

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **L.P.A. No. 160/2009 & C.M. No. 5293/2009**

Decided on: 14th May, 2009

OFFICE OF LOKAYUKTA Appellant
Through: Ms. Priya Kumar, Advocate.

versus

GOVT. OF NCT OF DELHI & ANR. Respondents
Through: Mr. Najmi Waziri, Mr. Rajiv
Nanda, Mr. Anjum Zaved and
Mr. Akash Pratap, Advocates.

CORAM:
HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE NEERAJ KISHAN KAUL

1. Whether reporters of the local papers be allowed to see the judgment ? Yes
2. To be referred to the Reporter or not ? Yes
3. Whether the judgment should be reported in the Digest ? Yes

AJIT PRAKASH SHAH, CJ (Oral)

1. The present appeal arises from the order passed by the learned single Judge in Writ Petition (Civil) No. 699 of 2009 dated 13th March, 2009. By the order under appeal, the learned single Judge held that the Lokayukta is debarred from calling the records of any matter or case from the Government and its departments prior to issuance of notice to the public functionaries or what has been referred to as the pre-inquiry stage. The Lokayukta was directed that he shall first decide on the question of maintainability of the complaint and in case he decides to proceed with the matter, a formal notice shall be issued.

2. The facts necessary to decide the controversy in this case are set out as follows. A complaint was filed in the office of the Lokayukta on 8th October, 2008, under Section 9 of The Delhi Lokayukta and Upalokayukta Act, 1995 ('Act' for short), *inter alia*, with regard to purchase of Low-Floor buses by the Government of Delhi. On 17th November, 2008, the complaint was taken up by the Lokayukta and directions were issued to the complainant. The Government was also directed to produce the records relating to the process of issuance of tenders for purchase of 625 Non-AC Low Floor CNG buses including the record containing the decision making process. The matter was taken up by the Lokayukta on 17th December, 2008, 9th January, 2009 and 15th January, 2009. On 17th December, 2008 and 15th January, 2009, the direction in respect of production of records was reiterated.

3. On 22nd January, 2009, the complainant who had not appeared on two dates moved a formal application for permission to join in the proceedings. The Government, on the other hand, moved an application praying for dismissal of the complaint. Notice was issued in both the applications and the complainant as well as the Government were called upon to file their respective replies. The Government, however, objected to notice being issued on its own application on the ground that the application of the complainant to join the proceedings had not been decided and that the complainant had no *locus* to accept notice in the application of the Government. This objection was rejected by the Lokayukta as he was required to hear the complainant before deciding the issue of maintainability and the plea for dismissal of the complaint.

4. During the proceedings of 22nd January, 2009, the Government took a categorical stand that it would have no objection in producing records in a *suo moto* proceeding. By an order dated 28th January, 2009, the Lokayukta directed as under:-

“12. Secretary, Department of transport or the Officer holding charge of the said Department personally to produce the above relevant records on 02.02.2009 at 2.00 PM failing which proceedings under Section 175 IPC shall be initiated against the persons committing the offence.”

5. The Government claiming to be aggrieved, filed the writ petition *inter-alia* praying for quashing of the directions for production of records in the order dated 28th January, 2009, as is extracted above.

6. The findings of the learned single Judge are summarized in paragraph 34 of the order, which read as under:-

“34. To summarize the discussion, it is held that:

(a) The Lokayukta and Upalokayukta have the power to inquire into complaints, and if necessary, use the services of investigative agencies deputed for the purpose. During the course of such inquiry, investigation is possible; so also, the power to call for documents, have evidence recorded through commission, etc, is exercisable. However, the power of inquiry does not include a preliminary inquiry.

