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OFFICE OF THE DISTRICT & SESSIONS JUDGE ★ ANGUL ★ RECEIVED 19 AUG 2022

THE HIGH COURT OF ORISSA, CUTTACK

No.XII-2/2022 /R.12712/ Date.17/08/2022

From,

Shri Suman Kumar Mishra,
Registrar (Judicial)

To,

The District & Sessions Judge, ... (all)

Sub: The Odisha Lokayukta Act and Rules- Reg.

Sir,

In inviting reference to the subject cited above, I am to forward herewith the copies of Notifications regarding the Odisha Odisha Lokayukta (Procedure of filing of Complaints) Amendment Rules 2022, the Odisha Lokayukta Act, 2014 and the Odisha Odisha Lokayukta (Procedure of filing of Complaints) Amendment Rules, 2020, received from the General Administration & Public Grievance Department, Govt. of Odisha for your information and request you to communicate the same among all the Judicial Officers working under your control for their information.

R-2585/19.08.22

Yours faithfully,

17/8/2022

REGISTRAR (JUDICIAL)

THE ODISHA LOKAYUKTA ACT, 2014

TABLE OF CONTENTS

PREAMBLE:

SECTIONS:

CHAPTER-I

PRELIMINARY

1. Short title, extent, application and commencement.
2. Definitions.

CHAPTER-II

ESTABLISHMENT OF LOKAYUKTA

3. Establishment of Lokayukta.
4. Appointment of Chairperson and Members on the recommendation of Selection Committee.
5. Term of office of Chairperson and Members.
6. Filling of Vacancies of Chairperson or Members.
7. Salary, allowances and other conditions of service of Chairperson and Members.
8. Restriction on employment by Chairperson and Members after ceasing to hold office.
9. Member to act as Chairperson or to discharge his functions in certain circumstances.
10. Secretary, other officers and staff of Lokayukta.

CHAPTER-III

INQUIRY WING

11. Inquiry wing.

CHAPTER-IV

PROSECUTION WING

12. Prosecution wing.

CHAPTER-V

EXPENSES OF LOKAYUKTA TO BE CHARGED ON THE CONSOLIDATED FUND OF THE STATE

13. Expenses of Lokayukta to be charged on the consolidated fund of the State.

CHAPTER-VI

JURISDICAITON IN RESPECT OF INQUIRY

14. Jurisdiction of the Lokayukta to include Chief Minister, Minister, Ministers, Members of Legislature, officers and employees of the State Government.

15. Matters pending before any Court or Committee or Authority for Inquiry not to be affected.

16. Constitution of benches of Lokayuta.

17. Distribution of Business amongst benches.

18. Power of Chairperson to transfer cases.

19. Decision to be made by majority.

CHAPTER-VII

PROCEDURE IN RESPECT OF PRELIMINARY INQUIRY AND INVESTIGATION

20. Provisions relating to Complaints and preliminary inquiry and investigation.

21. Persons likely to be prejudicially affected to be heard.

22. Lokayukta may require any public servant or any other person to furnish information, etc.

23. Cognizance by special court without sanction.

24. Action on investigation against public servant being Chief Minister, Ministers or Members of the State Legislative Assembly.

CHAPTER-VIII
POWERS OF THE LOKAYUKTA

25. Supervisory powers of the Lokayukta.
26. Search and seizure.
27. Inquiry wing to have powers of civil court in certain cases.
28. Power of the Lokayukta to utilize services of officers of the Government.
29. Provisional attachment of assets.
30. Confirmation of attachment of assets.
31. Confiscation of assets, proceeds, receipts and benefits arisen or procured by means of corruption in special circumstances.
32. Power of Lokayukta to recommend transfer or suspension of public servant connected with allegation of corruption .
33. power of the Lokayukta to give directions to prevent destruction of records during preliminary inquiry.
34. Power to deligate.

