

Civil Writ Petition No. 17566 of 2016

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

Civil Writ Petition No. 17566 of 2016

Date of Decision: 9.11.2016

Ravinder Kumar

.....Petitioner

Vs.

State of Haryana and another

.....Respondents

CORAM : HON'BLE MR. JUSTICE RAMESHWAR SINGH MALIK

Present : Mr. Rajesh Garg, Sr. Advocate with
Ms. Nimrata Shergill, Advocate
for the petitioner.

Mr. Baldev Raj Mahajan, Advocate General Haryana with
Mr. Lokesh Sinhal, Additional A.G. Haryana
for respondent No.1.

Mr. Nikhil Goel, Advocate and
Mr. Mayank Aggarwal, Advocate
for respondent No.2.

RAMESHWAR SINGH MALIK J. (ORAL)

Twin important questions of law, involved in the instant writ petition, that fall for consideration of this Court are:

- I) Whether the appointment of second respondent as Lokayukta for the State of Haryana amounts to “employment”?
- ii) Whether the office of Lokayukta Haryana comes “under the Government of State of Haryana” and the appointment of second respondent would be hit by the prohibition under Section 11 of the Armed Forces Tribunal Act, 2007 (‘AFT Act’)

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for short)?

Feeling aggrieved against the appointment of second respondent as Lokayukta for the State of Haryana, vide warrant of appointment dated 5.4.2016 (Annexure P-1), followed by notification dated 20.7.2016 (Annexure P-6), petitioner has approached this Court by way of present writ petition under Articles 226/227 of the Constitution of India, seeking a writ in the nature of Quo-Warranto. He also seeks a writ in the nature of Certiorari for quashing the appointment of second respondent as Lokayukta for the State of Haryana.

Notice of motion was issued vide order dated 29.8.2016 and in compliance thereof, written statement was filed on behalf of State of Haryana-respondent No.1. Separate written statement was filed on behalf of second respondent.

Succinctly put, facts necessary for disposal of the present writ petition are that, after demitting his office as Hon'ble Judge, High Court of Chhattisgarh, Bilaspur, second respondent was appointed as Judicial Member of Armed Forces Tribunal ('AFT' for short) at Gauhati Bench. However, at the time of his appointment as Lokayukta, Haryana, second respondent was posted as Judicial Member of AFT, Regional Bench, Kolkata in the State of West Bengal. Since the term of Hon'ble Mr. Justice Pritam Pal (former Judge of this Court) as Lokayukta, Haryana, was to expire on 17.1.2016, State of Haryana initiated the process for appointment of Lokayukta. After completing the consultation process, as envisaged under Section 3 (1) of The Haryana Lokayukta Act, 2002 ('the Act' for short), notification dated 1.4.2016 came to be issued by the State of Haryana, as envisaged under Section 3 (2) of the Act. Accordingly, warrant of

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appointment dated 5.4.2016 (Annexure P-1) was issued by the Governor of Haryana, appointing second respondent as Lokayukta for the State of Haryana, for a period of five years, from the date he assumes the charge of his office.

Since second respondent was working as Judicial Member of AFT, Regional Bench, Kolkata, he submitted his resignation to the competent authority and informed the Chief Secretary to Government of Haryana, vide communication dated 11.4.2016, that on acceptance of his resignation, he shall assume the charge of the office of Lokayukta Haryana. Thereafter, vide communication dated 1.7.2016, second respondent expressed his willingness to take oath of the office of Lokayukta on 19.7.2016. Second respondent was administered the oath as Lokayukta for the State of Haryana on 19.7.2016, by the Governor of Haryana. Accordingly, notification dated 20.7.2016 was issued. Hence this writ petition.

Heard learned counsel for the parties.

Learned senior counsel for the petitioner, while placing reliance on the provisions of Section 11 of the AFT Act, submits that on ceasing to hold the office as Judicial Member of AFT, second respondent was ineligible for further employment under the State Government. In this regard, he also places reliance on the marginal note of Section 11 of the AFT Act, given in the Gazette of India (Extraordinary) dated 28.12.2007, published by the Ministry of Law and Justice (Legislative Department), to contend that legislative intent was to prohibit holding of any office by the Judicial Member of AFT, on ceasing to be such member. Learned senior counsel, while referring to the word 'employment' used in Section 11 of the AFT Act,

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submits that it shall include every type of employment, irrespective of nature and duties as well as method of appointment. He submits that if the appointment, in question is not held to be employment, then Section 11 (b) of the AFT Act, would become redundant. He further submits that issuance of the order of appointment, in itself is initiation of employment, which would culminate in retirement. He also submits that in case this type of appointment is not held as employment, then there would be no bar to any employment, because a retired judge of High Court would not be appointed to any cadre post, under the control of State Government. He would next contend that unless it is an appointment to the Constitutional Office, like the Governor of a State, it has to be treated as employment either under the Government of a State or under the Government of India, as the case may be.

Another argument raised by learned senior counsel for the petitioner was that the process of consultation, in the present case, was not substantive one, as the total material, including Section 11 (b) of the AFT Act, was not placed before Hon'ble the Acting Chief Justice of this Court. He submits that in fact, Hon'ble the Acting Chief Justice was kept in dark by the authorities of the respondent-State, while not referring to Section 11 of AFT Act, during the process of consultation. Consultation is not a mere formality. Referring to the provisions of Section 3 of the Act and noting file (Annexure P-3), learned senior counsel for the petitioner submits that it was not an effective and purposeful consultation. Warrant of appointment dated 5.4.2016 was issued in haste, which should not have been issued in favour of a person who was already working as Judicial Member in AFT and was not available to assume charge of the office of Lokayukta, Haryana. Office of

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the Lokayukta cannot be compared with other ex-cadre posts like the Political Advisor to the Government or Officer on Special Duty to the Chief Minister, for the purpose of interpretation of word 'employment', powers and jurisdiction of Lokayukta,

Referring to the communications dated 6.1.2016, 12.1.2016 and 29.3.2016 available at pages 321, 320 and 318 respectively, of the official record, as well as the communication available at page 165, he submits that alleged oral and undated consent given by the Leader of Opposition would be of no consequence and cannot be said to be an appropriate consultation. In support of his contentions, learned senior counsel for the petitioner places reliance on the following judgments:-

Shamarao V. Parulekar Vs. District Magistrate, Thana, Bombay and two others, AIR 1952 SC 324 (SC)

Bhudan Singh and another Vs. Nabi Bux and another, 1969 (2) SCC 481 (SC)

Sri Nasiruddin Vs. State Transport Appellate Tribunal, (1975) 2 SCC 671 (SC)

S. Sundaram Pillai and others Vs. V.R. Pattabiraman and others, (1985) 1 SCC 591 (SC)

Directorate of Enforcement Vs. Deepak Mahajan and another, (1994) 3 SCC 440 (SC)

Uttam Das Chela Sunder Das Vs. Shiromani Gurdwara Parbandhak Committee, Amritsar, 1996 (5) SCC 71 (SC)

Union of India and another Vs. U.D. Dwivedi, (1997) 3 SCC 182 (SC)

P.V. Narasimha Rao Vs. State (CBI/SPE), (1998) 4 SCC 626 (SC)

Govt. of Andhra Pradesh and others Vs. P. Venku Reddy, (2002) 7 SCC 631 (SC)

Justice Chandrashekaraiiah (Retired) Vs. Janekere C. Krishna and others, (2013) 3 SCC 117 (SC)

Rajesh Awasthi Vs. Nand Lal Jaiswal and others, (2013) 1 SCC 501 (SC)

Mr. S.K.Jain Vs. State of Punjab, (1996) 4 SLR 519 (DB) (P&H)

For the purpose of harmonious construction of provisions of law contained in Section 11 of the AFT Act, learned senior counsel for the petitioner places reliance on para 27 of the judgment in **Sri Nasiruddin's case** (supra) and para 86 of **S. Sundaram Pillai's case** (supra). On the process for consultation, method of appointment, powers, functions and other ancillary issues relating to the office of Lokayukta or Upa-Lokayukta, learned senior counsel places reliance on the judgment in **Justice Chandrashekaraiah's case** (supra). For maintaining the writ petition qua the writ of Quo-Warranto, learned senior counsel places reliance on the judgment in **Rajesh Awasthi's case** (supra). Learned senior counsel for the petitioner, however, places heavy reliance on the Division Bench judgment of this Court in **S.K. Jain's case** (supra) and fairly stated that thrust of his arguments would be based on **S.K. Jain's case** (supra).

Referring to two Division Bench judgments of Kerala and Patna High Courts in **Sreenivasan Venugopalan Vs. Hon'ble M.M. Pareed Pillai, Retired, C.J., of Kerala High Court and another, 2011 (7) RCR (civil) 619 (Kerala HC)** and **Mithilesh Kumar Singh Vs. State of Bihar (DB) 2016 (2) PLJR 572 (Patna HC)** as well as judgment of the Hon'ble Supreme Court in **Hargovind Pant Vs. Dr. Raghukul Tilak and others, 1979 (3) SCC 458**, learned senior counsel for the petitioner submits that since both the Division Bench judgments of Kerala and Patna High Courts were based on the judgment of Hon'ble Supreme Court in **Dr. Raghukul**

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Tilak's case (supra), which was, in turn, regarding the appointment of Governor, being a Constitutional Office, these judgments are not applicable to the facts of the present case. He concluded by submitting that since the appointment of second respondent was clearly prohibited under Section 11 of the AFT Act, language of which has been borrowed from Article 319 of the Constitution of India, appointment of second respondent as Lokayukta for the State of Haryana, was patently illegal. He prays for setting aside the appointment of second respondent, by allowing the present writ petition.

