Judicial proceeding within the meaning of sections 193 and 228 of the Penal Code.

(6) The Special Committee shall have the powers of a civil court trying a suit under the Code of Civil Procedure; in respect of requisitioning any public record or copy thereof from any court or office.

(7) The Special Committee shall have power to order a police investigation into any matter in respect of any case before it.

(8) The Special Committee may initiate inquiries *suo motu* or entertain any complaint regarding the acquisitions of property or assets by a person to whom this Ordinance applies by any means referred to in sub-section (2) of section 8 and may recommend reward to the informant or the complainant, if any, for providing correct information.

10. **Appearance before the Special Committee:-** Whenever a person to whom this Ordinance applies appears before the Special Committee, he shall appear, personally and by himself and no friend, adviser or legal practitioner shall be present with him.
11. **Procedure followed by the Special Committee:-** The Special Committee shall, subject to any rules made under this Ordinance, 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. **Penalty for failure to submit statement or for submitting false or incorrect statement:-** A person who, being required to submit to the Special Committee under this Ordinance a statement of his properties and assets, fails to submit such statement or knowingly submits a false or incorrect statement shall be punishable with rigorous imprisonment for a term which may extend to seven years.
13. **Disposal of properties and assets:-** (1) Save as otherwise provided in section 15, a person who sells, transfers or otherwise disposes of any of the properties and assets in respect of which he is required to submit a statement under this Ordinance shall be punishable with rigorous imprisonment for a term which may extend to seven years and with confiscation of the whole or part of his properties and assets.
- (2) Nothing in this section shall apply to the operation of any bank account by a person for meeting his *bona fide* requirements.
14. **Procedure for disposal of properties and assets:-** (1) Notwithstanding anything contained in this Ordinance, a person

may, with the permission of, and subject to conditions, if any, specified by the Government or any officer authorised by it in this behalf, sell, transfer or otherwise dispose of his properties referred to in sub-section (1) of section 13.

(2) An application for permission under sub-section (1) shall be made through the head of department in relation to the applicant.

15. **Surrender of properties and assets:-** (1) A person who owns, or has in his possession or under his control, directly or indirectly, either in his own name or in the name of any other person, any property and assets which he has reason to believe have been acquired any means referred to in sub-section (2) of section 8, shall surrender such properties and assets in favour of the Government in such manner, to such person and within such time as the Government may by order specify.

(2) No penal action of any kind whatsoever, except the forfeiture of such properties and assets, shall be taken against a person who surrenders all the properties and assets which he is required to surrender under sub-section (1).

16. **Penalty for failure to surrender certain properties and assets:-** A person who owns, or has in his possession or under his control, any properties and assets which he is required to surrender under section 15, but fails to so surrender shall be punishable with rigorous imprisonment for a term which may extend to fourteen years and with confiscation of the whole or part of his properties and assets.

17. **Penalty for failure to surrender amount equivalent to value of properties and assets acquired irregularly:-** Where properties and assets which have been transferred within the period specified in clause (a) of sub-section (2) of section 5, or, in the case of submission of statements on the first occasion, within the period specified in sub-section (1) of section 6, were acquired by any means referred to in sub-section (2) of section 8, the person transferring them shall, unless he surrenders to the Government on or before a date to be notified by Government an amount equivalent to the value of such properties and assets, be punishable with rigorous imprisonment for a term which may extend to seven years and with confiscation of the whole or part of his properties and assets.

18. **Penalty for secreting, destroying, obliterating, rendering**

illegible, or preventing the production for using as evidence, of any document:- Whoever secretes or destroys any document which he may be lawfully compelled to produce as evidence before the Special Committee, or obliterates or renders illegible the whole or any part of such document with the intention of preventing the same from being produced or used as evidence before the Special Committee or after he shall have been lawfully summoned or required to produce the same for that purpose, shall be punished with rigorous imprisonment for a term which may extend to seven years, or with fine, or with both.

19. **Bar of Jurisdiction:-** (1) No order, proceeding or finding of the Special Committee shall be called in question by or before any Court.

(2) No Court or tribunal shall take cognizance of any offence under section 16 unless the Special Committee has recommended under this Ordinance punitive action against the accused.

20. **Power to make rules:-** The Government may make rules to carry out the purposes of this Ordinance.
