



The Andhra Pradesh Lokayukta Act, 1983

Act 11 of 1983

Keyword(s):

Action, Allegation, Corruption, Lokayukta, Minister, Officer, Public Servant

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THE ANDHRA PRADESH LOKAYUKTA ACT, 1983

[Act No. 11 of 1983]

[as Amended by Act 1 of 2007, w.e.f. 28-2-2007]

Along with

- **The Andhra Pradesh Lokayukta and Upa-Lokayukta (Investigation) Rules, 1984**
- **The Andhra Pradesh Lokayukta and Upa-Lokayukta (Competent Authority) Rules, 1984**
- **The Andhra Pradesh Lokayukta and Upa-Lokayukta (Officers and Employees) Service Rules, 1986**
- **The Andhra Pradesh Lokayukta and Upa-Lokayukta (Conditions of Service) Rules, 1987**
- **Disposal by Destruction of Records in the Institution of The Andhra Pradesh Lokayukta and Upa-Lokayukta Rules, 1993**

6th EDITION

THE ANDHRA PRADESH LOKAYUKTA ACT, 1983

CONTENTS

1. Short title, extent and commencement.....	1
2. Definitions	1
3. Appointment of Lokayukta and Upa-Lokayukta	5
4. Lokayukta or Upa-Lokayukta to hold no other Officer	5
5. Term of office and other conditions of service of Lokayukta and Upa-Lokayukta	6
6. Removal of Lokayukta or Upa-Lokayukta	7
7. Matters which may be investigated by Lokayukta or Upa-Lokayukta	8
8. Matters not subject to investigation by Lokayukta or Upa-Lokayukta	10
9. Provision relating to complaints	10
10. Procedure in respect of investigations	11
11. Evidence	13
12. Reports of Lokayukta or Upa-Lokayukta	14
13. Prosecution for false complaints	16
14. Staff of Lokayukta and Upa-Lokayukta	16
15. Secrecy of Information	17
16. Intentional insult or interruption to, or bringing into disrepute, Lokayukta or Upa-Lokayukta.....	18
17. Protection of action taken in good faith	18
18. Conferment of Additional functions on Lokayukta and Upa-Lokayukta, etc.....	18
19. Powers to delegate	19
20. Power to make rules	19
21. Removal of doubts	20
22. Savings	21
First Schedule	21
Second Schedule	21

**THE ANDHRA PRADESH LOKAYUKTA AND
UPA-LOKAYUKTA (INVESTIGATION)**

RULES, 1984

CHAPTER I

Preliminary

1. Short title 22
2. Definitions 22

CHAPTER II

Complaints, their Scrutiny and Verification

3. Complaint 23
4. Scrutiny of complaint 23

CHAPTER III

Preliminary Verification and Investigation

5. Preliminary verification 25
6. Commencement of investigation 26
7. Procedure for conducting investigation 28
8. Reckoning of time limit for completing investigation 32
9. Refusal to investigate and discontinuance of investigation 32
10. Transfer of preliminary verification and investigation
by Lokayukta 32
11. Furnishing copies of documents, affidavits and depositions 32
12. Place of sitting of Lokayukta and Upa-Lokayukta 32
13. Completion of investigation 33
14. Death of the complainant 33
15. Withdrawal of complaint 33
15A. Restoration and review 33
16. Interim Report 33

CHAPTER IV

Miscellaneous

17. Application of the Code of Criminal Procedure 34
18. Prosecution for false complaints 34
19. Transaction of business 34
20. Residuary powers 34
21. Power to regulate proceedings and investigations 34
22. Power of Lokayukta to give directions 35

23. Application of rules to certain complaints	35
--	----

Forms

I. Complaint	35
II. Complainant's Affidavit	36
III. Office of the Lokayukta/Upa-Lokayukta for Andhra Pradesh at Hyderabad	37
IV. Office of the Lokayukta/Upa-Lokayukta for Andhra Pradesh at Hyderabad	38
V. Office of the Lokayukta/Upa-Lokayukta for Andhra Pradesh at Hyderabad	39
VI. Proceedings of the Lokayukta/Upa-Lokayukta for Andhra Pradesh at Hyderabad	39
VII. Proceedings of the Lokayukta/Upa-Lokayukta for Andhra Pradesh at Hyderabad	40
VIII. Proceedings of the Lokayukta/Upa-Lokayukta for Andhra Pradesh at Hyderabad	41
IX. Before the Lokayukta/Upa-Lokayukta for Andhra Pradesh	42
➤ Annexure	42

THE ANDHRA PRADESH LOKAYUKTA AND UPA-LOKAYUKTA (COMPETENT AUTHORITY) RULES, 1984

1. Short title, commencement and application	43
2. Definitions	43
3. Competent Authority	43

➤ Notification under A.P. Lokayukta and Upa-Lokayukta Act, 1983 [G.O.Ms.No. 158, GA (SCD), dt. 13.3.1984]	45
---	----

THE ANDHRA PRADESH LOKAYUKTA AND UPA- LOKAYUKTA (OFFICERS AND EMPLOYEES) SERVICE RULES, 1986

1. Short title, commencement and extent	46
2. Applicability of the General Rules	46

3. Constitution	46
4. Appointing Authority	47
5. Method of appointment	48
6. Qualifications	55
7. Special Qualifications	57
8. Security	57
9. Reservation of Appointment	57
10. Probation	57
11. Termination of Probation	58
12. Extension of probation	59
13. Discharge of probationers and approved probationers for want of vacancies and their reappointment	59
14. Appointment of Full Members	60
15. Promotions	60
16. Temporary appointments and promotions	61
17. Equation of Posts and Scales of Pay and Allowances	61
18. Relaxation of Rules by the Lokayukta	61