CHAPTER-IX
SPECIAL COURTS

35. Special courts to be constituted by the Government.
36. Letter of request to be contracting state in certain cases.

CHAPTER-X
COMPLANTS AGAINST CHAIRPERSON, MEMBERS AND OFFICIALS OF THE LOKAYUKTA

37. Removal and suspension of Chairperson and Members of lokayukta.
38. Complaints against officials of Lokayukta.

CHAPTER-XI
ASSESSMENT OF LOSS AND RECOVERY THERE OF BY SPECIAL COURT

39. Assessment of loss and recovery thereof by special court.

CHAPTER-XII

FINANCE, ACCOUNTS AND AUDIT

40. Budget.
41. Grants by the Government.
42. Annual statement of Accounts.
43. Furnishing of returns etc. to Government.

CHAPTER-XIII

DECLARATION OF ASSETS

44. Declaration of assets.
45. Presumption as to acquisition of assets by corrupt means in certain cases.

CHAPTER-XIV

OFFENCES AND PENALTIES

46. Prosecution for false complaint and payment of compensation, etc. to public servant.
47. False complaint made by society or association of persons or trust.

CHAPTER-XV

MISCELLANEOUS

48. Reports of Lokayukta.
49. Protection of action taken in good faith by any public servants.
50. Protection of action taken in good faith by others.
51 Members, officers and employees of Lokayukta to be public servants.
52. Limitations to apply in certain cases.
53. Bar of jurisdiction.
54. Legal assistance.
55. Act to have overriding effect.
56. Provisions of this Act to be in addition to other laws.
57. Power to make rules.
58. Power to make regulations.
59. Power to remove difficulties.
60. Repeal and its effect.

The Odisha Gazette

EXTRAORDINARY
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No. 1011, CUTTACK, SATURDAY, JUNE 23, 2018 / ASADHA 2, 1940

LAW DEPARTMENT

NOTIFICATION

The 23th June, 2018

No.6523—I-Legis-3/2014/L—The following Act of the Odisha Legislative Assembly having been assented to by the President on the 16th January,2015 is hereby published for general information.

ODISHA ACT 12 OF 2018

THE ODISHA LOKAYUKTA ACT, 2014

AN ACT TO PROVID0E FOR THE ESTABLISHMENT OF A BODY OF LOKAYUKTA FOR THE STATE OF ODISHA TO INQUIRE INTO ALLEGATIONS OF CORRUPTION AGAINST CERTAIN PUBLIC FUNCTIONARIES AND FOR MATTERS CONNECTED THEREWITH OR INCIDENTAL THERETO.

BE it enacted by the Legislature of the State of Odisha in the Sixty-fifth Year of the Republic of India, as follows:—

CHAPTER –I

PRELIMINARY

Short title, extent, application and commencement.

1. (1) This Act may be called the Odisha Lokayukta Act, 2014.

(2) It extends to the whole of the State of Odisha.

(3) It shall be applicable to the public servants of the State of Odisha serving in and outside the State and the public servants under the control of Government of Odisha.

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

Definitions.

2. (1) In this Act, unless the context otherwise requires,—

(a) "bench" means a bench of the Lokayukta;

(b) "Chairperson" means the Chairperson of the Lokayukta;

(c) "competent authority", in relation to—

(i) the Chief Minister, means the Legislative Assembly of the State;

(ii) a member of the Council of Ministers, means the Chief Minister;

(iii) a member of State Legislative Assembly other than a Minister, means the Speaker of the Legislative Assembly;

(iv) an officer in any Department of the Government, means the Minister- in- charge of the Department under which such officer is serving ;

(v) a Chairperson or member of any Body or Board or corporation or Local authority or company or society or autonomous Body (by whatever name called) established or constituted under any Act of the Legislature of the State or wholly or partly financed by the Government or controlled by it, means the Minister -in- charge of the Department of such Body or Board or corporation or authority or company or society or autonomous body:

Provided that if such Chairperson or member is also a member of the State Legislative Assembly, then the competent authority shall be the Speaker of the Legislative Assembly;

(vi) an officer of any Body or Board or corporation or Local authority or company or society or autonomous body (by whatever name called) established or constituted under any Act of the Legislature of the State or wholly or partly financed by the Government or controlled by it, means the head of such Body or Board or corporation or authority or company or society or autonomous body; and

(vii) any other case not falling under sub-clauses (i) to (vi) above, means such Department or authority as the Government may, by notification, specify;

(d) "complaint" means a complaint, made in such form as may be prescribed, alleging that a public servant has committed an offence punishable under the Prevention of Corruption Act,1988; 49 of 1988.

