

THE HON'BLE THE CHIEF JUSTICE SATISH CHANDRA SHARMA

AND

THE HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

WRIT PETITION Nos. 28211 & 6107 of 2019

COMMON ORDER: *(Per the Hon'ble the Chief Justice Satish Chandra Sharma)*

W.P.No.28211 of 2019 is arising out of the order dated 20.06.2015 passed by the Hon'ble Lokayukta for the States of Andhra Pradesh and Telangana at Hyderabad in Complaint No.2557/2011/B1.

The facts of the case reveal that complaints were preferred by Sri R.Ravinder Rao/respondent No.10 and by Sri M.Kishan Rao/respondent No.9 before the Lokayukta and the Lokayukta, by a common order, has directed mutation of entries in the revenue records by the Tahsildar, Bantwaram Mandal, Ranga Reddy, District within a period of two months.

Learned counsel for the petitioner in W.P.No.28211 of 2019 has argued before this Court that keeping in view the Telangana Lokayukta Act, 1983 as amended by Act 31 of 2017 (for short 'the Act'), the Lokayukta does not have power to direct revenue authorities to carry out mutation. He has placed reliance upon the judgment delivered by a Full Bench of the unified High Court for the States of Telangana and Andhra Pradesh in the case of ***Dr. R.G.Sunil Reddy vs. The A.P.Lokayukta, Basheerbagh, Hyderabad and others***¹. He has also placed reliance upon Section 7 of the Act.

Section 7 of the Act is reproduced as under:-

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

¹ (2015) 6 ALD 302 (FB)

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

(i) a Minister or a Secretary; or

(ii) a Member of either House of the State Legislature; or

(iii) a Mayor of the Municipal Corporation constituted by or under the relevant law for the time being in force; or

[(iiia) a Vice Chancellor or a Registrar of a University.]

(iv) any other public servant, belonging to such class or section of public servants, as may be notified by the Government in this behalf after consultation with the Lokayukta in any case where a complaint involving an allegation is made in respect of such action, or such action can be or could have been, in the opinion of the Lokayukta, the subject of an allegation.

(2) Subject to the provisions of this Act, the Upa-Lokayukta may investigate any action which is taken by, or with the general or specific approval of, any public servant, other than those referred to in sub-section (1), in any case where a complaint involving an allegation is made in respect of such action or such action can be or could have been, in the opinion of the Upa-Lokayukta, the subject of an allegation.

(3) Notwithstanding anything in sub-section (2), the Lokayukta may, for reasons to be recorded in writing, investigate any allegation in respect of an action which may be investigated by the Upa-Lokayukta under that sub-section, whether or not complaint has been made to the Lokayukta in respect of such action.

(4) Where two or more Upa-Lokayuktas are appointed under this Act, the Lokayukta may, by general or special order, assign to each of them matters which may be investigated by them under this Act :

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

The aforesaid statutory provision of law empowers the Lokayukta to investigate the matters, wherein a complaint is received involving an allegation against a public servant. In the present case, a revenue dispute was brought before the Lokayukta and the Lokayukta has directed mutation of entries.

The Full Bench of the unified High Court for the States of Telangana and Andhra Pradesh, in the case of **Dr. R.G.Sunil Reddy** (supra), while answering the issue whether the Andhra Pradesh Lokayukta has jurisdiction to entertain a complaint which does not involve an allegation, in paras 27 and 28, held as under:-

“27. So far as three impugned directions given by the Lokayukta are concerned, learned counsel for the third respondent defended the said orders under Rule 22 of the Rules by contending that they are part of preliminary verification permissible under Rule 5 of the Rules. We are, however, of the view that when the Act itself does not empower the Lokayukta to issue any directions of the nature, as issued under the impugned order, neither the Rules can be read so as to defeat the object and purpose of the Act nor the Rules can override the provisions of the Act. The power of Lokayukta to undertake preliminary verification arises only in the event of registration of the complaint and on its, prima facie, satisfaction that all the essential ingredients required to be maintained in the complaint under Section 7 of the Act are satisfied. Thus, as discussed above, when the complaint of the third respondent sans any such allegation cognizable under Section 7 of the Act, all further proceedings including the impugned orders, in our view, cannot be sustained.

28. We, accordingly, answer question No.1 in the negative and hold that the Lokayukta has no jurisdiction to entertain a complaint, which neither involves an allegation nor involves any action or inaction connected with such an allegation. We also hold that inter se private disputes between the parties including matrimonial dispute does not fall within the purview of the jurisdiction of the Lokayukta under the Act and that only such acts, which are actuated by allegation against public servants and the authorities as named under Section 7 of the Act alone fall within the domain of the Lokayukta or Upa-Lokayukta, as the case may be. The discussion, as above, also answers

question No.2 in the negative. Question No.3, however, does not arise on the facts and circumstances of the case and would amount to adjudication on hypothetical question. Hence, the said question is left open.”

In the light of the aforesaid judgment, this Court is of the opinion that the Lokayukta is not at all having jurisdiction to direct mutation of revenue entries. Mutation of revenue entries can be directed by revenue authorities or by Civil Court or by High Court and by no stretch of imagination by the Lokayukta.

This Court, in similar circumstances, where the Lokayukta has directed payment of money on a complaint, has allowed the writ petitions holding that the Lokayukta does not have jurisdiction in the matter of recovery of money, while passing an order dated 20.12.2021 in W.P.Nos.5196 and 5204 of 2021. A similar view was taken by this Court in W.P.No.22212 of 2017 in which the Upa-Lokayukta has issued notice to the petitioner/Devasthanam therein for delivery of possession.

In the considered opinion of this Court, by no stretch of imagination, the Act empowers the Lokayukta to direct mutation of revenue entries and therefore, as the Lokayukta has transgressed its jurisdiction, the impugned order dated 20.06.2015 in W.P.No.28211 of 2019 deserves to be set aside and is accordingly set aside.

In the other connected writ petition, i.e., W.P.No.6107 of 2019, the subsequent action of the authorities pursuant to the order dated 20.06.2015 passed by the Lokayukta is under challenge.

In the considered opinion of this Court, as this Court has set aside the order dated 20.06.2015, all subsequent orders/actions pursuant to the aforesaid order passed by the Lokayukta are set aside.

With the aforesaid, both the writ petitions stand allowed. This Court has not commented upon the revenue entries which were existing prior to passing of the order by the Lokayukta and therefore, the parties shall be free to take recourse to the legal remedies available under law.

Pending miscellaneous applications, if any, shall stand closed. There shall be no order as to costs.

SATISH CHANDRA SHARMA, CJ

ABHINAND KUMAR SHAVILI, J

01.02.2022
JSU