Schedules

I. Special Qualifications	61
II. Equation of Posts	62

THE ANDHRA PRADESH LOKAYUKTA AND UPA-LOKAYUKTA (CONDITIONS OF SERVICE) RULES, 1987

1. Short title and commencement	65
2. Definitions	65
3. Applicability	66
4. Vacation Holidays and Working Hours	66
5. Leave	66
6. Pension	66
7. Travelling Allowance	67
8. Medical Treatment	67
9. Residential Accommodation	67
10. Conveyance Facilities	67
11. Provident Fund	68
12. Dearness Allowance etc.	68

13. Additional Charge Allowance	68
14. Leave Travel Concession	68
15. Gratuity and Family Pension	68

—

**DISPOSAL BY DESTRUCTION OF RECORDS IN THE
INSTITUTION OF ANDHRA PRADESH LOKAYUKTA
AND UPA-LOKAYUKTA RULES, 1993**

1. Short title	69
2. Index Paper to be opened	69
3. Records to be divided into parts	69
4. Unfiled Documents to be kept apart and destroyed	70
5. Periods of Retention of Records	70
6. Periods of Retention of Registers etc.	70
7. Documents ripe for Destruction taken for Consideration in another Complaint	71
8. Books and papers to be destroyed after prescribed period	71
9. Records which are not to be destroyed	71
10. Districts and Andhra Pradesh Gazettes	71
11.	71
12.	72
13.	72

Appendices

A. Index Sheet	72
B. Table showing the division of the record and the description of the papers falling under each division	72
C. Table Showing the Periods Prescribed for the Retention by various Parts of the Records in the various cases of Proceedings	73
D.	74

'THE ANDHRA PRADESH LOKAYUKTA ACT, 1983

[Act No. 11 of 1983]

An Act to make provision for the appointment and functions of Lokayukta and Upa-Lokayukta for the investigation of Administrative action taken by or on behalf of the Government of Andhra Pradesh or certain Local and Public Authorities in the State of Andhra Pradesh (including any omission and commission in connection with or arising out of such action) in certain cases and for matters connected therewith.

Be it enacted by the Legislature of the State of Andhra Pradesh in the Thirty-fourth year of the Republic of India as follows:

1. Short title, extent and commencement:— (1) This Act may be called the Andhra Pradesh Lokayukta ²[xxx] Act, 1983.

(2) It extends to the whole of the State of Andhra Pradesh.

(3) It shall come into force on such date as the State Government may, by notification published in the Andhra Pradesh Gazette, appoint.

CASE LAW

From the information furnished it is clear that the petitioners in all the three writ petitions have not sought for relief either on the basis of any Pay Revision Commission but they are claiming special pay on the basis of States action treating the Section Officers, Court Masters, Personal Secretaries to Honourable Judges and Court Officers of High Court and Section Officers of Lokayukta on par with the Section Officers of Secretariat. When the duties and responsibilities are similar no justification to deny their request. When once the State accepted the status of these officers on par with the officers of the Secretariat it is not now fair for the State to refuse to extend similar benefit. Such refusal amounts to arbitrariness. When an act of the State is an arbitrary one, the Court can decide it and direct the concerned to set right such an arbitrariness. *A.P. High Court Junior Officers Association, Hyd. vs. Government of A.P., Finance and Planning (F.W. & T.A.) Department and Others*, 1997 (1) ALD 810. See also 1988 (2) SLR 52 (SC).

2. Definitions:— In this Act, unless the context otherwise requires—

³(a) 'action' means any administrative action taken by a public servant by way of decision, recommendation or finding or in any other

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1. Reserved by the Governor on the 11th October, 1982 for consideration and assent of the President, received the assent of the President on the 25-8-1983 and the said assent is hereby first published in the Andhra Pradesh Gazette Part IV-B, (Ext.), dt. 23-9-1983.
 2. The words "and Upa-Lokayukta" omitted by Act No. 1 of 2007 w.e.f. 28-2-2007. Vide G.O.Ms.No.117 GA Spl C dt. 28-2-2007. Pub. in AP Gaz. No. 13, dt. 15-3-2007.
 3. Subs. by Act No. 1 of 2007, w.e.f. 28-2-2007.

manner, and includes any omission and commission and failure to act in connection with or arising out of such action; and all other expressions connecting action shall be construed accordingly;]

(b) '*allegation*' in relation to a public servant means any affirmation that such public servant—

- (i) has abused his position as such, to obtain any gain or favour to himself or to any other person, or to cause undue harm or hardship to any other person;
- (ii) was actuated in the discharge of his functions as such public servant by improper or corrupt motive and thereby caused loss to the State or any member or section of the public; or
- (iii) is guilty of corruption, or lack of integrity in his capacity as such public servant;

(c) '*competent authority*' in relation to a public servant, means,—

- | | |
|--|---|
| (i) in the case of a Minister,
Chief Secretary; or Secretary. | The Chief Minister. |
| (ii) in the case of a Member
of either House of the
State Legislature. | The Speaker of the
Legislative Assembly or
as the case may be,
Chairman of the
Legislative Council. |
| (iii) in the case of any other
public servant. | Such authority as may be
prescribed |

[(d) '*corruption*' includes anything made punishable under Chapter IX of the Indian Penal Code, 1860 or under the Prevention of Corruption Act, 1988 as amended from time to time;]

(e) '*Government*' means the State Government;

(f) '*Lokayukta*' means a person appointed to be the Lokayukta under Section 3;

[(g) '*Minister*' means a member (other than the Chief Minister) of the Council of Ministers, for the State of Andhra Pradesh and includes a Deputy Chief Minister, a Minister, a Minister of State, a Deputy Minister or a Parliamentary Secretary;]

(h) 'notification' means a notification published in the Andhra Pradesh Gazette and the expression 'notified' shall be construed accordingly;

