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ARUNACHAL PRADESH
LEGISLATIVE ASSEMBLY SECRETARIAT
ITANAGAR

The 9th July, 2019

No. LA/Bill-7/2019.—The following Bill introduced in the Arunachal Pradesh Legislative Assembly on the 8th July, 2019 is published under Rule 73 of the Rules of Procedure and Conduct of Business in Arunachal Pradesh Legislative Assembly for general information.

BILL NO. 7 OF 2019

(As introduced in the Legislative Assembly on 8th July, 2019)

THE ARUNACHAL PRADESH LOKAYUKTA (AMENDMENT) BILL, 2019

A

BILL

to amend the Arunachal Pradesh Lokayukta Act, 2014 (Act No. 7 of 2014).

BE it enacted by the Legislative Assembly of Arunachal Pradesh in the Seventieth Year of the Republic of India as follows,-

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

(2) It shall come into force at once.

2. In the Arunachal Pradesh Lokayukta Act, 2014 (Act No. 7 of 2014) (hereinafter called the principal Act), in section 1, sub-section (3) shall be deleted.

3. In the Principal Act, in clause (c) of sub-section (1) of section 2, for sub-clause (iv), the following shall be substituted,-

“(iv) an Officer and employees in any Department of the Government means the Chief Minister”.

4. In the Principal Act, in sub-section (1) of section 2, clauses (f) and (g) shall be deleted.

5. In the principal Act, (1) in sub-section (2) of section 3,-

(i) for clause (b) the following shall be substituted,-

“(b) One non-judicial APST member preferably woman”.

(ii) Clauses (c) and (d) of sub-section (2) of section 3 shall be deleted.

(2) in sub-section (3) of section 3, clause (a) shall be deleted.

(3) in clause (b), the words “ other than a Judicial Member” appearing after the word “Member” and before the comma shall be deleted.

6. In sub-section (3) of section 10, for the words “such Member” appearing after the word “or” and before the word “or” the words “the Member” shall be substituted.

7. In the principal Act, section 12 shall be deleted.

8. (i) In section 14, for sub-section(1), the following shall be substituted,-

“(1) Subject to the other provisions of this Act, the Lokayukta shall have its jurisdiction on all the following categories, namely :—

(a) any person who is or has been a Chief Minister

of the Constitution of India.

- (e) all officers and employees whose appointing authority is State Government.
- (f) all officers and employees referred to in clause (e) equivalent in any Body or Board or Corporation or Authority or Company or Society or Trust or Autonomous Body (by whatever name called) established by an Act of the Parliament or the Legislative Assembly of the State or wholly or partly financed by the Government or controlled by it :

Provided that in the case of officers and employees referred to in clauses (e) and (f) but are working in connection with the affairs of the Union or in Body or Board or Corporation or Authority or Company or Society or Trust or Autonomous Body under the control of the Union, the Lokayukta and officers of its Inquiry Wing shall have jurisdiction under this Act in respect of such officers only after obtaining the consent of the Central Government ;

- (g) any person who is or has been a Director, Manager, Secretary or other Officer of every other Society or Association of persons or Trust (whether registered under any law for the time being in force or not) by (whatever name called), wholly or partly financed or aided by the Government and the annual income of which exceeds such amount as the Government may, by notification specify.
- (h) any person who is or has been a Director, Manager, Secretary or other Officer of every other Society or Association of persons or Trust (whether registered under any law for the time being in force or not) in receipt of any donation from the public and the annual income of which exceeds such amount as the Government may, by notification, specify or from any foreign source under the Foreign Contribution (Regulation) Act, 2010 in excess of ten lakh rupees in a year or such higher amount as the Central Government may, by notification, specify;

Provided that any person referred to in this clause shall be deemed to be a public servant under clause (c) of section 2 of the Prevention of Corruption Act, 1988 and or under section 21 of the Indian Penal Code, 1860 and the provisions of that Act shall apply accordingly.

- (2) Notwithstanding anything contained in sub-section (1), the Lokayukta shall not inquire into any matter involved in, or arising from, or connected with, any such allegation of corruption against any Member of the Legislative Assembly in respect of anything said or a vote given by him in the Legislative Assembly of the State or any committee thereof covered under the provisions contained in clause (2) of Article 194 of the Constitution.
- (3) The Lokayukta may inquire into any act or conduct of any person other than those referred to in sub-section (1), if such person is involved in the act of abetting, bribe giving or bribe taking or conspiracy relating to any allegation of corruption under the Prevention of Corruption Act, 1988 against a person referred to in sub-section (1).