(e) "Government" means the Government of Odisha;

(f) "investigation" means an investigation as defined under clause (h) of section 2 of the Code of Criminal Procedure, 1973; 2 of 1974.

(g) "Judicial Member" means a Judicial Member of the Lokayukta;

(h) "Lokayukta" means the body established under section 3;

(i) "Member" means a Member of the Lokayukta;

(j) "Minister" means Minister of the Government but does not include the Chief Minister;

(k) "notification" means notification published in the Official Gazette and the expression "notify" shall be construed accordingly;

(l) "preliminary inquiry" means an inquiry conducted under this Act;

(m) "prescribed" means prescribed by rules;

(n) "public servant" means a person referred to in clauses (a) to (h) of sub-section (1) of section 14 but does not include a public servant in respect of whom the jurisdiction is exercisable by any court or other authority under the Army Act, 1950, the Air Force Act, 1950, the Navy Act, 1957 and the Coast Guard Act, 1978 or the procedure is applicable to such public servant under those Acts; 45 of 1950. 46 of 1950. 62 of 1957. 30 of 1978.

(o) "regulations" means regulations made under this Act;

(p) "rules" means rules made under this Act; and

(q) "Special Court" means the court of a Special Judge appointed under sub-section (1) of section 3 of the Prevention of Corruption Act, 1988 and includes the Special Courts established under section 3 of the Odisha Special Courts Act, 2006. 49 of 1988. Odisha Act 9 of 2007.

(2) The words and expressions used herein and not defined in this Act but defined in the Prevention of Corruption Act, 1988 and in the Code of Criminal Procedure,1973, shall have the meanings respectively assigned to them in those Acts. 49 of 1988. 2 of 1974.

CHAPTER-II

ESTABLISHMENT OF LOKAYUKTA

Establishment of Lokayukta.

3. (1) After the commencement of this Act, the Government shall, by notification, establish, for the purpose of this Act, a body called the Lokayukta for the State of Odisha.

(2) The Lokayukta shall consist of —

(a) a Chairperson, who is or has been a Chief Justice of a High Court or a Judge of a High Court or an eminent person who fulfils the eligibility specified in clause(b) of sub-section (*3*); and

(b) five Members, out of whom two shall be Judicial Members:

Provided that at least one member other than the judicial members, shall be from scheduled Castes, Scheduled Tribes, Other backward classes, Minorities or Women.

(3) A person shall be eligible to be appointed,—

(a) as a Judicial Member if he is or has been a Judge of a High Court;

(b) as a Member other than a Judicial Member, if he is a person of impeccable integrity and outstanding ability having special knowledge and expertise of not less than twenty years in the matters relating to public administration, finance including insurance and banking, law, anti-corruption policy or management.

(4) The Chairperson or a Member shall not be—

(a) a member of Parliament or a member of the Legislature of any State or Union Territory;

(b) a person convicted of any offence involving moral turpitude;

(c) a person of less than fifty years of age, on the date of assuming office as Chairperson or Member, as the case may be;

49 of 1988.

2 of 1974.

(d) a member of any Panchayat or Municipality;

(e) a person who has been removed or dismissed from service of the Union or a State; or

(f) a person holding any office of trust or profit (other than his office as the Chairperson or a Member) or person connected with any political party or carry on any business or practise any profession,

and accordingly, before he enters upon his office, as the Chairperson or a Member, as the case may be, shall, if—

(i) he holds any office of trust or profit, resign from such office; or

(ii) he is carrying on any business, sever his connection with the conduct and management of such business; or

(iii) he is practising any profession, cease to practise such profession.