(i) 'officer' means a person appointed to a public service or post in connection with the affairs of the State of Andhra Pradesh, but does not include a person holding a post carrying a minimum scale of pay of '[rupees seven thousand four hundred and below of the Revised Scales of Pay, 1999 or the corresponding Revision of Scale of Pay as and when such revision takes place from time to time ;]

(j) 'prescribed' means prescribed by rules made under this Act;

²[(k) 'public servant' means a person who is or was at any time;

(i) Minister as referred to in clause (g);

(ii) Member of either House of the State Legislature including the Chief Whip;

(iii) Officer as referred to in clause (i);

(iv)(1) every Chairperson and every Vice Chairperson of a Zilla Parishad and every President of a Mandal Parishad constituted under the Andhra Pradesh Panchayat Raj Act, 1994;

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

(3) every Chairperson of a Municipal Council, constituted or deemed to be constituted under the Andhra Pradesh Municipalities Act, 1965 other than that of second and third grade Municipalities;

(v) every Chairman or President, by whatever name called of the Governing Body to which the management is entrusted and every director or member, if any, in respect of,—

(1) any local authority in the State of Andhra Pradesh;

(2) any statutory body or Corporation (not being a local authority) established by or under a State Act and owned or controlled by the Government of Andhra Pradesh and any other Board

1. Subs. for the words "rupees one thousand one hundred and fifty and below" by Act No. 1 of 2002, w.e.f. 24-01-2002, pub. in A.P. Gaz. Pt. IV-B, ext. No. 1, dt. 24.01.2002.

2. Subs. by Act No. 1 of 2007, w.e.f. 28-2-2007.

- or Corporation as the Government may having regard to its financial interest therein specify by notification in the Gazette from time to time;
- (3) any Government company within the meaning of Section 617 of the Companies Act, 1956 in which not less than 51 per cent of its paid up share capital is held by the Government of Andhra Pradesh or any Company which is a subsidiary of such company;
 - (4) any society registered under the Andhra Pradesh Societies Registration Act, 2001 which is subject to the control of the Government;
 - (5) any Co-operative Society registered or deemed to be registered under the Andhra Pradesh Co-operative Societies Act, 1964 whose area of operation extends to the whole of the State or is confined to a part of the State extending to an area not less than a district;
 - (6) Member of a Committee or Board, statutory or non-statutory, constituted by the Government of Andhra Pradesh;
 - (vi) every Vice Chancellor and Registrar of a University in the State established by law made by the State Legislature;
 - (vii) Officer in the Service or pay of a local authority, University, Statutory Body or Corporation, Society or other institutions;]
- (l) 'Secretary' means a Secretary to the Government, and includes the Principal Secretary, a Second Secretary, a Special Secretary, an Additional Secretary and Joint Secretary;
- (m) 'Upa-Lokayukta' means a person appointed to be the Upa-Lokayukta under Section 3.

CASE LAW

Section 2(i) – Officers holding the post carrying a minimum scale of Rs. 1,150/- and below also be excluded, and to that extent provisions contained in Section 2(i) are illegal and unconstitutional. *J. Papa Rao v. Government of Andhra Pradesh and others*, 2004 (2) ALD 855 (AP) (DB) = 2004 (2) ALT 663 (DB).

Section 2(k)(v)(2) – In terms of Sec. 2(k)(v)(2) of the Act, the Lokayukta has jurisdiction to entertain complaints against any Corporation not being a local authority established by or under a State Act and owned or controlled by the State Government, and whereas admittedly the A.P. State Road Transport Corporation was established by a Central Act, therefore, the Lokayukta has no jurisdiction over APSRTC. *Managing Director, APSRTC, Mushirabad, Hyderabad v. Institution of A.P. Lokayukta and Upa-Lokayukta, Hyderabad*, 2001(5) ALD 492 (DB)=2001(3) LS 114 (DB).

3. Appointment of Lokayukta and Upa-Lokayukta:— (1) For the purpose of conducting investigation in accordance with the provisions of this Act, the Governor shall, by warrant under his hand and seal, appoint a person to be known as the Lokayukta and one or more persons to be known as the Upa-Lokayukta or Upa-Lokayuktas:

Provided that,—

- (a) the person to be appointed as the Lokayukta shall be a Judge or a retired Chief Justice of a High Court;
- (b) the Lokayukta shall be appointed after consultation with the Chief Justice of the High Court concerned;
- (c) the Upa-Lokayukta shall be appointed from among the District Judges of Grade I, out of a panel of five names forwarded by the Chief Justice of the High Court of Andhra Pradesh.

[(2)(i) Every person appointed to be the Lokayukta shall, before entering upon his office, make and subscribe, before the Governor an oath or affirmation according to the form set out for the purpose in the First Schedule.

(ii) Every person appointed to be the Upa-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 according to the form set out for the purpose in the First Schedule.]

(3) The Upa-Lokayukta shall function under the administrative control of the Lokayukta and in particular, for the purpose of convenient disposal of investigations under this Act, the Lokayukta may issue such general or special directions, as he may consider necessary, to the Upa-Lokayukta:

Provided that nothing in this sub-section shall be construed to authorise the Lokayukta to question any decision, finding, or recommendation of the Upa-Lokayukta.

4. Lokayukta or Upa-Lokayukta to hold no other Officer:—

(1) The Lokayukta or Upa-Lokayukta shall not be a member of either House of Parliament or of a House of the Legislature of any State, nor

shall he hold any office of trust or profit (other than his office as the Lokayukta or, as the case may be, Upa-Lokayukta) or shall be connected with any political party, or shall carry on any business or practice any profession.

