

IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) No. 1637 of 2010 & CMs 3294-95/2010

SAT PRAKASH RANA

..... Petitioner

Through: Mr. Sanjay Jain, Senior Advocate
with Mr. Jayant Tripathi and
Ms. Ruchi Saini, Advocates.

versus

THE LIEUTENANT GOVERNOR OF DELHI AND ANR.

..... Respondents

Through: Mr. N. Waziri, Standing counsel for
GNCTD.

CORAM: JUSTICE S. MURALIDHAR

1. Whether reporters of local paper may be allowed
to see the judgment? Yes
2. To be referred to the reporter or not? Yes
3. Whether the judgment should be referred in the digest? Yes

ORDER
10.03.2010

1. The Petitioner, a Member of the Legislative Assembly (MLA) of Delhi, seeks the quashing of the proceedings before the Lokayukta, Delhi in Complaint No.C-236/Lok/2009 titled “*Ramesh Thakur v. Sat Prakash Rana*”. He also seeks the quashing of two separate orders dated 17th February 2010 passed by the Lokayukta in the said case.

2. Although the Lokayukta, Delhi was impleaded as Respondent No.1 in this writ petition and was also represented by counsel, this Court is of the view that an authority whose orders are under challenge, ought not to be made a party to the proceedings. This position is settled by the

Supreme Court in *Savitri Devi v. District Judge Gorakhpur 1999 (2)*
WP(C) No.1637/2010

SCC 577 and *Fakeerappa v. Karnataka Cement Pipe Factory (2004) 2 SCC 473* and the Division Bench of this Court in *Union Public Service Commission v. Shiv Shambu 2008 IX AD (Del) 289*. Accordingly, the name of the Lokayukta, Delhi is deleted from the array of parties in the present case. The cause title of this writ petition will read as “*Sat Prakash Rana v. The Lieutenant Governor of Delhi & Another*”. Consequently, the other respondents i.e. the Lt. Governor (LG) and Mr. Ramesh Thakur will be Respondents 1 and 2 respectively.

3. The proceedings before the Lokayukta are traceable to a complaint dated 7th October 2009 filed before him by Respondent No.2 Mr. Ramesh Thakur, a Superintending Engineer (SW) of the Delhi Jal Board (DJB) working at Sector 4, Booster Pumping Station, R.K. Puram. In his complaint Mr.Thakur stated that on the evening of 1st October 2010 when he was in his office, the Petitioner who is an MLA elected from the Bijwasan Constituency barged into his room at around 5.10 p.m. The complaint alleged that the Petitioner enquired about some petty works of tubewells of his constituency and then without provocation began shouting. Paras 2 to 4 of the complaint narrate what, according to Mr.Thakur, happened thereafter and read as under:

“2. I offered him chair. For a minute or two he enquired about some petty works of tubewells of his constituency. Suddenly without any provocation or any argument, he started shouting and asked “Who runs Delhi Jal Board”. I replied that it is run by Delhi Government.

3. At the top of his voice he said that in my areas of Mahipalpur and Rangpuri your Zonal Engineer is telling that I am under

pressure to continue the boring work at Rangpuri first, instead of Mahipalpur, whereas I (MLA) want this to be done at Mahiplapur.

4. It would be important to mention that DJB had awarded works of drilling of Tubewells one each at Rangpuri and Mahipalpur on 17.09.09 respectively, and the drilling machine had gone to Rangpuri to execute the work. I told the MLA that I was not aware about the start of work at Rangpuri or at Mahipalpur. Immediately after this Sh. Rana started giving choicest abuses, got up from his chair and started hitting me. I was totally stunned by such ferocious attack. He had hit me so badly that I started feeling severe pain and pleaded to stop this nonsense.”

4. Mr.Thakur further stated in his complaint that on hearing the noise the members of his staff rushed into the room whereupon the Petitioner accompanied by his associates left even while threatening that he would kill Mr.Thakur if he lodged an FIR with the police.

5. Mr.Thakur gave a statement to the police at Police Station (P.S) R.K. Puram on the basis of which FIR No.486 dated 1st October 2009 was registered against the petitioner under Sections 186/353/332/506 read with 34 IPC. A copy of the FIR was enclosed with the complaint dated 7th October 2009.