Per contra, learned Advocate General, Haryana, submits that since the office of Lokayukta, Haryana, is on a much higher pedestal than a Tribunal, appointment of second respondent would not be barred by Section 11 (b) of the AFT Act. Placing heavy reliance on the provisions of the Act, including the procedure for appointment, removal, nature of powers and functions of Lokayukta, being an independent statutory institution, learned Advocate General, submits that appointment of second respondent does not amount to employment under the State of Haryana. He submits that qualification of second respondent is not in dispute. It is only the disqualification under Section 11 of the AFT Act which is in question. Appointment of the Lokayukta is restricted only to the judges of Hon'ble Supreme Court and High Courts, including former judges. Procedure for appointment of Lokayukta, as provided under Section 3 of the Act, shows the importance of the office of Lokayukta. He can inquire and investigate, while exercising his wide powers and jurisdiction, against any authority of the State, including the Chief Minister, however, except the Governor. There is no age of retirement for Lokayukta.

Vehemently refuting the arguments raised by learned senior

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counsel for the petitioner, learned Advocate General contends that Division Bench judgment of this Court in **S.K. Jain's case** (supra), on which heavy reliance has been placed by learned senior counsel for the petitioner, is clearly distinguishable, because the said judgment was rendered in entirely different fact situation. In **S.K. Jain's case** (supra), no procedure for appointment or removal was provided under the Industrial Disputes Act, 1947 ('ID Act' for short) and the appointment of the Presiding Officer of Industrial Tribunal was rightly held as employment under the State Government. Learned Advocate General further submits that keeping in view the provisions of the Act, appointment of the Lokayukta cannot be termed as 'employment' under the State Government.

On the process of consultation, learned Advocate General places reliance on Section 3 (2) of the Act and notification dated 1.4.2015, to contend, that there was no procedural lapse in the present case. There was an effective consultation, which would meet the requirements of law. Referring to Chapter I of Part XIV of the Constitution of India, learned Advocate General submits that Chapter I deals with Services under the Union and States, whereas Chapter II deals with Public Service Commissions. Language for providing prohibition to the holding of offices by members of Commission, on ceasing to be such members, as provided under Article 319 of the Constitution of India, has been borrowed by the Legislature, while enacting different statutes, including the Haryana Lokayukta Act of 2002, in the present case, wherever such prohibition was required to be put in place.

To buttress his arguments, learned Advocate General, Haryana, places reliance on the following judgments:-

Hargovind Pant Vs. Dr. Raghukul Tilak and others, 1979 (3)

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SCC 458 (SC).

Namit Sharma Vs. Union of India, 2013 AIR SC (civil) 36 (SC)

Mr. Justice Chandrashekaraiyah (Retd.) Vs. Janekere C. Krishna and others etc., (2013) 3 SCC 117 (SC).

Union of India Vs. Namit Sharma, (2013) 10 SCC 359 (SC).

Har Govind Pant Vs. Chancellor, University of Rajasthan and others, 1978 AIR (Raj) 72 (LB) (Rajasthan High Court).

Y.N. Nagaraja Vs. State of Karnataka and others, 2009 (3) Air Kar R 420 (DB) (Karnataka High Court).

Sreenivasan Venugopalan Vs. Hon'ble M.M. Pareed Pillai, Retired C.J, of Kerala High Court and another, 2011 (7) RCR (civil) 619 (DB) (Kerala High Court).

S. Kasiramalingam VS. Chief Secretary, Government of Tamil Nadu, 2012 (5) CTC 829 (DB) (Madras High Court).

S.K.Jain Vs. State of Punjab, 1996 (2) SCT 458 (DB) (P&H)

Gurnek Singh Brar Vs. State of Punjab and others, 2015 (2) PLR 50 (P&H)

Mithilesh Kumar Singh Vs. State of Bihar through the Chief Secretary, Government of Bihar, Patna and others, (DB) (Patna HC), 2016 (2) PLJR572.

Dr. Nutan Thakur Vs. State of U.P. Thru Prin. Secy. Home Govt. of UP Lko and others, 2016 (2) ADJ 1 (DB) (Allahabad High Court).

Placing reliance on the judgments in **Sreenivasan Vanugopalan's case** (supra) and **Mithilesh Kumar Singh's case** (supra), learned Advocate General, submits that both these Division Bench judgments of Kerala High Court and Patna High Court were rendered in almost similar fact situation and would squarely apply to the facts of the present case. Similarly, he places reliance on **Dr. Nutan Thakur's case** (supra), **Y.N. Nagaraja's case** (supra) and **S. Kasiramalingam's case**

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(supra), to contend that appointment of Lokayukta, Haryana, is not an employment, as understood in service jurisprudence, because there would be no master and servant relationship between respondents No.1 and 2. He places strong reliance on Full Bench judgment of Rajasthan High Court in **Har Govind Pant's case** (supra), **Dr. Raghukul Tilak's case** (supra) and **Justice Chandrashekaraiiah's case** (supra), to contend that looking to the provisions of the Act, neither there was any illegality committed during the process of consultation, nor appointment of respondent No.2 as Lokayukta for the State of Haryana was barred under Section 11 of the AFT Act, because his appointment does not amount to employment under the State. Learned Advocate General concluded by submitting that the petitioner has no case either on facts or in law. He prays for dismissal of writ petition with exemplary costs.

Supporting the arguments raised by learned Advocate General Haryana, learned counsel for respondent No.2 places strong reliance on the judgment of **Dr. Raghukul Tilak's case** (supra), to contend that interpretation of word 'employment' would depend on the nature of duties to be performed and the administrative control. He submits that the Hon'ble Supreme Court examined the word 'employment' in its narrow as well as wider sense. He further submits that interpretation of the term 'under the Government' would depend on the degree of administrative control by the Government, on the institution of Lokayukta and the manner of removal will also be a relevant factor. Similarly, relationship of master and servant would be another relevant aspect. Referring to **S.K. Jain's case** (supra), relied upon by learned senior counsel for the petitioner, learned counsel for respondent No.2 submits that this judgment does not support the case of the

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petitioner at all, but it definitely supports the case of respondents.

Learned counsel for respondent No.2 would next contend that that judgment in **Dr. Raghukul Tilak's case** (supra) was not followed in **S.K. Jain's case** (supra), but the Division Bench of this Court, while deciding **S.K. Jain's case** (supra), in para 9 of the judgment, followed the tests laid down by the Hon'ble Supreme Court in **Chintaman Rao Vs. State of Madhya Pradesh, AIR 1958 SC 388**. In this regard, learned counsel for respondent No. 2 refers to Section 7 A of the ID Act and Section 16 of the General Clauses Act, 1897, to contend that since no procedure either for appointment or removal of Presiding Officer of Industrial Tribunal was laid down, **S.K. Jain's case** (supra) has no application to the facts of the present case, because the appointment of Presiding Officer of the Industrial Tribunal cannot be compared with the appointment of Lokayukta. He submits that firstly, the appointment of respondent No.2 does not fall within the ambit of word 'employment', because of provisions of the Act, including the procedure for appointment, removal, nature and duties as well as functions to be performed. He submits that even if the word 'employment' is taken in its wider sense, then also the office of Lokayukta does not come under the control of State Government. There is no question of Section 11 (b) of the AFT Act becoming redundant, as argued by learned senior counsel for the petitioner.

While referring to para 9 of the writ petition, learned counsel for respondent No.2 submits that the best case of the petitioner, as sought to be set up in the writ petition, was that post of Lokayukta in Haryana is under the Administrative control of State Government, however, petitioner has failed to substantiate his case for want of any relevant material in this regard.

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Questioning the locus standi of the petitioner, learned counsel for respondent No.2 submits that petitioner could have sought the writ of Certiorari only when he himself would be a contender for this appointment. Similarly, learned counsel for respondent No.2 submits that present writ petition seeking a writ of Quo-Warranto, being only a public law remedy, could not have been filed by the petitioner in personal interest and he could have filed it only as Public Interest Litigation. Referring to Section 9 of the Act and Rule 14 (4) of the Statutory Rules framed thereunder known as Haryana Lokayukta (Functions, Powers, Inquiry and Investigation), Rules, 2008, learned counsel for respondent No. 2 submits that with a view to achieve the object of the Act, Lokayukta is empowered to inquire and investigate. He also got discretion not to inquire or investigate in a given case.

On the process of consultation, as provided under Section 3 of the Act, learned counsel for respondent No.2 would contend that neither any procedural lapse was there nor any illegality was committed by the authorities of the respondent State and the process of consultation was carried out in most effective manner. In this regard, he also places reliance on letter dated 29.3.2016 and notification dated 1.4.2016. He seeks dismissal of the writ petition. In support of his contentions, learned counsel for respondent No. 2 places reliance on the following judgments of the Hon'ble Supreme Court:-

Union of India Vs. Sankalchand Himatlal Sheth and another,
(1977) 4 SCC 193

Hargovind Pant Vs. Dr. Raghukul Tilak and others, 1979 (3)
SCC 458

Retd. Armed Forces Medical Association and others VS.
Union of India and others, (2006) 11 SCC 731 (1).