(2) A person appointed to be the Lokayukta or, as the case may be, the Upa-Lokayukta, shall, before he enters upon his office,—

- (a) if he is a member of Parliament or of the Legislature of any State, resign such membership; or
- (b) if he holds any office of trust or profit, cease to hold such office by resignation or otherwise; or
- (c) if he is connected with any political party, sever his connection with it; or
- (d) if he is carrying on any business, discontinue his participation (short of divesting himself of ownership) in the conduct and management of such business; or
- (e) if he is practising any profession, suspend to practice such profession.

5. Term of office and other conditions of service of Lokayukta and Upa-Lokayukta:— (1) Every person appointed to be the Lokayukta or Upa-Lokayukta shall hold office for a term of five years from the date on which he enters upon his office:

Provided that,—

- (a) the Lokayukta or Upa-Lokayukta may by writing under his hand addressed to the Governor, resign his office;
- (b) the Lokayukta or Upa-Lokayukta may be removed from his office in the manner specified in Section 6.

(2) If the office of the Lokayukta or Upa-Lokayukta becomes vacant, or if the Lokayukta or Upa-Lokayukta is, by reason of absence or for any other reason whatsoever, unable to perform the duties of his office, those duties, shall, until some other person is appointed under Section 3 and enters upon such office or, as the case may be, until the Lokayukta or Upa-Lokayukta resumes his duties, be performed—

- (a) where the office of the Lokayukta becomes vacant or where for any reason aforesaid he is unable to perform the duties of

his office, by the Upa-Lokayukta or if there are two or more Upa-Lokayuktas, by such one of the Upa-Lokayuktas as the Governor may, by order, direct;

- (b) where the office of the Upa-Lokayukta becomes vacant or where for any reason aforesaid he is unable to perform the duties of his office by the Lokayukta himself or if the Lokayukta so-directs, by the other Upa-Lokayukta or as the case may be, such one of the other Upa-Lokayuktas as may be specified in the direction.

(3) On ceasing to hold office, the Lokayukta or Upa-Lokayukta shall be ineligible for re-appointment to that office and also for further employment for a period of five years either under the Government or any such local authority, Corporation, Government Company or Society as is referred to in sub-clause (v) of Clause (k) of Section 2.

[(4) The salary payable to the Lokayukta or Upa-Lokayukta in respect of time spent on actual service shall respectively be the same as that of the Chief Justice or Judge of the High Court of Andhra Pradesh].

(5) The allowances and pension, payable to and other conditions of service of the Lokayukta or Upa-Lokayukta shall respectively be the same as those of the Chief Justice or a Judge of the High Court of Andhra Pradesh:

Provided that the allowances and pension payable to, and other conditions of service of, the Lokayukta or Upa-Lokayukta shall not be varied to his disadvantage after his appointment.

6. Removal of Lokayukta or Upa-Lokayukta:— (1) The Lokayukta or Upa-Lokayukta may be removed from his office by the Governor on the ground of misbehaviour or incapacity and on no other ground:

Provided that no Lokayukta or Upa-Lokayukta shall be so removed except after an inquiry in which he has been informed of the charges against him and given a reasonable opportunity of being heard in respect of those charges:

Provided further that any such inquiry,—

- (i) in respect of Lokayukta, shall be held only by a person appointed by the Governor, being a person who is or has been a Judge of the Supreme Court or the Chief Justice of a High Court; and
- (ii) in respect of Upa-Lokayukta, shall be held only by a person appointed by the Governor, being a person who is or has been a Judge of the Supreme Court or who is or has been a Judge of the High Court of Andhra Pradesh.

(2) The person appointed under the proviso to sub-section (1), shall submit the report of his inquiry to the Governor who shall, as soon as may be, but not later than six months, cause it to be laid before each House of the State Legislature.

(3) Notwithstanding anything in sub-section (1), the Governor shall not remove the Lokayukta or Upa-Lokayukta unless an address by each House of the State Legislature supported by a majority of the total membership of that House and a majority of not less than two-thirds of the members of that House present and voting has been presented to the Governor in the same session for such removal.

7. Matters which may be investigated by Lokayukta or Upa-Lokayukta:— (1) Subject to the provisions of this Act, the Lokayukta may investigate any action which is taken by, or with the general or specific approval of, or at the behest of,—

(i) a Minister or a Secretary; or

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

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

¹[(iiiia) 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.

CASE LAW

Section 7, 10, 12:— The order does not disclose as to whether the complaint was in time and as to whether it was in respect of any specific action taken by the petitioner and what was the specific allegation against him. It does not appear from the order whether the petitioner had abused his office and position to obtain gain or favour to himself or to any other person or caused any undue hardship or harm to any other person or that he was actuated in the discharge of his function as a public servant by improper or corrupt motives and had thereby caused loss to the State or any member or section of the public or was guilty of corruption or lack of integrity in his capacity as such public servant. Such facts are to be found against the public servant by investigation which includes affording of an opportunity to him to lead evidence and to rebut it. No *ex parte* opinion can be formed by the Lokayukta without giving opportunity and without following the procedure to the public servant concerned. It appears from the counter-affidavit a stand to have been taken that the complaint received against the petitioner was merely sent to the District Collector to take action and that since action had been taken, the matter was directed to be closed by order of 12-6-1996. Such a plea is not available since the order passed on 17-4-1996 was not merely a request to the District Collector to take action. Specific view was expressed in the order that the officer should be transferred to a distant far away place as it appeared to the Lokayukta that the petitioner had developed deep roots and vested interests in Shadnagar Mandal by working for too long a period in that area. Not only that, the District Collector was also directed to inform of the action taken by the date fixed viz., 12-6-1996. It can hardly be doubted that the order was intended as a direction to take action against the public servant

concerned. *S. Jagadeswar vs. Lokayukta of A.P., Hyd. and Others*, 1996 (4) ALT 1072 (DB) = 1996 (4) ALD 282 (DB).