(b) In a complaint procedure, the Lokayukta or Upalokayukta has to, after satisfying itself about the compliance with procedural formalities, prescribed by the statute, issue notice to the respective parties. The inquiry begins thereafter and the powers under

Section 11 are available, to aid the process of inquiry. At the “pre-inquiry” stage, or processing of the complaint, there is no question of the Lokayukta calling for the records from an authority. The power to do so is available after issuance of notice; the Lokayukta may, in a given case, issue notice and also call for the records, having regard to the circumstances, and the need to ensure that the documents are preserved or secured.

(c) In a *suo motu* proceeding, the Lokayukta does not have to satisfy itself about compliance regarding the complaint –it can straightaway proceed to issue notice, and exercise powers under Section 11;

(d) Section 10 enacts procedural flexibility, in regard to holding of inquiries. Yet, it sets out the standard of fairness, i.e. compliance with principles of natural justice. This provision underlines that the Lokayukta, though a judicial or quasi judicial body, is not really a court. It can evolve a fair procedure, having regard to the peculiar needs of a given case, or given class of cases which may present a common feature or peculiarity.”

7. Mr. Maninder Singh, learned senior counsel appearing on behalf of the appellant, contended that ordinarily, a statutory authority would not question any direction issued by the Court, however, in the present case the Office of Lokayukta is constrained to file the present appeal as the impugned order has far reaching consequences affecting the exercise of jurisdiction by the Lokayukta and would seriously impede its functioning as an independent authority. He contended that the conclusion of the learned single Judge that the inquiry commences upon issuance of notice and that Section 11 of the Act will be applicable only on such notice being issued and existence of an inquiry is completely erroneous. From the plain reading of the Act, it is evident that

there is no such requirement in the Act. On the contrary, the Lokayukta has been given flexibility in deciding matters relating to procedure including holding of any preliminary inquiry or verification prior to issuance of notice. He contended that the words “inquiry” and “investigation” are not used synonymously. The Delhi Lokayukta and Upalokayukta (Investigation) Rules only relate to the “investigation” as the heading of the Rules itself makes it clear and the stage for investigation is necessarily after the issuance of notice to the public functionaries. However, the Act used the broader term ‘inquiry’ instead of investigation. The explanation to Section 7 clarifies that the term ‘enquiry’ includes ‘investigation’. The Lokayukta cannot decide whether further investigation was warranted without the relevant records. The production and examination of record is a *sine qua-non* for any inquiry, which cannot be conducted in vacuum. He contended that the learned single Judge has concluded that even in *suo moto* proceedings the Lokayukta would need to first issue notice to the public functionaries whereas the submission of the Government was that they would produce the records in *suo moto* proceedings. It is further submission of the learned counsel that the Government of Delhi is not a party to the proceeding/complaint and has, thus, no *locus* to raise such issues. It was issued notice only to produce records as a custodian thereof. According to him in the present regime of Right to Information; it is incongruous for any Government committed to transparency to deny production of records and that too before a statutory authority created for eliminating corruption. He pointed out that there is no claim of

privilege in respect of the records. Moreover, confidentiality of record produced before the Lokayukta is protected under Section 14 of the Act.

8. On the other hand, Mr. Vikas Singh, learned senior counsel appearing on behalf of Government of Delhi urged that the Act mandated; by Section 9, that the complaint, in case it alleges wrongdoing or misconduct of the Chief Minister, had to be in the prescribed form; the complaint, in the present case, was not in that form; besides, the court fee prescribed too had not been filed. It was urged that the Lokayukta should have, in all fairness first decided the question of maintainability, since the complainant had without cause, absented himself, and his request to join proceedings had not been granted. Instead, the Lokayukta persisted in demanding the production of file. According to learned counsel, the question of exercise of powers under Section 11 of the Act would arise only upon issuing notice on the complaint. In the absence of the formal notice, the Lokayukta is not entitled to call for the records of the State Government. He contended that the Lokayukta exercises powers either *suo motu*, or further to a complaint or information. If the proceedings are not *suo motu*, and if the Lokayukta proposes an inquiry, based on an inquiry itself or a complaint, he must formally take cognizance of the matter, and issue notice. The proceedings commence after the issuance of such notice and the Lokayukta derives his power to summon records and documents, under Section 11 of the Act to aid such inquiry or proceedings. Mr. Vikas Singh further contended that the basis of the complaint was the

