

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.3059 OF 2015

DATED:12.2.2015

Between:

R.K. Mittal ... Petitioner

And

The Institute of Lokayukta
For the State of Andhra Pradesh and Telangana
Rep. by its Registrar, Hyderabad
and others ... Respondents

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

-
WRIT PETITION NO.3059 OF 2015

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

This writ petition has been filed impugning the order of the Upa-Lokayukta dated 29.12.2014 refusing to entertain the petitioner's complaint under the Andhra Pradesh Lokayukta Act, 1983 (hereinafter referred to as 'the Act').

Learned counsel for the petitioner says that going by the statement made in the complaint, learned Upa-Lokayukta ought to have entertained the complaint and enquired into the matter. He says that the Tahsildar, being a public servant, has caused an undue hardship to the petitioner in taking steps in spite of a judicial pronouncement that the land claimed by the petitioner does not belong to Government.

In the context of the submission of the learned counsel for the petitioner, we have examined the order of the Upa-Lokayukta who has given reason that the dispute in question is purely of civil nature and that the matter has already been seized by the competent civil court, as per the allegations levelled by the complainant in his complaint. It was also recorded that the complainant also filed a writ petition before the Hon'ble High Court.

Reading the order impugned, we are of the view that refusal by the Upa-Lokayukta to entertain the complaint is just and proper, but we would like to re-look into the matter taking note of the submissions of

the learned counsel for the petitioner and also perusing the written complaint made by the petitioner.

Upon reading of the complaint, it appears that the allegations are directed against the Tahsildar, who is a public servant. The sum and substance of the allegation is that ‘the Tahsildar/Mandal Revenue Officer, Himayatnagar Mandal, has acted in discharge of his functions as such the said public servant by improper motive with an intention to put the petitioner to loss has taken action on the application by giving a false report, due to which the reputation of property has been put great loss and the petitioner has been put to great loss.’ Therefore, the sum and substance of the allegation is that the Tahsildar has given a false report. It is not alleged that the Tahsildar has acted illegally nor it is said that she has abused her position. Under what circumstances, the Lokayukta can entertain complaints against other public servants is elaborated in Section 7(1) clause (4) which we 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)
- (ii)
- (iii)
- (iii)(a)
- (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.”*

Unlike other clauses, under the aforesaid clause there must be a complaint involving an allegation. Again the word ‘allegation’ has been defined in Section 2(b) of the Act, which is set out hereunder:

2(b) ‘allegation’ in relation to a public servant means any affirmation that such public servant –

- (i) *has abused his position as such, to obtain any gain or favour to*

himself or to any other person, or to cause undue harm or hardship to any other person;

(ii) *was actuated in the discharge of his functions as such public servant by improper or corrupt motive and thereby caused loss to the State or any member or section of the public; or*

(iii) *is guilty of corruption, or lack of integrity in his capacity as such public servant;*

Thus, on a conjoint reading of sub-sections (i), (ii) and (iii) of sub-section (b) of Section 2 and Section 7 of the Act, we think that the Upa-Lokayukta can entertain complaints only when there are *prima facie* allegations with particulars fitting requirements of clauses (i)(ii)(iii) referred to above. We have already culled out the gist of the complaint made against the Tahsildar and we not find any such allegation made in the complaint. In addition to what has been found by the Upalokayukta, we also find in the complaint, reading on the face of it, it does not confer the jurisdiction on the Upa-Lokayukta.

Hence, overruling the contentions of the learned counsel for the petitioner, we accept the order of the learned Upa-Lokayukta and dismiss the writ petition.

Pending miscellaneous petitions, if any, shall also stand dismissed. There will be no order as to costs.

K.J. SENGUPTA, CJ

SANJAY KUMAR, J

12.2.2015

bnr

Note: L.R. Copy to be marked. Yes