Where the action of the petitioner in respect of which the complaint was made by the General Secretary, AISF, A.P. State Council, which was not an action of the Member of the Legislature or an action taken by the petitioner at the behest of the Member of the said Legislature, the provisions of Section 7(1) of the Act were held to have no application. *C. Subbarayudu v. Institution of Lokayukta and Upa-Lokayukta of Andhra Pradesh, Hyderabad*, 2001 (4) ALD 843 (DB).

Act 11 of 1983 also covers the All India Service Officers and there is no repugnancy between the Central Act 61 of 1951 and the rules framed thereunder and the State Act 11 of 1983. The learned Lokayukta/Upa-Lokayukta have jurisdiction to investigate into any action taken by the persons specified in Section 7 of the Act except those covered by Section 21 of the Act. *J. Papa Rao v. Government of Andhra Pradesh and others*, 2004 (2) ALD 855 (AP) (DB) = 2004 (2) ALT 663 (DB).

There is no provision under the Act enabling the Upa-Lokayukta to grant such relief as has been granted in the instance case, i.e., compelling the petitioners to pay certain amounts under the bills to the second respondent-firm, even after finding that no case was made out for investigation against the petitioners. *Chief Engineer, Municipal Corporation of Hyderabad and others v. Registrar, Office of the Upa-Lokayukta, A.P., Hyderabad and another*, 2004 (1) ALD 115 (AP) (DB) = 2004 (1) ALT 534.

Passing of a final order without requiring the DG, ACB to complete the investigation and sending the report to the Upa-Lokayukta to enable the latter preparing a final report and submitting the same to the appropriate authority for further action was held *ultra vires* the jurisdiction of the Upa-Lokayukta. *Government of Andhra Pradesh, Revenue (Endts.) Department and others v. G. Kesavulu, former Executive Officer of Sri Bramaramba Mallikarjuna Swamy Devasthanam, Srisailam and others*, 2003 (2) ALD 1 = 2003 (1) ALT 636 (AP) (DB).

8. Matters not subject to investigation by Lokayukta or Upa-Lokayukta:— (1) The Lokayukta or Upa-Lokayukta shall not investigate any allegation,—

- (a) in respect of which a formal and public inquiry has been ordered under the Public Servants (Inquiries) Act, 1850 (Central Act 37 of 1850);
- (b) in respect of a matter which has been referred for inquiry under the Commissions of Inquiry Act, 1952 (Central Act 60 of 1952); in case where the Lokayukta or Upa-Lokayukta, as the case may be, has given his prior concurrence for such inquiry:

Provided that if, on an application for such concurrence, no intimation of withholding it is communicated within ninety days after the receipt of the application by the Lokayukta or Upa-Lokayukta, as the case may be, the concurrence shall be deemed to have been given.

(2) The Lokayukta or Upa-Lokayukta shall not investigate any complaint involving an allegation, if the complaint is made after the expiry of six years from the date on which the action complained against is alleged to have been taken place.

9. Provision relating to complaints:— (1) Subject to the provisions of this Act, a complaint may be made by any person under this Act to the Lokayukta or Upa-Lokayukta relating to an allegation in respect of any action:

Provided that where the person aggrieved is dead or is for any reason unable to act for himself, the complaint may be made by any person who in law represents his estate, or as the case may be, by any person who is authorised by him in this behalf.

(2) Every complaint shall be made in such form and shall be accompanied by such affidavits as may be prescribed.

(3) Notwithstanding anything in any other law for the time being in force, any letter written to the Lokayukta or Upa-Lokayukta by a person in police custody, or in a goal or in any asylum, or other place for insane persons shall be forwarded to the addressee unopened and without delay by the police officer or other person in-charge of such goal, asylum or other place and the Lokayukta or Upa-Lokayukta, as the case may be, may treat such letter as a complaint made in accordance with the provisions of sub-section (2).

10. Procedure in respect of investigations:— (1) Where the Lokayukta or Upa-Lokayukta after making such preliminary verification as he deems fit, proposes to conduct any investigation under this Act, 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 servant concerned and the competent authority concerned;
- (b) shall afford to the public servant 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)(a) Every preliminary verification referred to in sub-section (1) shall be conducted in private and in particular, the identity of the complainant and of the public servant affected by the said preliminary verification shall not be disclosed to the public or the press, whether before or during the preliminary verification, but every investigation referred to in sub-section (1) shall be conducted in public:

Provided that the Lokayukta or Upa-Lokayukta may conduct any such investigation in private, if he, for reasons to be recorded in writing thinks fit to do so.

statement and conduct the investigation or enquiry. He is enjoined to give reasonable opportunity to the public servant. After conducting the said enquiry, if he finds that the public servant or the person referred committed misconduct, then he is required to submit the report to the Government as enjoined under Section 12 of the Act. On receipt thereof, under sub-section (3), it shall be lawful for the Government to take action as recommended by the Lokayukta. *Ch. Rama Rao vs. Lokayukta and Ors.*, 1997 (1) ALD (SCSN) 18 = 1996 (5) SCC 304.

Section 10(4) – On a reading of Section 10 of the Act in conjunction with Rule 5(3) of the Rules, it was held that the first respondent was vested with the discretion to pass an order if the allegations levelled in the complaint were baseless and ill-founded, even without hearing the complainant also. *M. Girish Reddy v. Lokayukta of A.P. and Ors.*, 1998(6) ALD 257 (DB)=1999 AIHC 992=1998 (5) ALT 743.

The primary and principal function of the Lokayukta or the Upa-Lokayukta is to conduct investigation and submit a report along with his recommendations to the appropriate competent authority for taking action. *Government of Andhra Pradesh, Revenue (Endts.I) Department and others v. G. Kesavulu, former Executive Officer of Sri Bramaramba Mallikarjuna Swamy Devasthanam, Srisailam and others*, 2003 (2) ALD 1 = 2003 (1) ALT 636 (AP) (DB).