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Justice K.P. Mohapatra Vs. Sri Ram Chandra Nayak and others, 2002 (8) SCC 1

Justice Chandrashekaraiiah (Retired) Vs. Janekere C. Krishna and others, (2013) 3 SCC 117

Before examining the various arguments raised at the bar by the learned counsel for the parties, this Court thinks it appropriate to delve into the legislative background of Lokayukta.

With a view to address the problems of redressal of citizens' grievances, the President of India, vide notification dated 40/3/65-AR(P) dated 5.1.1966, appointed the Administrative Reforms Commission. The object for appointing the Commission was to ensure the highest standards of efficiency and integrity in the public services, for making public administration an effective instrument for carrying out the social and economic policies of the Government and achieving social and economic goals of development for the benefit of citizens of the country. The Commission was asked to examine the various issues. One of the terms of reference, specifically assigned to the Commission, was to deal with the problems of redress of citizens' grievance, namely:-

- I) the adequacy of existing arrangements for redress of grievances; and
- ii) the need for introduction of any new machinery, for special institution, for redress of grievances.

The Commission, after having detailed deliberations on the subject, submitted its report to the Prime Minister vide letter dated 20.10.1966. The suggestion made by the Commission was that there should be one authority dealing with the complaints against the administrative acts of Ministers or Secretaries to Government at the Centre and in the States.

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Another suggestion was made for setting up another authority in each State and at the Centre for dealing with complaints against the administrative acts of other officials. It was also suggested that all these authorities should be independent of the executive, the legislative and the judiciary. It was so noted by the Hon'ble Supreme Court in its judgment in **Justice Chandrashekaraiiah's case** (supra).

The relevant extract of the report of the Commission, contained in para 21, 23 to 25, 36, 37 and 38 thereof, reads as under:-

“21. We have carefully considered the political aspect mentioned above and while we recognize that there is some force in it, we feel that the Prime Minister's hands would be strengthened rather than weakened by the institution. In the first place, the recommendations of such an authority will save him from the unpleasant duty of investigation against his own colleagues. Secondly, it will be possible for him to deal with the matter without the glare of publicity which often vitiates the atmosphere and affects the judgment of the general public. Thirdly, it would enable him to avoid internal pressures which often help to shield the delinquent. What we have said about the Prime Minister applies *mutatis mutandis* to Chief Minister.

Cases of corruption:

23. Public opinion has been agitated for a long time over the prevalence of corruption in the administration and it is likely that cases coming up before the independent authorities mentioned above might involve allegations or actual evidence of corrupt motive and favouritism. We think that this institution should deal with such cases as well, but where the cases are such as might involve criminal charge or misconduct cognizable by a Court, the case should be brought to the notice of the Prime Minister or the Chief

Minister, as the case may be. The latter would then set the machinery of law in motion after following appropriate procedures and observing necessary formalities. The present system of Vigilance Commissions wherever operative will then become redundant and would have to be abolished on the setting up of the institution.

Designation of the authorities of the institution:

24. We suggest that the authority dealing with complaints against Ministers and Secretaries to Government may be designated “Lokpal” and the other authorities at the Centre and in the States empowered to deal with complaints against other officials may be designated “Lokayukta”. A word may be said about our decision to include Secretaries actions along with those of Ministers in the jurisdiction of the Lokpal. We have taken this decision because we feel that at the level at which Ministers and Secretaries function, it might often be difficult to decide where the role of one functionary ends and that of the other begins. The line of demarcation between the responsibilities and influence of the Minister and Secretary is thin; in any case much depends on their personal equation and personality and it is most likely that in many a case the determination of responsibilities of both of them would be involved.

25. The following would be the main features of the institutions of Lokpal and Lokayukta:-

- (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 and powers in obtaining information relevant to their duties.

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

Bearing in mind these essential features of the institutions, the Commission recommend that the Lokpal be appointed at the Centre and Lokayukta at the State level.

The Lokayukta

36. So far as the Lokayukta is concerned, we envisage that he would be concerned with problems similar to those which would face the Lokpal in respect of Ministers and Secretaries though, in respect of action taken at subordinate levels of official hierarchy, he would in many cases have to refer complainants to competent higher levels. We, therefore, consider that his powers, functions and procedures may be

prescribed *mutatis mutandis* with those which we have laid down for the Lokpal. His status, position, emoluments, etc. should, however, be analogous to those of a Chief Justice of a High Court and he should be entitled to have free access to the Secretary to the Government concerned or to the Head of the Department with whom he will mostly have to deal to secure justice for a deserving citizen. Where he is dissatisfied with the action taken by the department concerned, he should be in a position to seek a quick corrective action from the Minister or the Secretary concerned, failing which he should be able to draw the personal attention of the Prime Minister or the Chief Minister as the case may be. It does not seem necessary for us to spell out here in more detail the functions and powers

of the Lokayukta and the procedures to be followed by him.

Constitutional amendment-whether necessary?

37. We have carefully considered whether the institution of Lokpal will require any Constitutional amendment and whether it is possible for the office of the Lokpal to be set up by Central Legislation so as to cover both the Central and State functionaries concerned. We agree that for the Lokpal to be fully effective and for him to acquire power, without conflict with other functionaries under the Constitution, it would be necessary to give a constitutional status to his office, his powers, functions, etc. We feel, however, that it is not necessary for Government to wait for this to materialize before setting up the office. The Lokpal, we are confident, would be able to function in a large number of cases without the definition of his position under the Constitution. The Constitutional amendment and any consequential modification of the relevant statute can follow. In the meantime, Government can ensure that the Lokpal or Lokayukta is appointed and takes preparatory action to set up his office, to lay down his procedures, etc., and commence his work to such extent as he can without the constitutional provisions. We are confident that the necessary support will be forthcoming from the Parliament.

Conclusion.

38. We should like to emphasise the fact that we attach the highest importance to the implementation, at an early date, of the recommendations contained in this our Interim Report. That we are not alone in recognizing the urgency of such a measure is clear from the British example we have quoted above. We have no doubt that the working of the institution of Lokpal or Lokayukta that we have suggested for India will be watched with keen expectation

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and interest by other countries. We hope that this aspect would also be fully borne in mind by Government in considering the urgency and importance of our recommendation. Though its timing is very close to the next Election, we need hardly to assure the Government that this has had nothing to do with the necessity of making this interim report. We have felt the need of such a recommendation on merits alone and are convinced that we are making it not a day too soon.”

On the basis of abovesaid report submitted by the Administrative Reforms Commission, different States of the country brought different pieces of legislation, as per their own suitability. The Bihar Lokayukta Act came in the year 1973. The Andhra Pradesh Lokayukta and Upa-Lokayukta Act came in the year 1983, followed by the Karnataka Lokayukta Act, 1984, providing procedure for appointment of Lokayukta as well as Upa-Lokayukta. Functions of Lokayukta and Upa-Lokayukta were investigative in nature. The Assam Lokayukta and Upa-Lokayuktas Act came in the year 1985. The Gujarat Lokayukta Act came in the year 1986. The Delhi Lokayukta and Upa-Lokayukta Act came in the year 1995 followed by the Kerala Lokayukta Act, 1999. The Jharkhand Lokayukta Act came in the year 2001. State of Chhattisgrah gave its Act a slightly different name, i.e. The Chhattisgarh Lok Aayog Adhiniyam, 2002, providing the procedure for appointment of Pramukh Lokayukt and Lokayukt.

Having its own peculiar features, the present Haryana Lokayukta Act came to be enacted by the State Legislature in the year 2002, which replaced earlier Act, i.e. the Haryana Lokayukta Act, 1997. The object of the Act is, “to provide for the appointment and functions of

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Lokayukta for inquiries and investigations into the allegations and grievances against public servants and for matters connected therewith”.

Section 2 of the Act provides different definitions, including that of complaint, corruption, grievance, mal-administration, ministers and public servants.

Clause (m) of Section 2 of the Act provides the definition of public servant and the same deserves to be noticed, which reads as under:-

(m) “public servant” includes a person defined in section 21 of the Indian Penal Code, 1860 and also means a person, who is or has been-

- a. Chief Minister;*
- b. a Minister;*
- c. a Member of the Legislative Assembly of Haryana including the Speaker and the Deputy Speaker of Haryana legislative Assembly;*
- d. a Chairman, Vice-Chairman or member of the Board of Directors, by whatever name called, of a Government company within the meaning of section 617 of the Companies Act, 1956, in which not less than fifty-one percent of the paid up share capital is held by the State Government.*
- e. a Chairman, Vice-Chairman or member, by whatever name called, of any statutory or non-statutory body incorporated, registered or constituted by the State Government.*
- f. a Mayor, Senior Deputy Mayor, Deputy mayor of a Municipal Corporation constituted or deemed to have been constituted by or under the Haryana Municipal Corporation Act, 1994;*
- g. a President, Vice-President of a Municipal Committee or Municipal Council constituted or deemed to have been constituted by or under the Haryana Municipal Act, 1973;*

- h. a President, Vice-President of a Zila Parishad and a Chairman, Vice-Chairman of a Panchayat Samiti constituted by or under the Haryana Panchayati Raj Act, 1994;*
- i. a President or Vice-President of any managing committee of a society incorporated or registered under the law relating to cooperative societies for the time being in force;*
- j. a President, Vice-President, Managing Director of the Board of Directors of such other cooperative societies incorporated or registered by or under law relating to cooperative societies for the time being in force;*
- k. a Vice-Chancellor or a pro Vice-Chancellor or Registrar of a University”*

Section 3 of the Act deals with procedure for appointment of the Lokayukta and the same reads as under:-

Appointment of Lokayukta

3. “(1) *For the purpose of conducting investigations in accordance with the provisions of this Act, the Governor shall, by warrant under his hand and the seal, appoint a person to be known as the Lokayukta:*

Provided that the Lokayukta shall be appointed on the advice of the Chief Minister who shall consult the Speaker of Haryana Legislative Assembly, Leader of Opposition and the Chief Justice of India in case of appointment of a person who is or has been a Judge of the Supreme Court or Chief Justice of the High Court, and the Chief Justice of the Punjab and Haryana High Court in case of appointment of a person who is or has been a Judge of a High Court:

Provided further that the result of consultations shall have persuasive value but not binding on the Chief Minister.

