

**THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No. 22613 of 2012 (O&M)
Date of decision: January 13, 2015

Maharaj Singh

...Petitioner

Versus

State of Haryana and others

...Respondents

CORAM:- HON'BLE MR. JUSTICE K. KANNAN

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

Present: Mr. SS Narula, Advocate,
for the petitioner.

Mr. Keshav Gupta, Assistant Advocate General, Haryana.

Mr. NS Shekhawat, Advocate,
for respondent No.4.

K. KANNAN, J. (Oral)

1. The petition is to test the vires of the proceedings of the Registrar, which, according to the petitioner, are without jurisdiction. Through the impugned orders, he has constituted inquiries, called for records from criminal court, directed fresh inquiries to be made and issued instructions to various offices of the police department to make inquiries on some allegations of forgery. The counsel for the petitioner points out that the power of the Registrar are restricted under the provisions of the Haryana Lokayukta Act, 2002 and, if at all, they could be exercised only in the manner spelt out under Sections 11 to 14 of the Act. Section 11 contemplates that on receipt of a complaint, the Lokayukta may, before

proceeding to investigate such complaint, make such preliminary inquiry or direct any other person to make such preliminary inquiry, as he deems fit.

The authorization that Lokayukta may issue under Section 11, shall be to make such inquiry and if he finds that no such ground exists, he shall record a finding to that effect. Section 13 again contemplates a power to summon record but this section does not contemplate that such a power to summon record of the State government to be capable of being delegated to any other person. On the other hand, Section 14, like Section 11, allows for the Lokayukta for the purpose of any inquiry or investigation to authorize any person to do any one of the three activities which Section 14 ((1) deals with. They are as follows:-

“14. (1) Subject to the provisions of this section, for the purpose of any inquiry or investigation, the Lokayukta or any person authorized by him in this behalf.-

- (a) may require any public servant or any other person, who, in his opinion, is able to furnish information or produce documents relevant to such inquiry, to furnish any such information or produce any such document;
- (b) may enter upon any land and survey, demarcate or prepare a map of the same;
- (c) shall have all the powers of a civil court while trying a suit under Code of Civil Procedure, 1908, in respect of the following matters, namely:-
 - (i) summoning and enforcing the attendance of any person and examining him on oath;
 - (ii) requiring the discovery and production of any document;
 - (iii) receiving evidence on affidavits;
 - (iv) requisitioning any public record or copy thereof from any court or office; and

- (v) issuing commissions for the examination of witnesses or documents:

Provided that no person, without the prior permission of the appropriate Government shall be required or authorized by virtue of the provisions contained in this Act to furnish any such information or answer any such question or produce so much of any document as might involve the disclosure of any information or production of any document which is punishable under the provisions of the Official Secrets Act, 1923.”

2. Lokayukta himself is a creature of a statute having been appointed by the Governor by warrant under Section 3 and qualifications are set forth under Section 4. Section 5 sets down the other offices which he will not hold. The order that is issued by the Lokayukta on 1.8.2011 reads thus:-

“Today, Shri S.S. Lamba, District & Sessions Judge (Retired) has taken over as Registrar in this institution. Therefore, henceforth all the files pertaining to the enquiry and investigation into the allegations and grievances against public servants and any other matters connected therewith shall be routed through him as required under the Haryana Lokayukta Act, 2002 and the rules framed thereunder. It is also to add here that all proceedings in the aforesaid matters shall be conducted at the level of learned Registrar before putting up the same for final hearing by the Lokayukta. Learned Registrar is further authorized to take down the proceedings and then make special reports in the complaints/matters which are assigned specifically by the Lokayukta.

Shri S.S. Rana, Reader attached with this office of Lokayukta shall assist the Registrar till his regular reader, P.A.Senior Scale Stenographer are appointed.”

This order contemplates that all inquiries and investigation into allegations

shall be routed through him as required under the Act and the Rules framed thereunder. The extent of delegation of powers we have already seen are available only for the function stipulated under Sections 11 to 14. The impugned orders far exceed the authority which is delegated to him.

3. I see force in the contention made by the petitioner and quash the impugned proceedings dated 18.1.2012, 8.2.2012, 26.4.2012 and 13.8.2012 spelt out in Annexures P/7, P/8, P/10 and P/12 respectively.

4. It shall be competent for the Lokayukta if he wants to invest in the Registrar any power to the extent as is contemplated in the aforesaid sections and his own activities shall stand restricted to it. The power already granted which is extracted above, if it is not modified, shall stand confined only to routing the inquiries through him and making possible only for the Lokayukta to pass appropriate order. The Registrar himself shall not pass any order beyond what is specifically stipulated in the order already issued on 1.8.2011.

5. The writ petition is disposed of with the above observations.

January 13, 2015
prem

(K.KANNAN)
JUDGE