6. On 19th October 2009 the Petitioner was issued a notice by the Office of the Lokayukta enclosing a copy of Mr.Thakur’s complaint dated 7th October 2009 together with a copy of the above FIR. The notice mentioned that as the Petitioner was a public functionary the Lokayukta had “taken cognizance of the above incident for an inquiry under Section

7 read with section 2 (b) of the Delhi Lokayukta and Uplokayukta Act, 1995” (DLAU Act).

7. The Petitioner has enclosed a copy of a news item dated 20th October 2009 which appeared in ‘*The Hindu*’ under the title “Frame rules of conduct in public for MLAs”. The news item adverted to the fact that the Lokayukta, Delhi had taken cognizance of an earlier incident involving a Najafgarh MLA as well as the present incident and had sent a recommendation to the LG that rules of conduct were required to be framed for all elected representatives for guiding their behaviour in public. The Lokayukta was quoted as saying that “this is all the more necessary in our country in the wake of such incidents and the clamour for accountability in society for those in public life or holding public office”. The news item also referred to the fact that the Lokayukta had issued notice to the Petitioner.

8. In response to the notice, the Petitioner filed a reply in which he denied the version of Respondent No.2 of the incident of 1st October 2009. While not disputing that at around 4.45 p.m. he arrived at the office of Respondent No.2, the petitioner volunteered the information that he was accompanied by Mr. Anil Yadav, Municipal Councillor of his area and Mr. Inder Pal Rana both of whom according to him stayed back in the car. He claims that only he went to meet Respondent No.2 at his office which was on the first floor of the building. He claims to have found four or five other persons sitting in the office room. He states that he greeted Respondent No.2 “with folded hands”. The Petitioner is

supposed to have pointed out to Respondent No.2 that the latter had not taken any action “despite his repeated promises regarding the proper performance of the contractors assigned for connecting pipelines in Raj Nagar Part-II”. Respondent No.2 is supposed to have “retorted in a very rude manner that it was not the only thing he had to do, and that as and when he finds time he will look into the matter.” The version of the Petitioner as to what happened thereafter is contained in paras 8 to 11 of the reply which read as under:

“8. That I objected to his way of talking and an argument ensued. His colleagues in the room joined in and started to misbehave with me. Ramesh Thakur further instigated them by saying loudly “SAALAY KO MAR MAR KAR ISKI NETAGIRI NIKAL DO”.

9. That at this point one of these other persons slapped me and the rest of them joined to attack me. Ramesh Thakur then held my neck and started to beat me and also tore my clothes.

10. That hearing the commotion, Shri Anil Yadav and Shri Inderpal Rana, who were waiting in the car came upstairs to see what was happening and only then, I was rescued from Ramesh Thakur and his associates. Thereafter, I straight away went to the Police Station, Sector-12, R.K. Puram to file my complaint.

11. That the concerned Duty Officer sent me to the Safdarjung Hospital for MLC. The said MLC is annexed herewith and marked as Annexure-A1.”

9. The Petitioner further stated in his reply that the ASI from police Station, Sector 12, R.K. Puram took down his statement but did not register any formal FIR. A complaint had been filed by him with the

Speaker of the Delhi Legislative Assembly on 2nd October 2009. He was
WP(C) No.1637/2010 **Page 5 of 20**

granted anticipatory bail by this Court on 9th October 2009. He further stated that the Respondent No.2 “is a habitual offender and accused in an FIR No.610 dated 09.06.2007 under Section 376 G/354/506/384/34 IPC”. He accordingly prayed that the complaint of Respondent No.2 should be dismissed as being a fabricated one.

10. An application was filed by the Petitioner before the Lokayukta on 27th January 2010 seeking dismissal of the proceedings. On that date, the Lokayukta directed notice to be issued in the application and directed the case to be listed for 17th and 19th February 2010 “for disposal of application and further proceedings as before”. The said order was challenged by the Petitioner before this Court by way of Writ Petition (Civil) No. 979 of 2010 which was dismissed as withdrawn with liberty to the Petitioner to urge the points raised in the said petition before the Lokayukta.