(2) A notification by the State Government about the consultation having been held as envisaged in sub-section (1) shall be conclusive proof thereof.

(3) Every person appointed as the Lokayukta shall, before entering upon his office, make and subscribe, before the Governor, or some person appointed in that behalf by him, an oath or affirmation in the form set out for the purpose in the Schedule.”

Section 7 of the Act provides the procedure for removal of the Lokayukta and it reads as under:-

Removal of Lokayukta

7. *(1) The Lokayukta shall not be removed from his office except by an order of the Governor passed after an address by the Haryana Legislative Assembly, supported by a majority of the total membership of the Legislative Assembly and by a majority of not less than two-thirds of the members thereof, present and voting, has been presented to the Governor in the same session for such removal on the grounds of proved misconduct or incapacity.*

(2) The procedure for the presentation of an address and for the investigation and proof of the misconduct, or incapacity of the Lokayukta under sub-section (1) shall be as provided in the Judges (Inquiry) Act, 1968, in relation to the removal of a Judge and, accordingly, the provisions of that Act shall, subject to necessary modifications, apply in relation to the removal of the Lokayukta as they apply in relation to the removal of a Judge.”

Section 8 of the Act deals with the matters which may be

inquired into by the Lokayukta, which reads as under:-

Matters which may be inquired into by Lokayukta

8. (1) *Subject to the provisions of this Act, the Lokayukta may on receipt of a reference from Government proceed to inquire into the allegations or the grievances made against a public servant.*

(2) *The Lokayukta may inquire into any act or conduct of any person other than a public servant in so far as he considers it necessary so to do for the purpose of his enquiry into any allegation of misconduct against a public servant provided that the Lokayukta shall give such a person reasonable opportunity of being heard and to produce evidence in his defence.”*

Section 12 of the Act provides the procedure in respect of inquiry and Section 13 gives power to the Lokayukta to summon record. Sections 12 and 13 of the Act are as under:

Procedure in respect of inquiry

12. (1) *Subject to the provisions contained in sub-section (2), the Lokayukta shall devise his own procedure for conducting inquiry or investigation but in so doing shall ensure that the principles of natural justice are satisfied.*

(2) *The Lokayukta shall complete the inquiry within one year.*

(3) *Every inquiry under the Act shall, unless the Lokayukta for reasons to be recorded in writing determines otherwise, be conducted in camera.*

Power to summon record

13 *The Lokayukta shall have the power to summon record of the State Government, local authority, corporation, government company, society, university, any college affiliated to or constituent of a university or*

from any other persons in connection with any inquiry or investigation against public servant undertaken by him:

Provided that the State Government may withhold the production of any record or document relating to affairs of the State on grounds of security or in public interest in accordance with the provisions of the Indian Evidence Act, 1872, or the Indian Official Secrets Act, 1923.”

Section 14 of the Act gives power to the Lokayukta for collecting evidence whereas Section 15 grants power for search and seizure. Section 16 of the Act deals with punishment for false and malicious complaints. Sections 15 and 16 of the Act read as under:-

Power for search and seizure

“15. (1) Where in consequence of information in his possession or after such inquiry as he thinks necessary, the Lokayukta: -

- (a) has reason to believe that a person-*
 - (i) to whom a summons or notice under this Act, has been or might be issued, will not or would not produce or cause to be produced any property, document or thing which will be necessary or useful or relevant to any inquiry or other proceedings to be conducted by him;*
 - (ii) is in possession of any money, bullion, jewellery, or other valuable article or thing and such money, bullion, jewellery or other valuable article or thing represents either wholly or partly income or property which has not been disclosed to the authorities for the purpose of any law or rule in force which requires such disclosure to be made;*
or
- (b) considers that the purposes of any inquiry*

or other proceedings to be conducted by him will be served by a general search or inspection, may issue a search warrant and he or any person authorised by him may, by that search warrant-

(I) enter and search any building or place where he has reason to suspect that such property, document, money, bullion, jewellery or other valuable article or thing is kept;

(II) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by sub-clause

(i) where the keys thereof are not available;

(III) seize any such property, document, money, bullion, jewellery or other valuable article or thing found as a result of such search;

(IV) place a mark of identification on any property or document or make or cause to be made extracts or copies therefrom; or

(IV) make a note or an inventory of any such property, document, money, bullion, jewellery or other valuable article or thing.

(2) The provisions of section 100 of the Code of Criminal Procedure, 1973, shall, so far as may be, apply to searches under sub-section (1).

(3) A warrant issued under sub-section (1) shall, for all purposes, be deemed to be a warrant issued by a court under section 93 of the Code of Criminal Procedure, 1973.”

Punishment for false and malicious complaints

“16. Notwithstanding anything contained in this Act, any person who wilfully or maliciously makes any false complaint under this Act, shall, on conviction, be

punished with rigorous imprisonment which may extend to three years or with fine which may extend to ten thousand rupees or with both and the court may order that out of the amount of fine, such sum as it may deem fit, be paid by way of compensation to the person against whom such complaint was made:

Provided that no court shall take cognizance of an offence punishable under this section except on a complaint made by or under the authority of the Lokayukta:

Provided further that the complaint made by or under the authority of the Lokayukta shall be exclusively tried by a court of sessions, which may take cognizance of the offence in such complaint without the complaint being committed to it, notwithstanding anything contained in the Code of Criminal Procedure, 1973.”

Section 21 of the Act provides secrecy of information and Section 22 gives protection of action taken in good faith, whereas Section 23 grants powers to the Lokayukta to call for matters pending before the State Government. Sections 21, 22 and 23 of the Act also deserve to be noticed and the same are as reproduced below:-

Secrecy of information

21. (1) *Any information, obtained by the Lokayukta or members of his staff in the course of, or for the purposes of, any inquiry or investigation under this Act and any evidence recorded or collected in connection with such information, shall be treated as confidential and, notwithstanding anything contained in the Evidence Act, 1872, no court shall be entitled to compel the Lokayukta or any public servant to give evidence relating to such information or produce the evidence so recorded or*

collected.

(2) Nothing in sub-section (1) shall apply to the disclosure of any information or particulars-

(a) for purposes of the inquiry or any report to be made thereon or for any action or proceedings to be taken on such report; or

(b) for purposes of any proceedings for an offence under the Official Secrets Act, 1923, or an offence of giving or fabricating false evidence under the Indian Penal Code, 1860, or under sub-sections (1) and (3) of section 12 of this Act; or

(c) for such other purposes as may be prescribed.

Protection of action taken in good faith

22. No suit, prosecution or other legal proceedings shall lie against the Lokayukta or against any officer or employee, agency or person acting on his behalf in respect of anything which is in good faith done or intended to be done under this Act.

Powers to call for matters pending before State

Government

23. (1) Where the Lokayukta decides to inquire into a complaint against a public servant, he may ascertain from the State Government whether any complaint containing substantially similar allegations against the said public servant is under investigation, and if so, he may call for the record thereof.

(2) If the Lokayukta, on examination of the record referred to in sub-section (1), decides to inquire into the

matter himself, he shall inform the State Government accordingly and the complaint, wholly or partly, as the case may be, shall stand transferred to him for inquiry under the provisions of this Act.

(3) Whenever the Lokayukta decides not to inquire into the matter himself he shall return the complaint to the State Government.

Exercising his powers conferred by sub-section 1 of Section 26 of the Act, the Governor of Haryana notified the statutory rules known as Haryana Lokayukta (Functions, Powers, Inquiry and Investigation), Rules, 2008. Rule 14, 15 and 16 which are relevant, read as under:-

“14. (1) Where the Lokayukta decides to conduct any investigation under these Rules, he--

(a) shall forward a copy of the complaint or, in the case of any investigation which he proposes to conduct on his own motion, a statement setting out the grounds therefor, to the public functionary concerned and the competent authority in Form VI;

(b) shall afford to the public functionary concerned, an opportunity to offer his comments on such complaint or statement; and

(c) may make such orders as to the safe custody of documents relevant to the investigation, as he deems fit,

(2) Subject to the provisions of the Right to Information Act, 2005 (Act 22 of 2005), every such investigation shall be conducted in private and, in particular the identity of the complainant and of the public functionary affected by the investigation shall not be disclosed to the public or the press or published in any manner whether before, during or after the investigation.

(3) Save as aforesaid, the procedure for conducting any such investigation shall be such as the Lokayukta

considers appropriate in the circumstances of the case.

(4) The Lokayukta may, in his discretion, refuse to investigate or cease to investigate any complaint if in his opinion-

(a) there are no sufficient grounds for investigating or as the case may be, for continuing the investigation; or

(b) other remedies are available to the complainant and in the circumstance of the case it would be more proper for the complainant to avail of such remedies.

(5) In any case where the Lokayukta decides not to entertain any complaint or to discontinue any investigation in respect of a complaint, he shall record his reasons therefor and communicate the same to the complainant and the public functionary concerned.