Appointment of Chairperson and Members on recommendation of Selection Committee.

4. (1) The Chairperson and Members shall be appointed by the Governor by warrant under his hand and seal after obtaining the recommendations of a Selection Committee consisting of—

(a) the Chief Minister—Chairperson;

(b) the Speaker of the Legislative Assembly—Member;

(c) the Leader of Opposition in the Legislative Assembly—Member;

(d) the Chief Justice of the Orissa High Court or a Judge of the said High Court nominated by the Chief Justice—Member;

(e) one eminent jurist as recommended by the Chairperson and members referred to in clauses (a) to (d) nominated by the Governor–Member.

(2) No appointment of a Chairperson or a Member shall be invalid merely by reason of any vacancy in the Selection Committee.

(3) The Selection Committee shall, for the purposes of selecting the Chairperson and Members of the Lokayukta and for preparing a panel of persons to be considered for appointment as such, constitute a Search Committee consisting of at least five persons of standing and having special knowledge and expertise in the matters relating to public administration, finance including insurance and banking, law, anti-

corruption policy, management, or in any other matter which, in the opinion of the Selection Committee, may be useful in making selection of the Chairperson and Members of the Lokayukta:

Provided that the Selection Committee may also consider any person other than the persons recommended by the Search Committee.

(4) The Selection Committee shall regulate its own procedure in a transparent manner for selecting the Chairperson and Members of the Lokayukta.

(5) The term of the Search Committee referred to in sub-section (3), the fees and allowances payable to its members and the manner of selection of panel of names shall be such as may be prescribed.

Term of Office of Chairperson and Members.

5. The Chairperson and every Member shall, hold office as such for a term of five years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier:

Provided that he may,—

(a) by writing under his hand addressed to the Governor, resign his office; or

(b) be removed from his office in the manner provided in section 37.

Filling of vacancies of Chairperson or Members.

6. The Governor shall take or cause to be taken all necessary steps for the appointment of a new Chairperson and Members at least three months before the expiry of the term of such Chairperson or Member, as the case may be, in accordance with the procedure laid down in this Act.

Salary, allowances and other conditions of service of Chairperson and Members.

7. The salary, allowances and other conditions of service of—

(a) the Chairperson shall be the same as those of the Chief Justice of the High Court of Orissa;

(b) other Members shall be the same as those of a Judge of the High Court of Orissa:

Provided that if the Chairperson or a Member is, at the time of his appointment, in receipt of or has become entitled to receive pension (other than disability pension) in respect of any service or previous service under the Government of India or under the Government of a State or as Chief Justice or as a Judge of a High Court, his salary in respect of service as the Chairperson or, as the case may be, as a Member, be reduced—

(i) by the amount of that pension; and

(ii) if he has, before such appointment, received, in lieu of a portion of the pension due to him in respect of such previous service, the commuted value thereof, by the amount of that portion of the pension:

Provided further that the salary, allowances and pension payable to, and other conditions of service of, the Chairperson or a Member shall not be varied to his disadvantage after his appointment.

Restriction on employment by Chairperson and Members after ceasing to hold office.

8. (1) On ceasing to hold office, the Chairperson and every Member shall be ineligible for—

(i) reappointment as the Chairperson or a Member of the Lokayukta;

(ii) any diplomatic assignment, appointment as administrator of a Union territory and such other assignment or appointment which is required by law to be made by the Governor by warrant under his hand and seal;

(iii) further employment to any other office of profit under the Government of India or the Government or corporation, company, society, local authority or autonomous body as referred to in sub-clauses (v) and (vi) of clause (c) of sub-section(1) of section 2;

(iv) contesting any election of President or Vice President of India or Member of either House of Parliament or Member of either House of a State Legislature or of Municipality or Panchayat within a period of five years from the date of relinquishing the post.

(2) Notwithstanding anything contained in sub-section (1), a Member shall be eligible to be appointed as a Chairperson, if his total tenure as Member and Chairperson does not exceed five years.