information provided to the complainant by the Metropolitan Transport Corporation, Chennai regarding the purchase price of semi-low floor buses. The clarification dated 20th October, 2008 issued by the said Corporation clearly states that the information supplied earlier by them pertained to semi-low floor buses and not low floor buses. This letter took away the very substratum of the complaint, therefore, the complaint ought to have been dismissed and the proceedings could not be continued any further as there was no basis to do so whether *suo moto* or otherwise.

9. In order to appreciate the role and functions of Lokayukta, it would be necessary to refer to the brief historical background and origin of Lokayukta. The concept of Ombudsman evolved out of a necessity to protect the common man from the administrative faults, arising out of proliferating administrative agencies, adversely affecting the life of a citizen. So far India is concerned the starting point of such legislation is the Interim Report of the Administrative Reforms Commission on "Problems of Redress of Citizens' Grievances". The Commission recommended that the person authorized to discharge the functions of the Ombudsman at the Centre should be called as 'Lokpal' and his counterpart in the States was to be called as 'Lokayukta'. In para 25 of its Report, the Commission catalogued the main features of the two functionaries viz. Lokpal and Lokayukta, in the following terms:-

“(a) They should be demonstrably independent and impartial.

(b) Their investigations and proceedings should be conducted in private and should be informal in character.

(c) Their appointment should, as far as possible, be non-political.

(d) Their status should compare with the highest judicial functionaries in the country.

(e) They should deal with matters in the discretionary field involving acts of injustice, corruption or favouritism.

(f) Their proceedings should not be subject to judicial interference and they should have the maximum latitude & powers in obtaining information relevant to their duties.

(g) They should not look forward to any benefit or pecuniary advantage from the executive Government.”

10. After the receipt of this Report, the Central Government introduced a Bill, called the Lokpal and Ayukta Bill, 1968. This Bill lapsed. A second attempt was made in the year 1971 by introducing another Bill 3 of 1971. This Bill also met with the same fate. Thereafter a third Bill was introduced in Parliament but the said Bill never became the law. So far as the Government of NCT of Delhi is concerned, it enacted The Delhi Lokayukta and Upa-Lokayuktas Act, 1995 (Delhi Act No. 1 of 1996) which is more or less on the pattern of the Bills introduced in the Central legislation. The object of the Act is to ensure an independent investigation of administrative action. If after inquiry into the allegations, Lokayukta is satisfied that such allegation is established, he makes a report under Section 12(1) of the Act. After the report is submitted, the competent authority has to examine the report and intimate the action taken or proposed to be taken on the basis of the report within the time prescribed. If the Lokayukta or the Upa-Lokayukta is satisfied with the action taken or proposed to be taken on the

recommendations or findings contained in the report, he shall close the case under information to the complainant, the public servant and the competent authority concerned. But when he is not so satisfied and if he considers that the case so deserves, he may make a special report upon the case to the Lieutenant Governor and also inform the complainant concerned. The Lokayukta and the Upa-Lokayukta under sub-section (4) have to present annually a consolidated report on the performance of their functions under the Act to the Lieutenant Governor. On receipt of a special report under sub-section (3), or the annual report under sub-section (4), the Lieutenant Governor shall cause a copy thereof together with an explanatory memorandum to be laid before the Legislative Assembly.

11. Section 7 of the Act enumerates the matters which may be inquired into by the Lokayukta or Upalokayukta and the same reads as under:-

“7. Matter which may be inquired into by Lokayukta or Uplokayukta- Subject to the provisions of this Act, on receiving complaint or other information or suo moto –

(a) The Lokayukta may proceed to inquire into an allegation made against a public functionary in relation to whom either the President or Lieutenant Governor is the competent authority;

(b) The Upalokayukta may proceed to inquire into an allegation made against any public functionary other than that referred to in clause (a);

Provided that the Lokayukta may inquire into an allegation made against any public functionary referred to in clause (b).