15. The Lokayukta may, by order not inconsistent with these Rules, provide for matters for which no provisions have been made in these Rules and may give such directions as may be necessary for giving effect to the provisions of the Act, the Rules and such orders.

16. Subject to the provisions of the Act, the Lokayukta shall have the powers to regulate the conduct of proceedings, investigations and inquires in all matters not provided for in these rules.”

Since the case of the petitioner is based on Section 11 of the AFT Act, it is necessary to refer to Section 11 and it reads as under:-

“11. Prohibitions as to holding of offices, etc., by Chairperson or Member on ceasing to be such Chairperson or Member : On ceasing to hold office—

(a) the Chairperson shall be ineligible for further employment either under the Government of India or under the Government of a State;

(b) a Member other than the Chairperson shall, subject to the provisions of this Act, be eligible for appointment

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as a member of any other Tribunal but not for any other employment either under the Government of India or under the Government of a State; and

(c) the Chairperson or other Members shall not appear, act or plead before the Tribunal.”

As the language of Section 11 (b) of the AFT Act has been borrowed from Article 319 (d) of the Constitution of India and most of the judgments rendered by the Hon’ble Supreme Court as well as different High Courts are interpreting the meaning and scope of terms ‘employment’ and ‘under the Government’, it would be appropriate to reproduce the relevant part of Article 319 of the Constitution of the India and the same reads as under:-

“319. Prohibition as to the holding of offices by members of Commission on ceasing to be such members.- On ceasing to hold office

(a) xx xx xx

(b) xx xx xx

(c) xx xx xx

(d) a member other than the Chairman of a State Public Service Commission shall be eligible for appointment as the Chairman or any other member of the Union Public Service Commission or as the Chairman of that of any other State Public Service Commission, but not for any other employment either under the Government of India or under the Government of a State.”

Since thrust of arguments raised by learned senior counsel for the

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petitioner is based on the Division Bench judgment of this Court in **S.K.Jain's case** (supra), wherein this Court was dealing with the appointment of Presiding Officer of Industrial Tribunal under Section 7 A of the ID Act, which deals with power of Government to constitute Industrial Tribunal, relevant part thereof contained in Sub-section (1) and (2) of 7 A of the ID Act, reads as under:-

***‘7A. Tribunals.-** (1) The appropriate Government may, by notification in the Official Gazette, constitute one or more Industrial Tribunals for the adjudication of industrial disputes relating to any matter, whether specified in the Second Schedule or the Third Schedule [and for performing such other functions as may be assigned to them under this Act].*

(2) A Tribunal shall consist of one person only to be appointed by the appropriate Government.”

Learned counsel for respondent No.2 has sought to distinguish the judgment in **S.K. Jain's case** (supra), while placing reliance on the abovesaid provisions of the ID Act and Section 16 of the General Clauses Act and it would be appropriate to refer to Section 16 of the General Clauses Act as well, which reads as under:-

***“16 Power to appoint to include power to suspend or dismiss.** Where, by any [Central Act] or Regulation, a power to make any appointment is conferred, then, unless a different intention appears, the authority having [for the time being] power to make the appointment shall also have power to suspend or dismiss any person*

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*appointed [whether by itself or any other authority] in
exercise of that power.*

A bare combined reading of the respective statutory provisions, contained in abovesaid different Lokayukta Acts, enacted by different States of the country, adopting different eligibility criteria, procedure for appointment, process of consultation, powers and functions of the Lokayukta and also the procedure for removal, would show that two different Acts enacted by two States cannot be treated at par for all intents and purposes. Each Act has its own object sought to be achieved and its own features provided therein.

The Legislature of every State was well within its legislative powers to bring a suitable enactment, for setting up the institution of Lokayukta. For example, under the Andhra Pradesh Lokayukta Act, the Chief Minister, as such, has no role to play and consultation for appointment to the post of Lokayukta is to be held only with the Chief Justice of Andhra Pradesh High Court. Up-lokayukta is to be appointed not from amongst the judges of High Court, either sitting or former, but from a panel of District Judges whose names shall be forwarded by the Chief Justice.

Similarly, in the States of Assam, Delhi and Gujarat, the Chief Ministers have hardly any role to play. In the State of Assam, Bihar, Delhi, Gujarat and Jharkhand, the Chief Justices of High Courts are consultee for the post of appointment of Lokayukta, as per the procedure provided under their Lokayukta Acts. However, in the States of Chhattisgarh and Haryana, Governor appoints the Lokayukta on the advise of the Chief Minister. Thus, Legislatures of different States, in their wisdom, have adopted different criteria and method for appointment and removal etc, in the matters of

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appointment of Lokayuktas and the Up-Lokayuktas. In this view of the matter, statutory provisions deserve to be construed in the context of scheme of particular statute, as a whole, keeping in view the legislative intent and object of the Act sought to be achieved.

Now, considering the language and tenor thereof used by the Legislature in Article 319 (d) of the Constitution of India, Section 11 (b) of the AFT Act and the relevant provisions of law contained in the Act, reproduced hereinabove, this Court is called upon to interpret both these terms namely; “employment” and “under the Government”. These terms are to be interpreted, keeping in view the legislative intent and scheme of the Act, proceeding on a harmonious construction, so as to achieve the object of the Act.

This Court has not found any ambiguity either in the provisions of Article 319 (d) of the Constitution of India or in Section 11 (b) of the AFT Act, which might create any confusion. When these provisions are applied in the context of the fact situation of present case and carefully perused with the provisions of the Act of 2002, there remains no room for any doubt. However, before proceeding further, it would be relevant to refer to some of the celebrated judgments on the subject of harmonious interpretation.

As far back as in the year 1844, Chief Justice, Tindal, in the case of **Sussex Peerage (1844) 11 CI & Fin 85 : 8 ER 1034**, observed as under:-

“If the words of the statute are in themselves precise and unambiguous, then no more can be necessary than to expound those words in their natural and ordinary sense. The words themselves do alone in such case best declare the intent of the lawgiver”.

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Similarly, in **King Emperor Vs. Benoari Lal Sarma, AIR 1945**

PC 48, Viscount Simonds, L.C. , held as under:-

“...in construing enacted words we are not concerned with the policy involved or with the results, injurious or otherwise, which may follow from giving effect to the language used.”

Again, Blackstone, in Commentaries on the **Laws of England, Vol.I page 59**, said as follows:-

“the most fair and rational method for interpreting a statute is by exploring the intention of the Legislature through the most natural and probable signs which are either the words, the context, the subject-matter, the effects and consequence, or the spirit and reasons of the law.”

Mr. Justice Gajendragadkar, in **Kanai Lal Sur Vs. Paramnidhi Sadhukhan, AIR 1957 S 907**, in para 6 of the judgment, held as under:-

“....if the words used are capable of one construction only then it would not be open to the courts to adopt any other hypothetical construction on the ground that such construction is more consistent with the alleged object and policy of the Act”.

Neither it is necessary nor required to multiply the judicial precedents, on the cardinal principle of law of interpretation, decided in abovesaid cases. It is so said because the basic rule of harmonious interpretation is the legislative intent, expressed by using the appropriate words by the Legislature itself. As noticed hereinabove, when the provisions of Article 319 (d) of the Constitution of India and Section 11 (b) of the AFT Act are literally construed, it leave no manner of doubt about the clear and unambiguous intention of the Legislature.

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The term 'employment' used in Article 319 of the Constitution fell for consideration before the Hon'ble Full Bench of Rajasthan High Court in **Har Govind Pant's** case (supra). The observations made in para 74, 75, relevant part of 76, 89 and 91, read as under:-

"74. Now the term 'employment' postulates relationship of master and servant or subordination of the employee to the master. Seemingly the term 'Employment' occurring in Article 319 is of wider amplitude and of general import. It has to be construed in the light of general purpose and context and setting in which it finds place in the Constitution. The question whether conditions of employment can be regarded falling within the relationship of master and servant is whether the alleged employee is under the control and bound to obey the directions of the alleged master. In **Yewons v. Nokos, (1880) 6 QBD 330, Bramwell J.** denned a servant as one who is subject to the command of his master, as to the manner in which he should do his work. See also Halsbury's Laws of England, 3rd Edition, Volume 25, Page 447, wherein it has been observed that the relationship of master and servant imports the existence of power in the employer not only to direct what the servant is to do but also the manner in which the work is to be done.

This dictum has also received the approval of the Supreme Court in **Union of India v. Sankalchand**

Himatmal Sheth, (Civil Appeal No. 1486/1976 decided on September 19, 1977) (reported in AIR 1977 SC 2328). In that case Hon'ble Chandrachud J. has observed (at pp. 2344-45);

"In general relationship of master and servant imports the existence of power in the employer not only to direct what work the servant is to do but also the manner in which the work is to be done."

75. Learned counsel for the petitioner contends that Shri Raghukul Tilak holds office under the Central Government and is, under the employment of the Central Government. He is, therefore, debarred to hold office of the Governor under Article 319 of the Constitution. His argument is like this. The term 'employment' is wide enough to cover all the cases of employment, may they be in respect of civil post or constitutional office. The argument though attractive does not stand scrutiny if it is scrutinised with some depth. It is true that the term 'employment' is of a wider amplitude and is a general word. In *Prince Ernest Augustus of Hanover, Viscount Simonds* in his speech said that words and particularly general words, cannot be read in isolation; their colour and content are derived from their context. (1957 A.C. 436).