11. Evidence:— (1) Subject to the other provisions of this section, for the purpose of any investigation (including the preliminary verification if any, before such investigation) made under this Act, the Lokayukta or Upa-Lokayukta may require any public servant or any other person, who in his opinion is able to furnish information or produce documents relevant to the investigation to furnish any such information or produce any such document.

(2) For the purpose of any such investigation (including the preliminary verification) the Lokayukta or Upa-Lokayukta shall have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Central Act 5 of 1908) in respect of the following matters, namely,—

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of any document;
- (c) receiving evidence on affidavits;
- (d) requisitioning any public record or copy thereof from any Court or Office;
- (e) issuing commissions for the examination of witnesses or documents;
- (f) such other matters as may be prescribed.

(3) Any proceedings before the Lokayukta or Upa-Lokayukta shall be deemed to be a judicial proceeding within the meaning of Section 193 of the Indian Penal Code, 1860 (Central Act 45 of 1860).

(4) Subject to the provisions of sub-section (5), no obligation to maintain secrecy or other restriction upon the disclosure of information obtained by or furnished to the Government or any public servant, whether imposed by or under any law or by any instrument having the force of law, shall apply to the disclosure of information for the purpose of any investigation made under this Act and the Government or any public servant shall not be entitled in relation to any such investigation to any such privilege in respect of the production of documents or the giving of evidence as is allowed by any law or instrument as aforesaid in legal proceedings:

Provided that no person shall be compelled for the purpose of any investigation under this Act to give any evidence or produce any document which he could not be compelled to give or produce in any proceedings before a Court.

(5) No person shall be required or authorised by virtue of this Act, to furnish any such information or answer any such question or produce so much of any document,—

(a) as might prejudice the security or defence or international relations of India (including India's relations with the Government of any other country or with any international organisation); or

(b) as might involve the disclosure of the proceedings of the Council of Ministers of the Government or any Committee of that Council; and for the purpose of this sub-section a certificate issued by the Chief Secretary to the Government certifying that any information, answer or portion of a document is of the nature specified in Clause (a) or Clause (b) shall be binding and conclusive.

12. Reports of Lokayukta or Upa-Lokayukta:—(1) If, after investigation of any allegation in respect of any action under this Act, the Lokayukta or Upa-Lokayukta is satisfied that such allegation is substantiated either wholly or partly, he shall by a report in writing, communicate his findings and recommendations along with the relevant documents, materials or other evidence to the competent authority.

(2) The competent authority shall examine the report forwarded to it under sub-section (1) and without any further inquiry take action

on the basis of the recommendation and intimate within three months of the date of receipt of the report, the Lokayukta or, as the case may be, the Upa-Lokayukta, the action taken or proposed to be taken on the basis of the report.

(3) Where, in a report forwarded by the Lokayukta or Upa-Lokayukta, any recommendation imposing the penalty of removal from the office of a public servant falling within sub-clause (iv) or sub-clause (v) of Clause (k) of Section 2 has been made, it shall be lawful for the Government without any further inquiry to take action on the basis of the said recommendation for the removal of such public servant from his office and for making him ineligible for being elected to any office specified by the Government in this behalf, notwithstanding anything contained in any law for the time being in force.

(4) If the Lokayukta or Upa-Lokayukta is satisfied with the action taken or proposed to be taken on his findings and recommendations referred to in sub-section (1), he shall close the case under intimation to the complainant, the public servant and the competent authority concerned; but where he is not so satisfied and if he considers that the case so deserves, he may make a special report upon the case to the Governor and also inform the complainant.

(5) The Lokayukta and the Upa-Lokayukta shall present annually a consolidated report on the work done under this Act to the Governor.

(6) On receipt of the special report under sub-section (4) or the annual report under sub-section (5), the Governor shall cause a copy thereof together with an explanatory memorandum to be laid before each House of the State Legislature.

(7) Subject to the provisions of sub-section (2) of Section 10, the Lokayukta may, at his discretion make available, from time to time, the substance of cases closed or otherwise disposed of by him or by the Upa-Lokayukta, which may appear to him to be of a general, public, academic or professional interest, in such manner and to such persons as he may deem appropriate.

CASE LAW

There are no powers either under the Act or the Rules framed thereunder whereby the Lokayukta can issue bailable or non-bailable warrants of arrest as a coercive measure for enforcing the orders. *Superintending Engineer, Irrigation Circle,*

Visakhapatnam and another v. Institution of Lokayukta and Upa-Lokayukta, Hyderabad and another, 2001 (5) ALD 635 (DB).

13. Prosecution for false complaints:— (1) Notwithstanding anything in Section 10 or any other provisions of this Act, whoever wilfully or maliciously makes any false complaint under this Act, shall, on conviction, be punished with imprisonment for a term which may extend to one year and shall also be liable to fine.

(2) No Court, except a Court of the Judicial Magistrate of the First Class shall take cognizance of the offence under sub-section (1).

(3) No such Court shall take cognizance of any such offence except on a complaint made by a person against whom false complaint was made, and after obtaining the previous sanction of the Lokayukta or Upa-Lokayukta, as the case may be.

(4) Such Court, on conviction of the person making false complaint, may award, out of the amount of the fine, to the complainant such amount of the compensation as it thinks fit.

14. Staff of Lokayukta and Upa-Lokayukta:— (1) The Lokayukta may appoint, or authorise Upa-Lokayukta or any officer subordinate to the Lokayukta or Upa-Lokayukta to appoint, officers and other employees to assist the Lokayukta and the Upa-Lokayukta in the discharge of their functions under this Act.