Provided that no action under this section shall be taken in case of a person serving in connection with the affairs of the Union, without the consent of the Central Government”.

- (ii) For sub-section (4) of section 14, the following shall be substituted,-

“(1) Except as hereinafter provided, the Lokayukta shall not conduct any inquiry under this Act, in the case of a complaint in respect of any action, if such action relates to any matter as follows :—

- (a) action taken for the purpose of investigating crime relating to the security of the State ;
- (b) action taken in the exercise of powers in relation to determining whether a matter shall go to a court or not ;
- (c) administrative action taken in matters which arise out of the terms of a contract governing purely commercial relations of the administration with customers or suppliers except where the complainant alleges harassment or gross delay in meeting contractual obligation ;
- (d) action taken in respect of appointment, transfer and postings, removal, pay, discipline, superannuation, actions relating to claims for pension, gratuity, provident fund or to any claims which arises on retirement, removal or termination of service, or other matters relating to conditions of service of public servants ;

(g) any action in respect of a matter which has been referred to inquiry under the Commissions of Inquiry Act, 1952 ;

- (2) In the case of any complaint, nothing in this Act shall be construed as empowering the Lokayukta to question any administrative action involving the exercise of a discretion, except where Lokayukta is satisfied that the elements involved in the exercise of the discretion are absent to such an extent that the discretion can prima-facie be regarded as having been improperly exercised.

Explanation —

For the removal of doubts, it is hereby declared that a complaint under this Act shall only relate to a period during which the public servant was holding or serving in that capacity”.

9. In section 16 of the principal Act,-

- (1) In sub-section (1),-

(i) for clause (b), the following shall be substituted,-

(b) a bench may be constituted by the Chairperson with a member as the Chairperson may deem fit”

(ii) Clauses (c) and (e) shall be deleted

- (2) For sub-section (2) of section 16, for the existing entries, the following shall be substituted,-

“(2) The Lokayukta shall notify the areas in relation to which the bench of Lokayukta may exercise jurisdiction”.

- (3) In sub-section (3), for the word “benches” appearing after the word reconstitute’ and before the word “from” the word “bench” shall be substituted.

- (4) (4) In sub-section (4), for the entries, “heard by a bench consisting of two or more Members, the case or matter may be transferred by the Chairperson or. as the case may be, referred to him for transfer, to such bench as the Chairperson may deem fit”- the entries, - “heard by a bench of a Member, the case or matter may be transferred by the Chairperson or, as the case may be, referred to him for transfer, to full bench of Lokayukta as the Chairperson may deem fit” shall be substituted.

10. In section 17, for the existing entries, the following entries shall be substituted,-

“Where bench is constituted, the Chairperson may, from time to time, by notification, make provisions as to the distribution of the business of the bench of the Lokayukta and also provide for the matters which may be dealt with by the bench”.

11. In section 18, for the words, “may transfer any case pending before one bench for disposal to any other bench”- the words, “may transfer any case pending before a bench for disposal to the Chairperson bench” shall be substituted.

12. In the principal Act, section 19 shall be deleted.

13. In the principal Act, in the Heading of CHAPTER - VII, the word “PRELIMINARY” appearing after the word “OF” and the words “AND INVESTIGATION” appearing after the word “INQUIRY” shall be deleted.

14. For section 20 of the principal Act, the following shall be substituted,-

“(1) The Lokayukta shall, on receipt of a complaint, first decide whether to proceed in the matter or close the same and if the Lokayukta decides to proceed further, it shall,—

(a) order for a preliminary inquiry against any public servant referred to in clauses (a), (b), (c), (d), (g) and (h) of sub-section (1) of section 14 by its Inquiry Wing or any agency of the Government to ascertain whether there exists a prima-facie case for proceeding in the matter;

(b) forward the complaint to the Vigilance Department for conducting a preliminary inquiry in respect of public servants belonging to Group A, Group B, Group and C and in clauses (e) and (f) of sub-section (1) of section 14 to ascertain whether there exists a prima-facie case for proceeding in the matter :

Provided that the Vigilance Department in respect of complaints referred to it under this clause, after making preliminary inquiry in respect of public servants belonging to Group A and Group B, shall submit its report to the Lokayukta in accordance with the provisions contained in sub-section (2) and in case of public servants belonging to Group C, the Department shall proceed in accordance with

documents collected, seek the comments on the allegations made in the complaint from the public servant and competent authority and after obtaining the comments of the concerned public servant and competent authority, submit, within sixty days from the date of receipt of the reference, a report to the Lokayukta.

