

HIGH COURT OF JUDICATURE AT HYDERABAD
FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA
PRADESH

PRESENT

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI
SENGUPTA
AND
THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION NO.19361 OF 2011

DATED:29.1.2015

Between:

G. Balakrishna
and another

... Petitioners

And

The Hon'ble Andhra Pradesh Lokayukta
Basheerbagh, Hyderabad-500063

Represented by the Registrar ... Respondent

THE HON'BLE THE CHIEF JUSTICE SRI KALYAN JYOTI
SENGUPTA
AND
THE HON'BLE SRI JUSTICE SANJAY KUMAR

WRIT PETITION NO.19361 OF 2011

ORDER: (per the Hon'ble The Chief Justice Sri Kalyan Jyoti Sengupta)

This writ petition has been filed impugning the order dt.25.4.2011 passed by the learned Andhra Pradesh Lokayukta whereby and whereunder a reporter and publisher of Eenadu Telugu daily newspaper were directed to submit a report on the basis on which the news item was published contrary to the facts, by the next date of hearing.

We have heard the learned counsel for the petitioners and the learned counsel for the Lokayukta. We are unable to persuade ourselves that the Lokayukta has jurisdiction to pass any order or direction upon any person other than as mentioned in Section 7 of the Andhra Pradesh Lokayukta and Upa-Lokayukta Act, 1983 (for short, 'the Act'). Section 7 of the Act is set out hereunder:

"7. Matters which may be investigated by Lokayukta or Upa-Lokayukta:-

- (1) Subject to the provisions of this Act, the Lokayukta may investigate any action which is taken by, or with the general or specific approval of, or at the behest of,--

- (i) a Minister or a Secretary; or*
- (ii) a Member of either House of the State Legislature; or*
- (iii) a Mayor or the Municipal Corporation constituted by or under the relevant law for the time being in force; or*
- (iii)(a) a Vice-Chancellor or a Registrar of a University; or*
- (iv) any other public servant, belonging to such class or section of public servants, as may be notified by the government in this behalf after consultation with the Lokayukta, in any case where a complaint involving an allegation is made in respect of such action, or such*

action can be or could have been, in the opinion of the Lokayukta, the subject of an allegation.

- (2) *Subject to the provisions of this Act, the Upa-Lokayukta may investigate any action which is taken by, or with the general or specific approval of, any public servant, other than those referred to in sub-section (1), in any case where a complaint involving an allegation is made in respect of such action, or such action can be or could have been, in the opinion of the Upa-Lokayukta, the subject of an allegation.*
- (3) *Notwithstanding anything in sub-section (2), the Lokayukta may, for reasons to be recorded in writing, investigate any allegation in respect of an action which may be investigated by the Upa-Lokayukta under that sub-section, whether or not complaint has been made to the Lokayukta in respect of such action.*
- (4) *Whether two or more Upa-Lokayuktas are appointed under this Act, the Lokayukta may, by general or special order, assign to each of them matters which may be investigated by them under this Act.*

Provided that no investigation made by the Upa-Lokayukta under this Act and no action taken or thing done by him in respect of such investigation shall be called in question on the ground only that such investigation relates to a matter which is not assigned to him by such order,”

The reporter or the publisher are private individuals and cannot be a public servant under any stretch of imagination. Therefore, the impugned order of the Lokayukta is without jurisdiction and the same is accordingly set aside.

The writ petition is accordingly allowed.

Pending miscellaneous petitions, if any, shall stand closed.

There will be no order as to costs.

K.J. SENGUPTA, CJ

SANJAY KUMAR, J

29.1.2015

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