11. By the impugned order dated 17th February 2010 the Lokayukta has dismissed the said application of the Petitioner. By a separate order of the same date, the Lokayukta set down the procedure that was proposed to be followed in the enquiry proceedings.

12. Mr. Sanjay Jain, learned Senior Counsel appearing for the Petitioner first submits that the Lokayukta had in exercise of his powers under Section 12 DLAU Act already sent a recommendation to the LG on the basis of the complaint dated 7th October 2009 received by him from Respondent No.2. That recommendation acknowledged the fact that

WP(C) No.1637/2010 **Page 6 of 20**

norms were yet to be framed to govern the conduct of MLAs. Even before the LG could respond to such recommendation, the Lokayukta has proceeded with the inquiry, which was unwarranted. He points out that under Section 2 (b) (i) of the DLAU Act, an allegation in relation to a public functionary had to be to the effect that he failed to act “in accordance with the norms of integrity and conduct which ought to be followed by the public functionaries or the class to which he belongs.” If no such norms have in fact been laid down, the very basis of taking cognizance of the complaint was illegal and erroneous. While submitting that the Petitioner is not questioning the jurisdiction of the Lokayukta to act on complaints against public functionaries in general, it is submitted that in the facts of the present case, when the Lokayukta has made an interim recommendation to the LG to devise norms, he should await for a response from LG before further proceeding in the matter.

13. Secondly, it is submitted that the DLAU Act did not contemplate holding a parallel enquiry by the Lokayukta into an incident which already formed the subject matter of an FIR that has been registered and is under investigation by the police. Relying upon the judgment of the Supreme Court in *Capt. M. Paul Anthony v. Bharat Gold Mines Ltd. AIR 1999 SC 1416*, it is submitted that the present case falls under the category delineated by the Supreme Court in para 22(ii) of the said judgment. In other words, the charge in the criminal case according to the learned Senior counsel for the Petitioner “is of grave nature which involves complicated questions of law and fact”. Consequently it would

be desirable for the Lokayukta not to proceed with the complaint before him till the conclusion of the criminal case. It is further submitted that in terms of the observations in para 22(v) of the above judgment in ***Capt. M. Paul Anthony v. Bharat Gold Mines Ltd.***, if at a subsequent stage it is found that the criminal case is getting unduly delayed, then the complaint before the Lokayukta can be revived. Thirdly, it is submitted that even if the Lokayukta returned a finding that the allegation made against the Petitioner stood substantiated, then in terms of Section 12 of the DLAU Act, the only action that could be recommended would be the registration of a police case which in any event had already taken place. In the circumstances, the proceedings before the Lokayukta did not serve any purpose other than subjecting the Petitioner to unnecessary harassment.

14. Fourthly, it is submitted that the competent authority in relation to the Petitioner is the LG. Assuming the inquiry returned a finding that the complaint was proved, the only recommendation of the Lokayukta on which the LG could take action was to have an FIR registered. Otherwise the LG had no authority over an MLA. Fifthly, as regards the procedure devised by the Lokayukta by the second impugned order dated 17th February 2010, it is submitted that such procedure would compel the Petitioner, who is in the position of an accused in the criminal case, to disclose his defence to the complainant in the course of the cross-examination of such complainant before the Lokayukta. This would violate the petitioner's fundamental rights under Article 21 of the

Constitution. Further, had such procedure been made known earlier to the Petitioner, he may not even have filed a reply particularly since it was going to cause him severe prejudice. Lastly, it is submitted that there was no ‘affirmation’ of the complaint by the petitioner and therefore in a strict sense it was not an allegation within the meaning of Section 2 (b) (i) of the DLAU Act. Consequently no cognisance of such allegation could have been taken by the Lokayukta.

15. In order to appreciate the above submissions, a reference be made to some of the relevant provisions of the DLAU Act. The long title of the DLAU Act reads:

“An Act to make provision for the establishment and functioning of the Institution of Lokayukata to inquire into the allegations against public functionaries in the National Capital Territory of Delhi and for matters connected therewith.”