Explanation:- For the purposes of this section the expressions “may proceed to inquire” and “may inquire” include investigation by any person or agency put at the disposal of the Lokayukta and Upalokayukta in pursuance of sub-section (2) of Section 13.”

12. Section 8 of the Act states the matters which are not subject to inquiry by the Lokayukta and Uplokayukta. Section 9 provides a procedure relating to complaints. It says that every complaint involving an allegation shall be made in such form as may be prescribed and shall be accompanied by a deposit of Rs.500/-(Five hundred rupees). The complainant shall also swear an affidavit in such form as may be prescribed before any officer authorized by the Lokayukta in this behalf. Under sub-section (2) of Section 9 of the Act, every person who willfully or maliciously makes any false complaint under the Act, shall be punishable with rigorous imprisonment which may extend to three years or with fine which may extend to five thousand rupees or with both.

13. For investigation of the complaints wide powers have been conferred on the Lokayukta under the Act. Sections 10, 11 and 13 of the Act, which are material for our purpose are reproduced below:-

“10. Procedure in respect of inquiry- The Lokayukta or Upalokayukta shall, in each case before it, decide the procedure to be followed for making the inquiry and in so doing ensure that the principles of natural justice are satisfied.

11. Applicability of Evidence Act and Code of Criminal Procedure- (1) The provisions of the Evidence Act, 1872 (1 of 1872), and the

code of Criminal Procedure, 1973 (2 of 1974), shall as nearly as may be, apply to the procedure of inquiry before Lokayukta or Upalokayukta in the matter of –

- (i) summoning and enforcing the attendance of any person and his examination on oath;
- (ii) requiring the discovery and production of documents and proof thereof;
- (iii) receiving evidence on affidavits;
- (iv) requisitioning any public record or copy thereof from any court or office;
- (v) issuing commissions for examination of witnesses or documents; and such other matters as may be prescribed;

Provided that no proceeding before the Lokayukta or Upalokayukta shall be invalidated only on account of want of formal proof if the principles of natural justice are satisfied.

(2) Any proceeding before the Lokayukta or Upalokayukta shall be deemed to be a judicial proceeding within the meaning of section 193 and section 228 of the Indian Penal Code, 1960 (45 of 1960).

(3) The Lokayukta and Upalokayukta shall be deemed to be a Civil Court for the purpose of section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 (2 of 1974).

XXX

XXX

XXX

13. Staff of Lokayukta and Upalokayukta-

(1) The Government shall in consultation with the Lokayukta, provide officers and other employees to assist the Lokayukta and Upalokayukta in the discharge of their functions under this Act.

(2) Without prejudice to the provisions of sub-section (1), the Lokayukta or an Upalokayukta

may, for the purpose of conducting inquiries under this Act, utilize the services of –

(i) any officer of investigation agency of the Government or the Central Government, with the concurrence of that Government, or

(ii) any other person or agency.”

14. Section 16 of the Act provides that if the Lokayukta, in discharge of its functions under the Act, notices a practice or procedure which in his opinion afforded an opportunity for corruption or maladministration, he may bring it to the notice of the Government and may suggest such improvement in the said practice or procedure as he may deem fit.

15. The Delhi Lokayukta and Upalokayukta (Investigation) Rules, 1998, are framed under the provisions of the Act. Rule 2 contains definitions. Sub-rule (iv) of Rule 2, which is relevant reads as under:-

“Rule 2 (iv) “Investigation” means any enquiry or other proceedings in connection with the complaint but does not include a preliminary enquiry.”