76. Now Article 319 finds place in Chapter II of Part XIV of the Constitution, Its true signification has to be arrived at in the light of purpose and with reference to context and setting in which it finds place in the Constitution. Chapter II Part XIV in which Article 319 finds place deals with the services under the States and the Central Government.....The term 'employment' occurring in Article 319 of the Constitution, therefore, cannot be construed in isolation and it shall be so construed as to take colour and contents from its context.

If so construed, I am of the opinion that the term 'employment' occurring in Article 319 is confined to the cadre and ex-cadre civil posts as covered by Arts, 309, 310 and 311 and its connotation cannot be extended to cover office of constitutional functionary which in our opinion is not at all the underlying object of the Article 319."

xx xx xx xx

89. *The crucial words in the above Article are 'employment either under the Government of India or under the Government of a State' and the two words "employment" and "under the Government of India" appearing therein are of great significance for the decision of this case.*

xx xx xx xx

91. *We have given a careful thought and consideration to the rival contentions of the parties. We find ourselves unable to agree with the contention of the learned counsel for the petitioner. Article 319 forms part of Part XIV of the Constitution, which is captioned as 'Services under the Union and the States'. Chapter I (Arts. 308 to 314), of this Part deals with services and Chapter II (Articles 315 to 323) deals with Public Service Commissions. The use of the expression 'any other employment either under the Government of India or under the Government of a State' in Article 319(d) could only mean service under the Union and States covered in Chap. I of Part XIV of the Constitution. The expression used in Art, 309 'persons appointed to public services and posts in connection with the affairs of the Union or of any State' and the words 'every person who is a member of a defence service or of a civil service of the*

Union or of an All India Service or holds any post connected with defence or any civil post under the Union' appearing in Article 310 are wide enough to include the word 'employment' appearing in Article 319. They exhaust the categories of service or employment under the Union or States. In short, what is not covered by Chap. I of Part XIV is not a service or employment under the Government of a State or under the Government of India. A bare look at Article 316 reveals that the appointing authority of a Chairman or member of the Public Service Commission in a State is the Governor. The appointment of a Governor is to a State and there is no all India cadre of Governors. A Governor of a State can neither be termed to be a servant of the State nor of the Union. He is the holder of a constitutional office. The Members of the Public Service Commission in a State function regarding the appointment of the State services and by no stretch of imagination can it be said that any dignitary holding office in a State could have given an allurements to a Member of a Public Service Commission of getting him appointed as a Governor, for doing a job for the former. The founding fathers wanted disqualifications operating under Article 319 to be confined to only services enumerated in Part XIV and not to the appointment to any constitutional office. A close reading of Chapters I and II of Part XIV of the Constitution shows that Article 319 has its closest relation or nexus to service.

The abovesaid judgment of the Hon'ble Rajasthan High Court was the subject matter of appeal before the Hon'ble Supreme Court in **Dr. Raghukul Tilak's case (supra)**. The Hon'ble Supreme Court considered the word 'employment' in its narrow as well as wider meaning. The law laid down by the Hon'ble Supreme Court, in para 4 to 6 of its judgment in Dr.

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Raghukul Tilak's case (supra), which can be gainfully followed in the present case, read as under:-

“ 4.The first question that arises on the applicability of the words "employment...under the Government of India" is whether the office of Governor is an 'employment' within the meaning of that expression in clause (d) of Article 319. What is the sense in which that word has been used in this Article? Semantically, the word 'employment' is not a word with a single fixed meaning but it has many connotations. On the one side it may bear the narrow meaning of relationship of employer and employee and on the other, it may mean in its widest connotation any engagement or any work in which one is engaged. If the former be the sense in which the word 'employment' is used in clause (d) of Article 319, the office of Governor would certainly not be an employment, because the Governor of a State is not an employee or servant of anyone. He occupies a high constitutional office with important constitutional functions and duties. The executive power of the State is vested in him and every executive action of the Government is required to be expressed to be taken in his name. He constitutes an integral part of the legislature of the State though not in the fullest sense, and is also vested with the legislative power to promulgate ordinances while the Houses of the Legislature are not in session.

He also exercises the sovereign power to grant pardons, reprieves, respites or remissions of punishment or to suspend, remit or commute the sentence of any person convicted of any offence against any law relating to a matter to which the executive power of the State extends. He is vested with the power to summon each House of the Legislature or to prorogue either House or

to dissolve the legislative assembly and this power may be exercised by him from time to time. He is also entitled to address either House of the Legislature or both Houses assembled together and he may send messages to the House or Houses of the Legislature with respect to a bill then pending in the legislature or otherwise. No bill passed by the Houses of the Legislature can become law unless it is assented to by him and before assenting to the bill he may return the bill, provided it is not a money bill to the Houses of the Legislature for reconsideration. He has also the power to reserve for consideration of the President any bill which in his opinion would, if it became law, so derogate from the powers of the High Court as to endanger the position which that court is by the Constitution designed to fill. There is also one highly significant role which he has to play under the Constitution and that is of making a report where he finds that a situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of the Constitution. It is the Governor's report which generally forms the basis for the President taking action under Article 356 of the Constitution.

It will be seen from this enumeration of the constitutional powers and functions of the Governor that he is not an employee or servant in any sense of the term. It is no doubt true that the Governor is appointed by the President which means in effect and substance the Government of India, but that is only a mode of appointment and it does not make the Governor an employee or servant of the Government of India. Every person appointed by the President is not necessarily an employee of the Government of India. So also it is not material that the Governor holds office during the pleasure of the President: it is a constitutional provision

for determination of the term of office of the Governor and it does not make the Government of India an employer of the Governor. The Governor is the head of the State and holds a high constitutional office which carries with it important constitutional functions and duties and he cannot, therefore, even by stretching the language to a breaking point, be regarded as an employee or servant of the Government of India. If, therefore, the word 'employment' were construed to mean relationship of employer and employee, the office of Governor would certainly not be an 'employment' within the meaning of clause (d) of Article 319.

5. *But if we accept the wider meaning of the word 'employment' as connoting any engagement or any work in which one is engaged as in the expression self-employment' the office of Governor would clearly be an 'employment' within the meaning of clause (d) of Art. 319. That, however, would not be enough to attract the applicability of this provision. There is a further requirement which is necessary and that is that the employment must be under the Government of India. Now, what is the meaning of this expression "under the Government of India"? Fortunately, there are two decisions of this Court which throw some light on this question. The first is the decision in **Pradyat Kumar Bose v. The Hon'ble the Chief Justice of Calcutta High Court (1955) 2 SCR 1331** where the question was as to whether the officers and members of the staff of the High Court could be said to be persons "serving under the Government of India or the Government of a State, in a civil capacity" so as to be within the scope of Article 320(3) (c) which requires consultation with the appropriate Public Service Commission in disciplinary matters. This Court speaking through Jagannadhadas, J.,*

*pointed out: "the phrase 'a person' serving under the Government of India or the Government of 'a State' it seems to have reference to such persons in respect of whom the administrative control is vested in the respective executive Governments functioning in the name of the President or of the Governor or of a Rajpramukh. The officers and staff of the High Court cannot be said to fall within the scope of the above phrase because in respect of them the administrative control is clearly vested in the Chief Justice-". The question which arose in the other decision in **Baldev Raj Guliani & ors. v. The Punjab & Haryana High Court & ors. (1977) 1 SCR 425** was a similar one and it related to the applicability of Article 320(3) (c) to Judicial officers in the State. Here, in this case also the Court took the same view and, after referring to the earlier decision in Pradyat Kumar Bose's case with approval, held that "just as the High Court staff are not serving under the Government of the State, the Judicial officers are also not serving under the State Government", because they are "entirely under the jurisdiction of the High Court for the purpose of control and discipline". It will, therefore, be seen that the employment can be said to be under the Government of India if the holder or incumbent of the employment is under the control of the Government of India vis-a-vis such employment. Now, if one applies this test to the office of Governor, it is impossible to hold that the Governor is under the control of the Government of India. His office is not subordinate or subservient to the Government of India. He is not amenable to the directions of the Government of India, nor is he accountable to them for the manner in which he carries out his functions and duties. His is an independent constitutional office which is not subject to*

the control of the Government of India. He is constitutionally the head of the State in whom is vested the executive power of the State and without whose assent there can be no legislation in exercise of the legislative power of the State. There can, therefore, be no doubt that the office of Governor is not an employment under the Government of India and it does not come within the prohibition of clause (d) of Article 319.

6. We may point out that the Governor of a State is not the only constitutional functionary whose employment is not under the Government. There are under the Constitution many other high functionaries, such as Judges of the Supreme Court and the High Courts, who do not hold any employment under the Government of India, although they exercise State power. This Court, while examining the constitutional position of a High Court Judge, pointed out in the **Union of India v. S. H. Sheth & Anr. (1978) 1 SCR 423** that a High Court Judge is not a Government servant: there is no relationship of employee and employer subsisting between him and the Government. He is a holder of a constitutional office which has important constitutional functions and duties. One of us (Bhagwati, J.) pointed out in that case at page 463 (of SCR) of the Report that a High Court Judge:

"..... is as much part of the State as the executive Government. The State has in fact three organs, one exercising executive power, another exercising legislative power and the third exercising judicial power. Each is independent and supreme within its allotted sphere and it is not possible to say that one is superior to the other. The High Court, constituted of the Chief Justice and other Judges, exercising the judicial power of the State and is coordinate in position and status with the

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Governor aided and advised by the council of Ministers, who exercises the executive power and the Legislative Assembly together with the Legislative Council, if any, which exercises the legislative power of the State. Plainly and unquestionably, therefore, a High Court Judge is not subordinate either to the executive or to the legislature. It would, indeed, be a constitutional heresy to so regard him. He has a constitutional function to discharge, which includes adjudication of the question whether the executive or the legislature has over-stepped the limits of its power under the Constitution. No doubt Article 217, cl. (1) provides for appointment of a person to the office of a High Court Judge by the President, which means in effect and substance the Central Government, but that is only laying down a mode of appointment and it does not make the Central Government an employer of a High Court Judge. In fact a High Court Judge has no employer: he occupies a high constitutional office which is coordinate with the executive and the legislature."