- (3) The Chief Vigilance Officer may, for the purpose of conducting preliminary inquiry, utilise the service of the appropriate agency in accordance with the instructions and orders in force.
- (4) Full Bench consisting of Lokayukta and member shall consider every report received under sub-section (2) from the Inquiry Wing or any agency of the Government or Chief Vigilance Officer and after giving an opportunity of being heard to the public servant, decide as to whether there exists a prima-facie case, and proceed with the following actions, namely:—
 - (a) order for a detailed inquiry in respect of public servants referred to in sub-section (1) of section 14 (other than the public servants belonging to Group C by its Inquiry Wing or any agency of the Government;
 - (b) recommend for departmental action in respect of public servants belonging to Group A and Group B;
 - (c) closure of the proceedings against the public servant and take action to proceed against the complainant under section 35.
- (5) In case the Lokayukta decides to proceed with a detailed inquiry into the complaint, it shall direct the Inquiry Wing or any agency of the Government to carry out the inquiry as expeditiously as possible and complete the inquiry within a period of six months from the date of its order :

Provided that the Lokayukta may extend the said period by a further period not exceeding six months at a time for the reasons to be recorded in writing.
- (6) The Inquiry Wing or the agency of the Government so directed shall, in respect of cases referred to it by the Lokayukta, submit a detailed inquiry report to the Lokayukta.
- (7) Full Bench consisting of Lokayukta and member shall consider every report received by it under sub-section (6) from the Inquiry Wing or the agency so directed and may,-
 - (a) send a report to the competent authority in respect of the public servants referred to in sub-section (1) of section 14 (other than the public servants belonging to Group C) for appropriate action ;
 - (b) order for closure of complaint.
- (8) The Lokayukta may, during the preliminary inquiry or the detailed inquiry, as the case may be, pass appropriate orders for the safe custody of the documents relevant to the preliminary inquiry or, as the case may be, detailed inquiry, as it deems fit.
- (9) The website of the Lokayukta shall, from time to time and in such manner as may be specified by regulations, display to the public, the status of number of complaints pending before it or disposed of by it.
- (10) The Lokayukta may retain or cause to retain the original records and evidences, which are likely to be required in the process of preliminary inquiry or detailed inquiry”.
- (11) Save as otherwise provided, the manner and procedure of conducting a preliminary inquiry or detailed inquiry (including such material and documents to be made available to the public servant) under this Act, shall be such as may be specified.

15. In the principal Act, section 23 shall be deleted.

16. In the principal Act, for section 24, the following shall be substituted,-

“No sanction or approval of any authority shall be required by the Lokayukta for the purpose of making preliminary inquiry or detailed inquiry by the Inquiry Wing or Chief Vigilance Officer or any agency of the Government on any complaint filed before it against any public servant”.

17. In the principal Act, for section 25, the following shall be substituted,-

“The Lokayukta shall, notwithstanding anything contained in any other law for the time being in force, have the powers of superintendence and direction over the agency conducting the agency or any inquiring authority in respect of the matters in so far as