16. Rule 6 deals with complaints, it stipulates that a complaint against the Chief Minister or a Minister or a Member of Legislative Assembly shall be in Form-I accompanied by an affidavit in Form-III in support of its contents. The complaint against other functionaries shall be in Form-II accompanied by an affidavit in Form-III in support of its contents. Rule 7 prescribes that a fee of five hundred rupees shall be paid in Judicial stamps.

17. Rules 15 and 16 stipulate as under:-

“15. Powers to regulate proceedings and investigations - The Lokayukta or the Upalokayukta shall have the powers, subject to the provisions of the Act, to regulate the conduct of proceedings, investigations and enquiries in all matters not provided for in these rules.

16. Procedure to be adopted at the investigation – When the Lokayukta or the Upalokayukta conducts an investigation under the Act, he shall after a copy of the complaint or the statement of the grounds of the investigation has been served on the public functionary concerned, afford reasonable opportunity to him or his authorized representative to inspect or copy the affidavit of the complaint and other documents which may have been filed in support of such complaint, affidavit or a statement.

Explanation –

“Copy” includes preparation of a copy in manuscript or typewriting machine.”

18. The question that falls for our consideration is whether the Act requires the Lokayukta to issue notice to the public functionaries and only thereafter a direction can be given for requesting/calling for the records. Incidental question is whether the Lokayukta is precluded from conducting a preliminary inquiry prior to issuance of notice to public functionaries.

19. At the outset it must be mentioned that notice in this case has not been issued to the public functionaries under the Act against whom complaint has been filed. Notice was issued only to Government of Delhi to produce the records to enable the Lokayukta to proceed further in the matter. The State is resisting this direction by raising technical pleas like complaint not having been accompanied by affidavit and delayed filing of the judicial stamp to make up the deficiency etc. Prosecution of the

complainant under Section 9(2) of the Act is sought for filing a false and vexatious complaint. Curiously, before the Lokayukta it was urged on behalf of the State that they would produce the records not in the complaint but in the suo motu proceedings, if initiated by the Lokayukta. On merits, the State sought to argue that the buses acquired by Chennai Corporation were not low floor buses and were semi-low floor buses. There is no provision in the Act which says that the provisions of Section 11 of the Act, empowering the Lokayukta to summon any record, would be applicable only after issuance of notice to the parties. The Act does not require issuance of notice to the public functionary before summoning the records so as to satisfy himself that there is sufficient material to proceed against the public functionary. The Government of Delhi being the custodian of records was issued notice to produce the same. The proceedings before the Lokayukta are inherently informal and not technical in nature and as long as there is no violation of principles of natural justice, the interference by the High Court in writ jurisdiction under Article 226 of the Constitution would not be appropriate.

20. We are also unable to agree with the view of the learned single Judge that the term “enquiry” and “investigation” are used synonymously in the Act and the Rules. The explanation to Section 7 of the Act provides that the expressions “may proceed to inquire” and “may inquire” include investigation by any person or agency at the disposal of the Lokayukta and Upalokayukta in pursuance of sub-section (2) of Section 13 of the Act. Rule 2(iv) of the Rules on

which the learned single Judge has placed reliance deals with investigation, which would be a post notice stage and in case the Lokayukta decides after the preliminary inquiry to proceed against the public functionaries then he would certainly issue notice and 'proceed to investigate' the matter in terms of the procedure as laid down by the Rules. Rule 2(iv) thus applies only to post notice stage and, therefore, it excludes the preliminary inquiry. The provisions authorizing the Lokayukta to decide his procedure and power to summon the record, does not require issuance of notice to the public functionaries before summoning the records so as to satisfy himself that there is sufficient material to proceed against the public functionaries.

