



Dilution of Lokayukta Powers in Kerala

For Prelims: Lokayukta, Lokpal and Lokayukta Act, 2013

For Mains: Lokpal and Lokayukta Act, 2013, Issues Associated with the functioning of Lokpal and the way forward, Anti-Corruption Measures

Why in News?

Recently, the **Kerala Legislative Assembly passed the [Kerala Lok Ayukta \(Amendment\) Bill, 2022](#).**

What are the Amendments?

- The amendment Bill has **diluted the binding aspect of the Lokayukta order**, allowing the **competent authority** to now either reject or accept the ombudsman's report.
 - With the amendment the **state government will get the power to either accept or reject the verdict of the anti-corruption body**, after giving an opportunity to be heard.
 - The amendment will **make Lokayukta a body** for just making recommendations or sending reports to the government.
- It has also made the **Legislative Assembly the competent authority** to review an indicting report against the Chief Minister.
 - If a Lokayukta report indicts a cabinet minister, the Bill vests the reviewing authority in the Chief Minister.
 - And in the case of **legislators**, the competent authority will be **the House Speaker**.
- The **Bill exempts political leaders from the purview of the Act**.
- The Bill allows for retired High Court judges to be appointed Lokayukta.
- **Section 14 of the Act** which has now been amended said that **if the Lokayukta is satisfied on the complaint against the public servant** being substantiated that he should not continue to hold the post held by him, he shall make a declaration to that effect in his report to the competent authority who shall accept it and act upon it.
 - In other words, if the public servant is the Chief Minister or a Minister, he shall forthwith resign his office. Such a provision **does not exist in any of the State laws or the Lokpal Act of the Centre**.

What is the Concept of Lokpal and Lokayuktas?

- The [Lokpal and Lokayukta Act, 2013](#) provided for the **establishment of Lokpal for the Union and Lokayukta for States**.
- These institutions are **statutory bodies** without any constitutional status.
- They **perform the function of an "ombudsman"** and inquire into allegations of corruption against certain public functionaries and for related matters.
- The **Lokpal and Lokayuktas Act, 2013 provides for establishing a Lokpal headed by a Chairperson**, who is or has been a **Chief Justice of India, or is or has been a judge of the Supreme Court, or an eminent person** who fulfills eligibility criteria as specified.
 - Of its **other members**, not exceeding eight, 50% are to be judicial members, provided

- that not less than 50% belong to the SCs, STs, OBCs, minorities, or are women.
- The **Lokpal was appointed in March 2019** and it started functioning since March 2020 when its rules were framed.
- The Lokpal is at present headed by **former Chief Justice of Jharkhand High Court Pradip Kumar Mohanty**.
- The **Lokpal has jurisdiction** to inquire into allegations of corruption against anyone who is or has been **Prime Minister, or a Minister in the Union government, or a Member of Parliament**, as well as officials of the Union government under Groups A, B, C and D.
- Also covered are **chairpersons, members, officers and directors of any board, corporation, society, trust or autonomous body** either established by an Act of Parliament or wholly or partly funded by the Centre.
- It also **covers any society or trust or body that receives foreign contributions above Rs. 10 lakhs**.

What are the Concerns related to Lokayukta Act?

- The Lokayukta law was **enacted to inquire into cases of corruption of public functionaries** such as Ministers, legislators, etc. who are covered by the Prevention of Corruption Act. This Act **does not include office bearers of political parties** in its definition clause.
 - Basically, the Prevention of [Corruption](#) Act deals with corruption in the government and allied agencies, statutory bodies, elected bodies, etc. **The functionaries of political parties do not come within the mischief of this law.**
 - So, it is difficult to understand how they can be brought **within the sweep of the Lokayukta Act.**
- Another problematic provision in this law is the one which deals with the reports of Lokayukta (Section 12).
 - It says that the Lokayukta shall, **on the allegation of corruption being substantiated, send the findings along** with recommendation of action to the competent authority who is required to take action as recommended by the Lokayukta.
 - It further says that **if the Lokayukta is satisfied by the action** taken by the competent authority, **he shall close the case**. The question is **how the Lokayukta can close a corruption case which is a criminal case** and which invites imprisonment for three to seven years.
 - Lokpal **files the case in court after the investigation**. There is **no provision** in the central law under which the **Lokpal can close the case before it reaches the court.**

Way Forward

- Battle against corruption, in order to be effective today, can be achieved only through a **comprehensive reform of our political, legal, administrative and judicial systems** and not through one-off or piece-meal measures.
- The Kerala **Lokayukta Act should be reexamined** by a committee of the Assembly and **should be brought on a par with the Lokpal Act.**

Source: TH