(2) The categories of officers and employees who may be appointed under sub-section (1), their salaries, allowances and other conditions of service and the administrative powers of the Lokayukta and Upa-Lokayuktas shall be such as may be prescribed, after consultation with the Lokayukta.

(3) Without prejudice to the provisions of sub-section (1), the Lokayukta or Upa-Lokayukta may, for the purpose of conducting investigations under this Act, utilise in such manner as may be prescribed the services of,—

- (i) any officer or investigation agency of the State Government or the Central Government with the concurrence of that Government; or
- (ii) any other person or agency.

15. Secrecy of Information:— (1) Any information obtained by the Lokayukta or Upa-Lokayukta or any member of their staff in the course of, or for the purposes of, any preliminary verification made under this Act, and any evidence recorded or collected in connection with such information, shall, subject to the provisions of Clause (a) of sub-section (2) of Section 10, be treated as confidential; and notwithstanding anything in the Indian Evidence Act, 1872, (Central Act 1 of 1872) no Court shall be entitled to compel the Lokayukta or Upa-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 investigation or in 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 (Central Act 19 of 1923) or an offence of giving or fabricating false evidence under the Indian Penal Code, 1860 (Central Act 45 of 1860) or for purposes of any trial of an offence under Section 13 or any proceedings under Section 16, of this Act; or
- (c) for such other purposes as may be prescribed.

(3) An officer or other authority prescribed in this behalf may give notice in writing to the Lokayukta or Upa-Lokayukta, as the case may be, with respect to any document or information specified in the notice or any class of documents so specified, that in the opinion of the Government the disclosure of the documents or class of documents or information would be prejudicial to public interest; and where such a notice is given the Lokayukta or Upa-Lokayukta may, for reasons to be recorded, decide as to whether the disclosure of such document/or class of documents or information involves public interest. In case the disclosure of any document or information so specified is held to involve public interest, the Lokayukta, the Upa-Lokayukta or any member of their staff shall not communicate to any person any such document or information.

16. Intentional insult or interruption to, or bringing into disrepute, Lokayukta or Upa-Lokayukta:—(1) Whoever, intentionally offers any insult or causes any interruption to the Lokayukta or Upa-Lokayukta while the Lokayukta or Upa-Lokayukta is conducting any investigation under this Act, shall, on conviction, be punished with simple imprisonment for a term which may extend to six months or with fine or with both.

(2) Whoever, by words spoken or intended to be read makes or publishes any statement or does any other act, which is calculated to bring the Lokayukta or Upa-Lokayukta into disrepute, shall, on conviction, be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

(3) The provisions of Section 199 of the Code of Criminal Procedure, 1973, shall apply in relation to an offence under sub-section (1) or sub-section (2) as they apply in relation to an offence referred to in sub-section (1) of the said Section 199; subject to the modification that no complaint in respect of such offence shall be made by the Public Prosecutor, except with the previous sanction—

- (a) in the case of an offence against Lokayukta, of the Lokayukta;
- (b) in the case of an offence against Upa-Lokayukta, of the Upa-Lokayukta concerned.

17. Protection of action taken in good faith:—(1) No suit, prosecution or other legal proceedings shall lie against the Lokayukta or Upa-Lokayukta or against any officer, employee, agency or person referred to in Section 14 in respect of anything which is in good faith done or intended to be done under this Act.

(2) No proceedings of the Lokayukta or Upa-Lokayukta shall be deemed to be invalid by reason only of a defect or infirmity in his appointment or with the conduct of the proceedings.

(3) No proceedings, decision, finding or recommendation of Lokayukta or Upa-Lokayukta shall be liable to be challenged, renewed, quashed or called in question in any Court or Tribunal.

18. Conferment of Additional functions on Lokayukta and Upa-Lokayukta, etc.:—(1) The Governor may, by a notification and after consultation with the Lokayukta, confer on the Lokayukta, or

Upa-Lokayukta, as the case may be, such additional functions in relation to the eradication of corruption as may be specified in the notification.

(2) The Governor may, by order in writing and after consultation with the Lokayukta, confer on the Lokayukta or Upa-Lokayukta such powers of supervision over agencies, authorities or officers set up, constituted or appointed by the Government for the eradication of corruption.

(3) The Governor may, by order in writing and subject to such conditions and limitations as may be specified therein, require the Lokayukta to investigate any action (being action in respect of which a complaint may be made under this Act, to the Lokayukta or Upa-Lokayukta) and notwithstanding anything in this Act the Lokayukta shall comply with such order:

Provided that the Lokayukta may entrust investigation of any such action (being action in respect of which a complaint may be made under this Act, to the Upa-Lokayukta) to the Upa-Lokayukta.

(4) When any additional functions are conferred on the Lokayukta or Upa-Lokayukta under sub-section (1) or when the Lokayukta or Upa-Lokayukta is to investigate any action under sub-section (3), the Lokayukta or Upa-Lokayukta shall exercise the same powers and discharge the same functions as he would in the case of any investigation made on a complaint involving an allegation, and the provisions of this Act shall apply accordingly.

CASE LAW

A writ petition filed after the report was submitted to Governor is not maintainable. It is for the Governor and not to the High Court which can pass any order. *Sangeetam Venkata Reddy v. Government of A.P.*, 1999 (5) ALT 694.

19. Powers to delegate:— The Lokayukta or Upa-Lokayukta may, by general or special order, in writing, direct that any powers or duties of administrative nature (except the power to make reports to the Governor under Section 12), may also be exercised or discharged by such of the officers, employees or agencies referred to in Section 14, as may be specified in the order.