21. The power of the Lokayukta to hold a preliminary inquiry, before issuing a formal notice, has been considered by the Supreme Court in the case of ***Chaudhary Rama Rao vs. Lokayukta & Ors., (1996) 5 SCC 304.*** In that case, an anonymous complaint was received before the Lokayukta under Section 3 of the A.P. Lokayukta & Up-Lokayukta Act, 1983. After conducting preliminary investigation, the Lokayukta submitted his interim report prohibiting purchase of the generator sets and also by interim report directed the Government either to suspend the petitioner or to transfer him and to take similar action against the Superintending Engineer as well. In the writ petition, the petitioner challenged the constitutionality of certain provisions of the A.P. Act which was given up before the Supreme Court but objection was raised to the procedure adopted by the Lokayukta in submitting the

report for taking action against the petitioner, for his suspension or to transfer him to any other place. It was contended that the petitioner has not been given any opportunity before submitting the report to the Government and the action is contrary to Section 10 read with Section 12 of the Act. Repelling the objections, the Court held:-

“4. The Lokayukta is empowered under the Act to conduct such preliminary verification as he deems fit or proposes to conduct any investigation under the Act to find whether the allegation in the complaint prima facie justify for conducting regular investigation. Sub-section (2)(a) of Section 10 postulates that every preliminary verification referred to in Sub-section (1) shall be conducted in private and in particular, the identity of the complainant and of the public servant affected by the said preliminary verification shall not be disclosed to the public or the press whether before or during the preliminary verification, but every investigation referred to in Sub-section (1) shall be conducted in public. In other words, the statutory provision contemplates that while conducting preliminary verification of the complaint under Sub-section (1) of Section 12, the investigation is required to be made in confidentiality and on satisfying from the investigation of the alleged misconduct, etc. He is empowered to take further action under the Act. He is also empowered under Section 11 to collect evidence or have the investigation done as a Civil Court by operation of Sub-section (2) of Section 11 of the Act only when he satisfies that there is an evidence to proceed further under Section 10(1)(b). At that stage, he shall afford an opportunity to the aggrieved person to comment on such complaint or the statement and conduct the investigation or inquiry. He is enjoined to give reasonable opportunity to the public servant. After conducting the said inquiry, if he finds that the public servant or the person referred committed misconduct, then he is required to submit the report to the Government as enjoined under Section 12 of the Act. On receipt thereof, under Sub-section (3), it shall

be lawful for the Government to take action as recommended by the Lokayukta.

5. Considered from the operational conspectus of the above provisions, it would not be necessary to issue any notice or give opportunity to a public servant at preliminary verification or investigation. When the Lokayukta or Up-lokayukta, as the case may be, conducts a regular investigation into the complaint, it would be necessary to give prior opportunity to the public servant etc. By implication, such an opportunity stands excluded when preliminary verification or investigation is conducted. The object appears to be that the preliminary investigation or verification is required to be done in confidentiality to get a prima facie evidence so that the needed evidence or material may not be got suppressed or destroyed.....
....”

22. Our attention was drawn to the decision of the Supreme Court in ***Shashikant vs. Central Bureau of Investigation, (2007) 1 SCC 630***, in which CBI had initiated a preliminary inquiry upon receipt of the complaint. The question which had arisen for consideration was as to whether it was obligatory on the part of the CBI to lodge a first information report and carry out a full-fledged investigation about the truthfulness or otherwise of the allegations made in the said anonymous complaint. The Court observed that although ordinarily in terms of Section 154 of the Code, when a report is received relating to the cognizable offence, a first information report should be lodged, to carry out a preliminary inquiry even under the Code is not unknown. When an anonymous complaint is received, no Investigating Officer would initiate investigative process immediately thereupon. It may for good reasons carry out a preliminary inquiry to find out the truth or

otherwise of the allegations contained therein. The Court referred to the view expressed by Mitter, J. in **P. Sirajuddin v. State of Madras, (1970) 1 SCC 595**, in the following words:

" Before a public servant, whatever be his status, is publicly charged with acts of dishonesty which amount to serious misdemeanour or misconduct of the type alleged in this case and a first information is lodged against him, there must be some suitable preliminary inquiry into the allegations by a responsible officer. The lodging of such a report against a person specially one who like the appellant occupied the top position in a department, even if baseless, would do incalculable harm not only to the officer in particular but to the department he belonged to, in general The means adopted no less than the end to be achieved must be impeccable."