16. Who is a “public functionary” is defined under Section 2 (m) DLAU Act. It includes the Chief Minister or a Minister; an MLA and a host of other officials of a government company, a local authority, a Corporation etc. In this context, the following observations of the Division Bench of this Court in the *Office of Lokayukta v. Govt. of NCT of Delhi 2009 (160) DLT 1 (DB)* are relevant:

“The need to create an authority which is able to deal with such cases was felt by the Conference of Jurists representing Asia and Pacific Regions in the 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)." (emphasis supplied)

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."

17. In terms of Section 7 DLAU Act, a Lokayukta can make an enquiry into an allegation on the basis of a complaint or on receiving information or *suo motu*. The complaint must contain an allegation as defined under Section 2(b)(i) of the DLAU Act, which reads as under:

"2. (b) "allegation" in relation to a public functionary means by affirmation that such public functionary in capacity as such-

- (i) has failed to act in accordance with the norms of integrity and conduct which ought to be followed by the public functionaries or the class to which he belongs."

18. The other kinds of allegations include the misuse of official position

to gain some favour to oneself or to any other person [Section 2(b)(ii)] being actuated by improper or corrupt motives or personal interest[Section 2(b)(iii)]; allegation of corruption, favour, nepotism or lack of faithfulness [Section 2(b)(iv)] and being in possession of pecuniary resources or property disproportionate to known sources of income [Section 2(b)(v)]. It is immediately apparent that the allegations which can be enquired into by the Lokayukta under the DLAU Act can legitimately form subject matter of proceedings under the Indian Penal Code (IPC) or the Prevention of Corruption Act, 1988 (PC Act). The DLAU Act clearly envisages that an inquiry by the Lokayukta into an allegation can proceed notwithstanding the pendency of criminal proceedings under the IPC and/or the PC Act arising out of the same allegation.

19. Section 7 (a) of the DLAU Act states that 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. The Explanation to Section 7 clarifies that for the purposes of that provision, the expression ‘may proceed to inquire’ and ‘may inquire’ include investigation by any person or agency put at the disposal of the Lokayukta and the Upalokayukta in pursuance of Section 13(2).

20. What cannot be inquired into by the Lokayukta or an Upalokayukta is made clear under Section 8 which reads as under:

“8. Matter not subject to inquiry-The Lokayukta or an
WP(C) No.1637/2010 *Page 11 of 20*

Upalokayukta shall not inquire into any matter –

- (a) which has been referred for inquiry under the Commissions of Inquiry Act, 1952; or
- (b) relating to an allegation against a public functionary, if the complaint is made after expiration of a period of five years from the date on which the conduct complained against is alleged to have been committed.”

Therefore, the DLAU Act is very clear as to the scope and ambit of the powers of inquiry of the Lokayukta. What can be inquired is provided under Section 7 and what cannot under Section 8. If it was the intention of the Legislature that the Lokayukta should not inquire into any particular matter, then it would have provided for it under Section 8. It appears to this Court that other than those matters mentioned in Section 8(a) and (b), the Lokayukta can inquire into an allegation involving a public functionary, consistent with the object and purpose of the Act. Section 10 gives the Lokayukta discretion to decide the procedure for making the inquiry subject to the ensuring that the principles of natural justice are satisfied.

21. Under Section 12 (1) of the DLAU Act, the Lokayuka can communicate his findings and recommendations by a report in writing after inquiring into the allegations. He has to submit such report along with the relevant documents, material and other evidence to the competent authority. Under Section 12(2), the competent authority, after examining the report, shall intimate within three months the action taken or proposed to be taken. On perusal of such action taken report, the Lokayukta could either close the case or make further special report. On

receipt of such special report, the LG is required to place it together with an explanatory memorandum before the Legislative Assembly.

22. Then we have Section 16 of the DLAU Act which enables the Lokayukta, if in the discharge of his functions he notices a practice or procedure which in his opinion affords an opportunity for corruption or maladministration, to bring it to the notice of the Government and he “may suggest such improvement in the said practice or procedure as he may deem fit”.

23. A conspectus of the above provisions reveals that the powers of the Lokayukta under the DLAU Act are indeed wide. A Division Bench of this Court in *Office of Lokayukta v. Govt. of NCT of Delhi*, while holding that the powers of the Lokayukta are wide, noted that the proceedings under the DLAU were different from civil or criminal proceedings. It said:

“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.....”