These observation apply equally to the office of a Judge of the Supreme Court. We are mentioning this merely to bring home, through comparable constitutional functionaries, the validity of the proposition that holders of high constitutional officers exercising State power and drawing salaries from State coffers may nevertheless be not employees or servants or holders of employment under the Government."

Office of the Lokayukta is creation of a statute. Taking an overall and pragmatic view of the provisions of the Act, including the scheme of the Act, object sought to be achieved, procedure for appointment and removal, powers as well as functions of the Lokayukta, this Court is of the considered opinion that Lokayukta is neither a simple investigator nor a

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simple inquiring authority. It is also true that Lokayukta is not a judicial authority, as such. Institution of Lokayukta enjoys the status of its own kind. Office of the Lokayukta is of unique nature and probably cannot be compared with any other such office. Although the Lokayukta exercises the powers of an adjudicating authority but at the same time, he cannot be placed at par with the judicial authority, thus, the Lokayukta is short of a judicial authority.

However, Lokayukta is certainly more than a simple investigator and exercises the powers of a quasi-judicial authority. Keeping in view the powers, functions and duties of Lokayukta, as provided under the different provisions of the Act, it can be safely concluded that the Lokayukta enjoys the status of a *sui generis* quasi judicial authority. The view that has been taken by this Court also finds support from more than one judicial precedents, including the judgment of the Hon'ble Supreme Court in **Justice Chandrashekharaiah's case** (supra).

Having heard learned counsel for the parties at considerable length, after careful perusal of record of the case with the able assistance of all the three learned counsels and giving thoughtful consideration to the rival contentions raised, this Court is of the considered opinion that although at the first blush, issues raised and arguments advanced on behalf of the petitioner seem to be very attractive, yet on close examination of the matter and having detailed deliberation on the questions of law posed before this Court, the writ petition is bereft of any merit. Appointment of second respondent as Lokayukta for the State of Haryana is strictly in accordance with law and the same deserves to be upheld. To say so, reasons are more than one, which are being recorded hereinafter.

Coming to the peculiar fact situation obtaining on record of the present case, process of appointment of the Lokayukta for the State of Haryana, was initiated on 4.1.2016. The Chief Minister, Haryana, vide his letters of even date, i.e. 4.1.2016, wrote to Hon'ble the Acting Chief Justice of this Court, the Speaker, Haryana Vidhan Sabha and the Leader of Opposition, informing them that the name of second respondent was being considered, for the post of Lokayukta for the State of Haryana. These communications are available at page Nos. 311, 312, 313 of the office file. The Speaker, Vidhan Sabha, vide his letter dated 11.1.2016, expressed his concurrence for the name of second respondent. This communication dated 11.1.2016 is available at page 315 of the office file.

Hon'ble the Acting Chief Justice, vide communication dated 9.1.2016, available at page 320 of the office file, although did not raise any objection to the name of second respondent, yet expressed his opinion that several other former judges also ought to be considered for the post. It seems that further deliberations took place on the subject and finally, Hon'ble the Acting Chief Justice, vide communication dated 29.3.2016, available at page 318 of office file, gave his concurrence for appointment of second respondent as Lokayukta.

The Leader of Opposition, vide letter dated 6.1.2016 available at page 321 of the office file, suggested name of another former judge of this Court, for appointment to the post of Lokayukta. However, it came to be recorded at page NP165, under the signatures of the Chief Minister, Haryana, that Leader of Opposition, though proposed name of another retired judge of this Court in his communication dated 6.1.2016, but, the other day, he has orally consented to the name of second respondent for

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appointment to the post of Lokayukta. Finally, as a conclusive proof of consultation, notification dated 1.4.2016, available at page 307 of the office file, came to be issued, as required under sub-section 2 of Section 3 of the Act. Thereafter, impugned warrant of appointment dated 5.4.2016 (Annexure P-1) was issued, appointing second respondent as Lokayukta for the State of Haryana.

No doubt, learned senior counsel for the petitioner was fully justified in contending that the process of consultation, as envisaged under Section 3 of the Act, is not a mere formality. However, it is equally true that a combined reading of all three letters of even date, i.e. 4.1.2016, written by the Chief Minister, Haryana, to Hon'ble the Acting Chief Justice of this Court, the Speaker, Haryana Vidhan Sabha and the Leader of Opposition, intimating that the name of second respondent was under consideration for appointment to the post of Lokayukta for the State of Haryana, coupled with the later correspondence noticed hereinabove, particularly letter dated 29.3.2016 regarding concurrence of Hon'ble the Acting Chief Justice, for appointment of second respondent as Lokayukta, which finally culminated into notification dated 1.4.2016, as envisaged under Section 3 (2) of the Act, would leave no manner of doubt that neither the process of consultation was farce, as alleged on behalf of the petitioner, nor it can be said to be an ineffective consultation.

It is so said because as per the provisions of Section 3 (2) of the Act, notification dated 1.4.2016 would be a conclusive proof of consultation. Section 3 (2) of the Act, at the cost of repetition, is referred here and it reads as follows:-

“A notification by the State

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Government about the consultation having been held as envisaged in sub-section (1) shall be conclusive proof thereof.”

Keeping in view the language used by the Legislature in Section 3 (2) of the Act and giving due respect to the legislative intent, harmonious construction of the provisions contained in Section 3 (2) of the Act would be that the notification issued by the State Government about the process of consultation, as required under Section 3 (1) of the Act, would amount to a conclusive proof of such consultation. Any contrary interpretation would run counter to the unambiguous intention of the Legislature and would also be violative of basic principle of interpretation of any provision of law, because such an interpretation would defeat the object of Section 3 (2) of the Act.

Notification dated 1.4.2016 under Section 3 (2) of the Act regarding its conclusive proof about the consultation, would apply not only qua concurrence of Hon’ble the Acting Chief Justice of this Court but it shall also apply qua the consultation with the Leader of Opposition as well. Further, this notification dated 1.4.2016 is not even under challenge in the case in hand. On this issue, the observations made by the Hon’ble Supreme Court in para 68 of its judgment in **Justice Chandrashekaraiiah’s case** (supra), while referring to **Justice K.P. Mohapatra’s case** (supra), aptly apply to the facts of the present case and the same read as under:-

“In K.P. Mohapatra case, the Chief Justice approved the candidature of Justice K.P. Mahapatra, but the Leader of the Opposition later recommended another person, but the State Government appointed the former

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but the High Court interfered with that appointment.

Reversing the judgment of the High Court, this Court held that the opinion rendered by the Leader of the Opposition is not binding on the State Government.”

In view of the above, it is unhesitatingly held that the respondent-State did not commit any error of law, during the process of consultation, which was an effective and purposeful consultation and it fulfills the requirement of the provisions of law referred to hereinabove. In this regard, support is also drawn from the views expressed by the Chief Justice Tindal in **Sussex Peerage’s case** (supra), by Viscount Simonds, L.C in **Benoari Lal Sarma’s case** (supra) and by Justice Gajendragadkar in **Paramnidhi Sadhukhan’s case** (supra), noticed in the foregoing paragraphs.

Coming to the twin questions of law, posed at the outset, this Court is of the considered opinion that under the totality of facts and circumstances of the case noticed hereinabove, abovesaid provisions of law contained in the Act and the law laid down by the Hon’ble Supreme Court in its constitution bench judgment in **Dr. Raghukul Tilaks’ case** (supra), **Justice Chandrashekaraiah’s case** (supra), **Sankalchand Himatlal Sheth’s case** (supra), **Namit Sharma’s case** (supra), Division Bench of Patna High Court in **Mithilesh Kumar Singh’s case** (supra) and Division Bench judgment of Kerala High Court in **Sreenivasan Vanugopalan’s case** (supra), answer to both the questions is and has to be in the negative. It is held that neither the appointment of second respondent, as Lokayukta for the State of Haryana, amounts to “employment” nor the office of Lokayukta, Haryana, comes “under the Government of State of Haryana” and as a result

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thereof, appointment of second respondent, as Lokayukta for the State of Haryana, would not be violative of Section 11 of the AFT Act.

As per Black's Law Dictionary (Ninth Edition), word "employment" has different meanings. It may amount to relationship between the master and servant. It may mean act of employing, state of being employed, work for which one has been hired and is being paid by employer. It may be a casual employment which would mean work that is occasional, irregular or for a short time. It may be an employment at Will which may be undertaken without a contract and may be terminated at any time by either by the employer or the employee without cause. It may be gainful employment, hazardous employment, joint employment, permanent employment, seasonal employment and temporary employment. Similarly, an employer may be a general employer, special employer and also statutory employer.