23. The Court also referred to the observations of Mudholkar, J. in a separate judgment in **State of Uttar Pradesh v. Bhagwant Kishore Joshi, AIR 1964 SC 221** which read as follows:-

" In the absence of any prohibition in the Code, express or implied, I am of opinion that it is open to a police officer to make preliminary enquiries before registering an offence and making a full scale investigation into it."

24. The Supreme Court in the matter of **Champaklal Chimanlal Shah vs. Union of India, (1964) SCR 190**, has drawn a distinction between the departmental inquiry and the preliminary inquiry as follows:-

".....But even where it is intended to take action by way of punishment what usually happens is that something in the nature of what may be called a preliminary inquiry is first held in connection with the alleged misconduct or unsatisfactory work. In this preliminary inquiry the explanation of the government servant may be taken and documentary and even oral evidence may be considered. It is

usual when such a preliminary inquiry makes out a *prima facie* case against the servant concerned that charges are then framed against him and he is asked to show cause why disciplinary action be not taken against him.....
”

25. In the light of the settled legal position, it is not possible to accede to the submission that the Lokayukta has no power to call for records in a preliminary inquiry. The exercise of calling for the records was to satisfy that there was a *prima facie* case to proceed with. The objections raised by the State regarding the maintainability of the complaint are purely technical. Even otherwise, it may not be open to the Government to raise any such objection as it was issued notice only to produce records in its possession. Under the provisions of the Act, Lieutenant Governor, NCT of Delhi is required to take decision on the recommendations made by the Lokayukta following an inquiry with respect to all public functionaries. Therefore, entertaining a plea by the State Government questioning the inquiry proceedings or exercise of jurisdiction by the Lokayukta might seriously impede the statutory and independent functioning of the Lokayukta under the Act. The nature of proceedings conducted by the Lokayukta are altogether different from a civil or criminal lis. Unlike civil or criminal proceedings, a citizen making allegations against a public functionary may not be in possession of complete facts or documents, unless the allegation arises out of his personal transaction with any public functionary. The powers conferred on the Lokayukta are advisedly very wide. These powers are wider than of any court of law. Notwithstanding remedies to be found in

courts of law and in statutory appeals against administrative decisions, there still remains a gap in the machinery for the redressal of grievances of the individuals against administrative acts or omissions. The need to create an authority to deal with such cases was felt by Conference of Jurists representing Asia and Pacific Regions in following words:-

"This gap should be filled by an authority which is able to act more speedily, informally and with a greater regard to the individual justice of a case than is possible by ordinary legal process of the Courts, it should not be regarded as a substitute for, or rival to, the legislature or to the Courts but as a necessary supplement to their work, using weapons of persuasion, recommendation and publicity rather than compulsion".

The fight between an individual citizen and the State is unequal in nature. Therefore, the very existence of such an institution will act as a check and will be helpful in checking the canker of corruption and maladministration. More so when it has been repeatedly asserted that the canker of corruption, in the proportions it is said to have attained, may well dig into the vitals of our democratic State, and eventually destroy it (See Corruption - Control of Maladministration by John B. Monteiro)."

26. The provisions of such an enactment, which is enacted for the eradication of the evil of corruption and maladministration must be construed liberally so as to advance the remedy. In our opinion, there is absolutely no merit in any of the objections raised by the State Government. The records in question under the Right to Information Act, 2005, would be available even to a private person and we see no reason why the State should deny the production of these documents before the Lokayukta. In the result, the appeal is

allowed. The order of the learned single Judge is set aside. The pending application stands disposed of as well.

CHIEF JUSTICE

NEERAJ KISHAN KAUL, J.

MAY 14, 2009
sb