24. Given the object and purpose of the DLAU Act, it is not possible to accept the broad submission of the learned Senior counsel for the Petitioner that parallel proceedings in relation to an incident are not envisaged under the DLAU Act. By the very nature of allegations answer the description under Section 2(b) DLAU Act, it is inevitable that arising out of an incident or occurrence there can be parallel proceedings: one under the IPC/ PC Act or any other statute and the other under the DLAU Act. Also, Section 8 is exhaustive of the matters that cannot be enquired into by the Lokayukta. Although criminal proceedings into the matters which answer the definition of an “allegation” within the meaning of Section 2 (b) DLAU Act are inevitable, there is nothing in Section 8 of the DLAU Act which indicates that the Lokayukta cannot inquire into an allegation which forms the subject matter of an FIR or criminal investigation.

25. In *Capt. M. Paul Anthony v. Bharat Gold Mines Ltd.*, the Supreme Court discussed the entire case law up to that stage on the question whether, arising out of the same facts, the disciplinary proceedings and criminal proceedings could proceed simultaneously. In para 22 of the judgment the Supreme Court summarised the legal position as under:

“22. The conclusions which are deducible from various decisions of this Court referred to above are:

- (i) Departmental proceedings and proceedings in a criminal case can proceed simultaneously as there is no bar in their being conducted simultaneously, though separately.

- (ii) **If the departmental proceedings and the criminal case are based on identical and similar set of facts and the charge in the criminal case against the delinquent employee is of a grave nature which involves complicated questions of law and fact, it would be desirable to stay the departmental proceedings till the conclusion of the criminal case.**
- (iii) Whether the nature of a charge in a criminal case is grave and whether complicated questions of fact and law are involved in that case, will depend upon the nature of offence, the nature of the case launched against the employee on the basis of evidence and material collected against him during investigation or as reflected in the charge sheet.
- (iv) The factors mentioned at (ii) and (iii) above cannot be considered in isolation to stay the Departmental proceedings but due regard has to be given to the fact that the departmental proceedings cannot be unduly delayed.
- (v) **If the criminal case does not proceed or its disposal is being unduly delayed, the departmental proceedings, even if they were stayed on account of the pendency of the criminal case, can be resumed and proceeded with so as to conclude them at an early date, so that if the employee is found not guilty his honour may be vindicated and in case he is found guilty, administration may get rid of him at the earliest.”**
(emphasis supplied)

26. The observations in para 22(ii) in *Capt. M. Paul Anthony* that “it would be desirable to stay the departmental proceedings till the

conclusion of the criminal case”, were obviously confined to those criminal cases which were of “a grave nature” and which involved “complicated questions of law and facts”. Conscious of this qualification, the learned Senior counsel for the Petitioner sought to urge that the criminal proceedings commencing with the FIR in the present case were of a grave nature and further that it involved complicated questions of facts. Going by either of the two versions of the incident, one by the Petitioner and the other by Respondent No.2, this Court is not persuaded to hold at this stage that it is a “grave” case. In any event, it does not appear that the case involves complicated questions of fact. The Petitioner is not denying that he was present in the office of Respondent No.2 on 1st October 2009 at about 4.45 p.m. The only issue is whether it was the Petitioner who assaulted Respondent No.2 or vice versa. This can be ascertained without too much difficulty upon evidence being led on that point.

27. Further, the provisions of the IPC that have been invoked do not necessarily make it a grave one. Whether the petitioner will at all be charged and for which offences will have to await the outcome of the criminal investigation. At the same time it appears not to be consistent with the law explained by the Supreme Court to hold that the proceedings before the Lokayukta should await the outcome of the criminal investigation and the consequent criminal case, if any. There may be a criminal case or there may not. Further, the findings of the police during the investigation or even the findings of a criminal court thereafter need not bind the Lokayukta. The standard of proof involved

in a criminal case is also different. Given all these factors, it is not possible to accept the submission of the learned Senior Counsel for the Petitioner that in the instant case, the Lokayukta should await the conclusion of the criminal proceedings arising from the FIR that has been registered. Such a course is not warranted in law. This conclusion of the court further finds support from the decision of the Supreme Court in *Kendriya Vidyalaya Sangathan v. T. Srinivas (2004) 7 SCC 442*.