19. In the Principal Act, for section 28, the following shall be substituted,-
- “(1) The Lokayukta may, for the purpose of conducting any preliminary inquiry or detailed inquiry, utilize the services of any officer or agency of the Government with the approval of the Government.
 - (2) For the purpose of preliminary inquiry or detailed inquiry, any officer or agency whose services are utilized under sub-section (1) may, subject to the direction and control of the Lokayukta,—
 - (a) summon and enforce the attendance of any person and examine him;
 - (b) require the discovery and production of any document; and
 - (c) request any public record or copy thereof from any officer.
 - (3) The officer or agency whose services are utilised under sub-section (1) shall inquire into any matter pertaining to the preliminary inquiry or detailed inquiry and submit a report thereon to the Lokayukta within such period as may be specified by it in this behalf”.
20. In the Principal Act, for sub-section (1) of section 29, the following shall be substituted,-
- “(1) (i) Where the Lokayukta, while making a preliminary inquiry into allegations of corruption, is prima facie satisfied, on the basis of evidence available, that—
 - (a) the continuance of the public servant referred to in clauses (e), (f), (g) and (h) of sub-section (1) of section 14 in his post while conducting the preliminary inquiry is likely to affect such preliminary inquiry adversely; or
 - (b) the public servant referred to in clauses (e), (f), (g) and (h) of sub-section (1) of section 14 is likely to destroy or in any way tamper with the evidence or influence witnesses, then, the Lokayukta may recommend to the Government for transfer or suspension of such public servant from the post held by him till such period as may be specified in the order.
 - (ii) The Government shall ordinarily accept the recommendation of the Lokayukta made under sub-section (1) (i), except for the reasons to be recorded in writing in a case where it is not feasible to do so for administrative reasons”.
21. In the principal Act, sections, 30, 31 and 32 shall be deleted.
22. In the principal Act, in section 34, for the words “such of its Members” appearing after the word “by” and before the word “or” the words “its Member” shall be substituted.
23. In the principal Act, for the Heading of CHAPTER IX, following shall be substituted,-
- “PROVISIONS RELATING TO FRIVOLOUS OR VEXATIOUS COMPLAINT UNDER THIS ACT”.
24. In the principal Act, sections 35 and 36 shall be substituted as under,-
- “35. (1) Notwithstanding anything contained in this Act, whoever makes any false and frivolous or vexatious complaint under this Act shall, on conviction, be punished with imprisonment for a term which may extend to one year and with fine which may extend to one lakh rupees.
- (2) No Court shall take cognizance of an offence under sub-section (1) except on a complaint made by a person against whom the false, frivolous or vexatious complaint was made or by an officer authorised by the Lokayukta.
 - (3) The prosecution in relation to an offence under sub-section (1) shall be conducted by the public prosecutor and all expenses connected with such prosecution shall be borne by the Government.
 - (4) In case of conviction of a person being an individual or Society or Association of persons or Trust (whether registered or not) for having made a false complaint under this Act, such person shall be liable to pay compensation to the public servant against whom he made the false complaint in addition to the legal expenses for contesting the case by such public servant, as the Court may determine.
 - (5) Nothing contained in this section shall apply in case of complaints made in good faith.

Explanation— For the purpose of this sub-section, the expression “good faith” means any act believed or done by a person in good faith with due care, caution and sense of responsibility and without the object of making a false complaint or of obtaining any benefit or advantage.

responsible to, the Society or Association of persons or Trust, for the conduct of the business or affairs or activities of the society or Association of persons or Trust as well as such Society or Association of persons or Trust shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

- (2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Society or Association of persons or Trust (whether registered or not) and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any Director, Manager, Secretary or other officer of such Society or Association of persons or Trust, such Director, Manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly”.
25. In the principal Act, for sub-(2) of section 44, the following shall be substituted,-
“A public servant shall, within a period of 30 days from the date on which he makes and subscribes an oath or affirmation to enter upon his office, furnish to the competent authority the information relating to –
(a) the assets of which he and his dependent children are jointly or severally, owner or beneficiaries
(b) his liabilities and that of his dependent children”.
26. In the principal Act, CHAPTER XIV shall be deleted.
27. In the principal Act, in section 57, in sub-section (2), clauses (f) and (g) shall be deleted.
28. In the principal Act, in section 22 and in section 58, in sub-section (2), in clause (d), the word “investigation” shall be deleted.
29. In the principal Act, for the words “a Member” wherever appears, the word, “the Member” shall be substituted.
30. In the principal Act, for the word “Members” wherever appears, the word, “Member” shall be substituted.
31. In the principal Act, for the words “every Member” wherever appear, the words “the Member” shall be substituted.
32. In the principal Act, for the word “benches” wherever appears, subject to its cognate grammatical uses, the word “bench” shall be substituted.
33. In the principal Act, for the words “senior most member” wherever appear, the words, “the Member” shall be substituted.
34. In the Principal Act, for section 59, the following shall be substituted,-
“If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Official Gazette, make such provisions not inconsistent with the provisions of the Act, as appear to be necessary for removing the difficulty.
Provided that no such order shall be made after the expiry of a period of two years from the commencement of the Act”.
35. Repeal and saving,- The Arunachal Pradesh Lokayukta (Amendment) Ordinance, 2019 is hereby repealed.

Notwithstanding such repeal, any action taken under the said Ordinance shall be deemed to have been validly taken under the corresponding sections of this Act.

Kago Habung
Secretary,
Legislative Assembly,
Arunachal Pradesh,
Itanagar.