Thus, the word "employment", is not a word with single fixed meaning but has many connotations, as held by the Hon'ble Supreme Court in **Dr. Raghukul Tilak's case** (supra). In fact, the Hon'ble Supreme Court interpreted the word "employment" in its narrow sense as well as in its wider connotation. When the word "employment" is considered in its narrow meaning, it may amount to relationship of an employer and employee and if the word "employment" is taken in its widest connotation, it may include any kind of engagement or any work in which one is engaged. The only distinction in the facts of the present case and **Dr. Raghukul Tilak's case** (supra) is that, in **Dr. Raghukul Tilak's case**, the Hon'ble Supreme Court was dealing with an appointment of Governor-a Constitutional Office whereas in the present case, appointment of Lokayukta in question, is not a

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Constitutional Office but creation of a statute.

In the very nature of things, one cannot and must not jump to a conclusion on the basis of only one factor, as to what would the word “employment” mean. Meaning of word “employment” would depend on more than one relevant factors, applied in the given fact situation of a particular case. Equally important aspect in this context would be, as to what would be the relevant factors. Some of the relevant factors, list of which may not be an exhaustive one, would be; method and procedure for appointment as well as removal, nature of powers to be exercised, duties to be performed, functions to be carried out and also the responsibilities of the holder of the office, as well as the nature and extent of administrative control of the employer, in the actual day to day working of the employee. Applying these relevant factors in the context of fact situation obtaining on record, coupled with the peculiar facts and circumstances of the case in hand, it can be safely concluded that there is no master and servant relationship between second respondent and State of Haryana, thus, his appointment would not amount to employment.

Looking to the provisions of the Act, once second respondent is appointed as Lokayukta for the State of Haryana, by the Governor of the State, the State Government shall have no administrative control on the day to day functioning of the office of Lokayukta. The Lokayukta would be entitled to exercise his powers independently, with a view to carry out his functions under the provisions of the Act, notwithstanding his salary and allowances shall be payable from consolidated fund of the State. The Lokayukta would have the authority and power to conduct inquiry against any “public servant” and its definition includes the Chief Minister of the

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State as well, as defined in Section 2 (m) of the Act.

As a matter of fact, except the Governor of the State, every public servant of the State of Haryana would come under the jurisdiction of the Lokayukta for the purpose of conducting investigation and inquiry. As per the provisions of Section 8 read with Section 23 of the Act, the Lokayukta has been granted the jurisdiction, power and discretion to conduct or not to conduct inquiry against any public servant. As per Section 18 of the Act, the Lokayukta would also have the power to issue interim direction. Under Section 12 of the Act, the Lokayukta would devise his own procedure for conducting the inquiry or investigation, subject to the principles of natural justice. Under Section 13 of the Act, he would have power to summon record from any department of the State Government, local authority, corporation, government company, society, university or any other undertaking of the State Government.

Again, under Section 15 of the Act, Lokayukta would have the power for search and seizure. Section 16 of the Act provides for punishment for false and malicious complaints wherein punishment, on conviction, can be for rigorous imprisonment which may extend to three years or with fine which may extend to ₹10,000/- or both. Cognizance of the offence shall be taken exclusively by the court of Sessions under Section 16 of the Act, on a complaint made by or under the authority of the Lokayukta. Procedure for removal of Lokayukta, as provided under Section 7 of the Act, would be governed under the Judges (Inquiry) Act, 1968.

In addition to the above, recommendations made in para 25 of its report, by the Administrative Reforms Commission, constituted by the President of India vide notification dated 5.1.1966, referred in the earlier

part of this order, deserves to be noticed and same read as under:-

“25. The following would be the main features of the institutions of Lokpal and Lokayukta:-

(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 and powers in obtaining information relevant to their duties.

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

Bearing in mind these essential features of the institutions, the Commission recommend that the Lokpal be appointed at the Centre and Lokayaukta at the State level.”

Under the abovesaid undisputed fact situation, clearly established from bare perusal of the aforementioned relevant factors, available under the Act, coupled with the observations made by the Administrative Reforms Commission, as part of legislative background of the institution of Lokayukta and respectfully following the law laid down by the Hon’ble Supreme Court in the cases aforementioned as well as by the

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Division Bench of Kerala High Court in **Sreenivasan Vanugopalan's case** (supra) and Division Bench of Patna High Court in **Mithilesh Kumar Singh's case** (supra), appointment of the second respondent, as Lokayukta for the State of Haryana, does not amount to employment, for this reason as well. It is pertinent to note here that Division Bench judgment of Kerala High Court in **Sreenivasan Vanugopalan's case** (supra) was upheld by the Hon'ble Supreme Court as well, vide its order dated 18.9.2009 in Special Leave to Appeal (civil) No. 22956/2009.

Similarly, office of the Lokayukta, Haryana, does not come "under the Government of State of Haryana", for the reason that Government of Haryana, as noticed above, would have no administrative control on the day to day working of the office of Lokayukta. As far back as in the year 1955, the Hon'ble Supreme Court in **Pradyat Kumar Bose v. The Hon'ble the Chief Justice of Calcutta High Court (1955) 2 SCR 1331**, followed in **Dr. Raghukul Tilak's case** (supra), held that officers and members of Staff of the High Court cannot be said to be "serving under the Government of India or the Government of State, in civil capacity", so as to bring them within the scope of Article 320 (3) (c) of the Constitution of India. It was so held, because the State would have no administrative control on the officers and members of the staff of the High Court.

Again, in **Baldev Raj Guliani and others Vs. The Punjab & Haryana High Court and others (1977) 1 SCR 425**, it was held by the Hon'ble Supreme Court that judicial officers were not serving "under the State Government", because they were entirely under the jurisdiction of the High Court, for the purpose of control and discipline. It was further held that employment can be said under the State, only if the holder or incumbent

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is under the control of Government.

In the present case, firstly, appointment of second respondent as Lokayukta, for the State of Haryana, does not come within the scope of word “employment” and secondly, office of Lokayukta does not come “under the Government of State of Haryana.” It is so said because neither the office of Lokayukta is subordinate nor it is subservient to the Government of Haryana. The Lokayutka, Haryana, is not amenable to the directions of the Government of Haryana, nor he is accountable to the authorities of the State, for the manner in which he carries out his functions and duties. In fact, the Lokayukta enjoys independence in performing the duties of his office, which is not subject to the control of the Government of State of Haryana.

No public servant of the State of Haryana, irrespective of his or her status in the Government of the State, is empowered to issue any direction to the Lokayukta. As noticed hereinabove, the Lokayukta is empowered to device his own procedure for conducting inquiry or investigation, however, subject to the principles of natural justice, as envisaged under Section 12 of the Act. Thus, once the Lokayukta, as per provisions of the Act, enjoys independence in his functioning, his office cannot be brought within the purview of term “under the Government of State of Haryana”, by any stretch of imagination.

To be fair to the learned senior counsel for the petitioner, his arguments, based on the Division Bench judgment of this Court in **S.K. Jain’s case** (supra), have been duly considered but found misplaced and the same are not worth acceptance. The reason is that **S.K. Jain’s case** (supra) was decided in an entirely different fact situation. Under Section 7A of the ID Act, neither any procedure for appointment nor for removal of the

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Presiding Officer of the Industrial Tribunal was provided. While deciding **S.K. Jain's case** (supra), this Court did not follow the law laid down by the Hon'ble Supreme Court in **Dr. Raghukul Tilak's case** (supra), instead, tests laid down by the Hon'ble Supreme Court in **Chintaman Rao Vs. State of Madhya Pradesh, AIR 1958 SC 388**, were followed. In this view of the matter, Division Bench judgment in **S.K. Jain's case** (supra), has no applicability to the fact situation obtaining on record in the present case. In fact, under no circumstances, appointment of Lokayukta can be compared with the appointment of Presiding Officer of an Industrial Tribunal. In view of the provisions of the Act, including the procedure for appointment, removal, nature of powers and functions of Lokayukta, it being an independent statutory institution, his status is that of *sui generis* quasi judicial authority.

Under the peculiar facts and circumstances of the case, noted above, it is unhesitatingly held that since after the appointment of Lokayukta, as per procedure provided under the Act, State of Haryana has no role to play, in the independent functioning of the institution of the Lokayukta, his appointment does not fall within the scope of term "employment", as envisaged under Section 11 of the AFT Act and under Article 319 (d) of the Constitution of India.

Similarly, in view of the nature of powers to be exercised and duties to be performed by the Lokayukta, devising his own procedure for conducting inquiry or investigation against public servants and there being no administrative control of the Government of State of Haryana, appointment of second respondent as Lokayukta, for the State of Haryana, would neither come "under the Government of State of Haryana", nor such an appointment

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would be prohibited under Section 11 of the AFT Act. Ordered accordingly.

The relevant questions of law, having been decided and answered, in the manner indicated above, remaining ancillary issues and arguments raised in support thereof, being not of much importance, loose their significance, if any, and become redundant which are disposed of, accordingly. During the course of hearing, no other argument was raised, nor any contrary judgment was brought to the notice of this Court, on behalf of either of the parties.

Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that present writ petition, having been found wholly misconceived, bereft of merit and without any substance, must fail. Appointment of second respondent as Lokayukta, for the State of Haryana, has not been found suffering from any illegality and the same is hereby upheld. No case for interference has been made out.

Resultantly, with the abovesaid observations made, instant writ petition stands dismissed, however, with no order as to costs.

(RAMESHWAR SINGH MALIK)
JUDGE

9.11.2016
Ak Sharma

Whether speaking/reasoned Yes/No
Whether reportable: Yes/No