28. As regards the Petitioner's contention that the Lokayukta having made an interim recommendation to the LG should await the response of the LG before proceeding further, this Court would like to observe that given the scheme of the DLAU Act, it is possible for the Lokayukta to make a series of recommendations in relation to matters that come to his knowledge. From the copy of the news item dated 20th October 2009 which has been enclosed with the present petition, it appears that the Lokayukta did make an interim recommendation to the LG about the need to frame norms to govern the conduct of the MLAs. That by no means implies that the Lokayukta was thereafter denuded of his powers to inquire into the incident which triggered the interim recommendation. The Lokayukta was well within his powers to take cognizance of the incident and inquire into the matter. It is not denied that the Petitioner is a public functionary and is therefore amenable to the jurisdiction of the Lokayukta. Given that the complaint is that the petitioner being an MLA assaulted a public servant, it can hardly be argued that such conduct could not form the subject matter of an "allegation" within the meaning of Section 2(b)(i) of the DLAU Act. A cognizable non-bailable offence

committed by a public functionary like an MLA, punishable under the IPC will certainly be covered by the words “failure to act in accordance with the norms of integrity and conduct which ought to be followed by public functionaries”. Such an allegation need not await the formulation of norms by the LG for being inquired into by the Lokayukta. Therefore, the contention that till such norms are framed by the LG, the Lokayukta should not proceed with the inquiry, deserves to be rejected.

29. This Court does not find any merit in the contention that the Petitioner’s fundamental rights are going to be violated because he has to disclose his defence in the inquiry before the Lokayukta to the complainant. It has been explained by the Supreme Court in several judgments referred to in *Capt. M. Paul Anthony* that the civil liability proceedings are distinct and different from a criminal law action. It has been pointed out that the non-criminal or disciplinary proceedings, or for that matter even proceedings before the Lokayukta, are essential to keep the administrative machinery unsullied. It has also been emphasized in *State of Rajasthan v. B.K. Meena (1996) 6 SCC 417* that it is not in the interests of the administration to stay the disciplinary proceedings, awaiting the result of criminal proceedings which could go on indefinitely. In any event, as contended by the learned Senior counsel for the petitioner himself, the findings of the Lokayukta would not bind either a civil court or a criminal court. In the circumstances, the Petitioner cannot be said to be prejudiced by having to disclose his defence in proceedings before the Lokayukta since in any event those findings will not bind the criminal court.

30. This court also finds no illegality having been committed by the Lokayukta in settling the procedure to be followed in the present inquiry before him. This is in conformity with Section 10 of the DLAU Act. The procedure is also consistent with the requirement of Rules 15 and 16 of the Delhi Lokayukta and Upalokayukta (Investigation) Rules 1998. No prejudice can be said to be caused to the Petitioner on that score. As regards the last submission, the word “affirmation” in Section 2 (b) (i) DLAU Act need not be understood as an affirmation on oath. Given the context, and in particular the object and purpose of the DLAU Act, a more flexible purposive interpretation is called for. The Rules also indicate that the Lokayukta has the discretion to devise a flexible procedure consistent with the rules of natural justice. The Lokayukta can at the stage of inquiry devise a procedure whereby the complainant will state that he stands by the allegation made in his complaint. That will satisfy the requirement that he should “affirm” the allegation.

31. Further, the mere fact that the LG, as a competent authority in relation to the petitioner, might be able to act only on some of the recommendations of the Lokayukta and not on all of them cannot dilute the powers of the Lokayukta under Section 12 DLAU Act. A close look at the said provision shows that the powers of the Lokayukta are not intended to be exhausted with the first set of recommendations. The LG is bound to furnish him with the action taken report which if not found satisfactory by the Lokayukta can trigger a further set of recommendations. If the principal objective of the DLAU Act, to

enforce the accountability of public functionaries to the people and the law, is kept in view, the Lokayukta must be seen to be vested with the corresponding powers to achieve such objective.

32. For all of the aforementioned reasons, this Court find no merit in this writ petition and it is dismissed as such. The applications also stand dismissed.

S. MURALIDHAR, J

MARCH 10, 2010
ak