20. Power to make rules:— (1) The Government may, by notification, make rules for carrying out all or any of the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provisions, such rules may provide for,—

- (a) the authorities for the purpose required to be prescribed under sub-clause (iii) of Clause (c) of Section 2;
- (b) the allowances and pension payable to and other conditions of service of, the Lokayukta and Upa-Lokayukta;
- (c) the form in which complaints may be made and the fees if any, which may be charged in respect thereof;
- (d) the powers of Civil Court which may be exercised by the Lokayukta or Upa-Lokayukta;
- (e) any other matter which is to be or may be prescribed or in respect of which this Act makes no provision or makes insufficient provision and provision is in the opinion of the Government necessary for the proper implementation of this Act.

(3) Every rule made under this Act shall immediately after it is made, be laid before each House of the State Legislature if it is in session and if it is not in session, in the session immediately following, for a total period of fourteen days which may be comprised in one session or in two successive sessions, and if before the expiration of the session in which it is so laid or the session immediately following, both Houses agree in making any modification of the rule or in the annulment of the rule, the rule shall from the date on which such modification or annulment is notified have effect only in such modified form or have no effect as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

21. Removal of doubts:— For the removal of doubts, it is hereby declared that nothing in this Act shall be construed to authorise the Lokayukta or Upa-Lokayukta to investigate any allegation against—

- (a) the Chief Justice or any Judge of the High Court or a member of the Judicial service as defined in Clause (b) of Article 236 of the Constitution;
- (b) any Officer or Servant of any Court in the State;

- (c) the Accountant-General, Andhra Pradesh;
- (d) the Chairman or a Member of the Andhra Pradesh Public Service Commission;
- (e) the Chief Election Commissioner, the Election Commissioners and the Regional Commissioners referred to in Art. 324 of the Constitution and the Chief Electoral Officer of the State of Andhra Pradesh;
- (f) the Speaker and the Deputy Speaker of the Legislative Assembly and the Chairman and the Deputy Chairman of the Legislative Council and the staff of the Legislature Secretariat;
- (g) the Chairman or member of the Andhra Pradesh Administrative Tribunal;
- (h) any Officer or Servant of the Andhra Pradesh Administrative Tribunal.

22. Savings:— The provisions of this Act shall be in addition to the provisions of any other enactment or any rule of law under which remedy in any other manner is available to a person making a complaint under this Act and nothing in this Act shall limit or affect the right of such person to avail of such remedy.

FIRST SCHEDULE

[See Section 3(2)]

I having been appointed to be, Lokayukta/Upa-Lokayukta, do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, and I will duly and faithfully and to the best of my ability, knowledge and judgment perform the duties of my office without fear and favour, affection or ill-will.

SECOND SCHEDULE

¹[x x x]



ఆంధ్రప్రదేశ్ రాజపత్రము
THE ANDHRA PRADESH GAZETTE
PART IV-B EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 22] AMARAVATI, FRIDAY, 16th AUGUST, 2019.

**ANDHRA PRADESH ACTS, ORDINANCES AND
REGULATIONS Etc.,**

The following Act of the Andhra Pradesh Legislature received the assent of the Governor on the 14th August, 2019 and the said assent is hereby first published on the 16th August, 2019 in the Andhra Pradesh Gazette for general information :

ACT No. 22 of 2019

**AN ACT FURTHER TO AMEND THE ANDHRA PRADESH LOKAYUKTA
ACT, 1983.**

Be it enacted by the Legislature of the State of Andhra Pradesh in the Seventieth year of the Republic of India, as follows:-

1. (1) This Act may be called the Andhra Pradesh Lokayukta (Amendment) Act, 2019. Short title and commencement.

(2) It shall come into force on such date as the Government may, by notification, appoint.

2. In the Andhra Pradesh Lokayukta Act, 1983, for clause (a) of proviso to sub section (1) of section 3, the following shall be substituted, namely,- Amendment of section 3

“(a) the person to be appointed as the Lokayukta shall be a retired Chief Justice or a retired Judge of a High Court .” Act No. 11 of 1983.

V. V. DURGA PRASADA RAJU,
*Secretary to Government (I/c),
Legal and Legislative Affairs & Justice,
Law Department.*



ఆంధ్రప్రదేశ్ రాజపత్రము
THE ANDHRA PRADESH GAZETTE
PART IV-B EXTRAORDINARY
PUBLISHED BY AUTHORITY

No. 16] AMARAVATI, THURSDAY, 27th APRIL, 2023.

**ANDHRA PRADESH ACTS, ORDINANCES AND
REGULATIONS Etc.,**

The following Act of the Andhra Pradesh Legislature received the assent of the Governor on the 20th April, 2023 and the said assent is hereby first published on the 27th April, 2023 in the Andhra Pradesh Gazette for general information :

ACT No. 16 of 2023

**AN ACT FURTHER TO AMEND THE ANDHRA PRADESH LOKAYUKTA ACT,
1983.**

Be it enacted by the Legislature of the State of Andhra Pradesh in the Seventy-fourth year of the Republic of India, as follows, -

1. (1) This Act may be called the Andhra Pradesh Lokayukta (Amendment) Act, 2023. Short title and commencement.

(2) It shall come into force on such date as the Government may, by notification, appoint.

2. In the Andhra Pradesh Lokayukta Act, 1983, for clause (c) of proviso to sub-section (1) of section 3, the following shall be substituted, namely, - Amendment of Section 3.

“(c) the Upa-Lokayukta shall be appointed from among a retired District Judge or any Advocate who has had 25 years of standing in the High Court, duly selected by the selection Committee with the Chief Minister of the State as Chairperson;

Act No. 11 of 1983.

the Speaker of the Legislative Assembly; the Chairperson of the Legislative Council and the Leader of the Opposition in the Legislative Assembly as Members.”.

G. SATYA PRABHAKARA RAO,
Secretary to Government,
Legal and Legislative Affairs & Justice,
Law Department.