Explanation.— For the purposes of this section, it is hereby clarified that where the Member is appointed as the Chairperson, his term of office shall not be more than five years in aggregate as the Member and the Chairperson.

Member to act as Chairperson or to discharge his functions in certain circumstances.

9. (1) In the event of occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the Governor may, by notification, authorise the senior-most Member to act as the Chairperson until the appointment of a new Chairperson is made to fill such vacancy.

(2) When the Chairperson is unable to discharge his functions owing to absence on leave or otherwise, the senior-most Member available, as the Governor may, by notification, authorise in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

Secretary, other officers and staff of Lokayukta.

10. (1) There shall be a Secretary or more than one Secretary to the Lokayukta, who is or has been, in the rank of Secretary to the Government or District Judge in the State and who shall be appointed by the Chairperson from a panel of names sent by the Government.

(2) There shall be a Director of Inquiry and a Director of Prosecution not below the rank of the Additional Secretary to the Government or District Judge or equivalent, who shall be appointed by the Chairperson from a panel of names sent by the Government.

(3) The appointment of officers and staff of the Lokayukta shall be made by the Chairperson or such Member or officer of Lokayukta as the Chairperson may direct:

Provided that the Governor may, by rule, require that the appointment in respect of any post or posts as may be specified in the rule, shall be made after consultation with the State Public Service Commission.

(4) Subject to the provisions of any law made by the Legislature of the State the conditions of service of Secretary and other officers and staff of the Lokayukta shall be such as may be specified by regulations made by the Lokayukta for the purpose:

Provided that the regulations made under this sub-section shall, so far as they relate to salaries, allowances, leave or pensions, require the approval of the Governor.

CHAPTER-III

INQUIRY WING

Inquiry Wing.

11. (1) Notwithstanding anything contained in any law for the time being in force, the Lokayukta shall constitute an Inquiry Wing headed by the Director of Inquiry for the purpose of conducting preliminary inquiry into any offence alleged to have been committed by a public servant punishable under the Prevention of Corruption Act, 1988: **49 of 1988.**

Provided that till such time the Inquiry Wing is constituted by the Lokayukta, the Government shall make available such number of officers and other staff from such of its Departments, as may be required by the Lokayukta, for conducting preliminary inquiry under this Act.

(2) For the purposes of assisting the Lokayukta in conducting a preliminary inquiry under this Act, the officers of the Inquiry Wing not below the rank of Under Secretary to the Government, shall have the same powers as are conferred upon the Lokayukta under section 28.

CHAPTER-IV

PROSECUTION WING

Prosecution Wing.

12. (1) The Lokayukta shall, by notification, constitute a Prosecution Wing headed by the Director of Prosecution who is or has been in the rank of Director of Public Prosecution of the State for the purpose of prosecution of public servants in relation to any complaint made before the Lokayukta under this Act:

Provided that till such time the Prosecution Wing is constituted by the Lokayukta, the Government shall make available such number of officers and other staff from such of its Departments, as may be required by the Lokayukta, for conducting prosecution under this Act.

(2) The Director of Prosecution shall, after having been so directed by the Lokayukta, file a case in accordance with the findings of the investigation report as per sub-section (6) of section 20, before the Special Court, and shall take all necessary steps in respect of the prosecution of public servants in relation to any offence punishable under the Prevention of Corruption Act, 1988. **49 of 1988.**

(3) The report under sub-section (2) shall be deemed to be a report, filed on completion of investigation, referred to in section 173 of the Code of Criminal Procedure, 1973.

CHAPTER-V

EXPENSES OF LOKAYUKTA TO BE CHARGED ON THE CONSOLIDATED FUND OF THE STATE

Expenses of Lokayukta to be charged on the Consolidated Fund of the State.

13. The administrative expenses of the Lokayukta, including all salaries, allowances and pensions payable to or in respect of the Chairperson, Members or Secretary or other officers or staff of the Lokayukta, shall be charged upon the Consolidated Fund of the State and any fees or other moneys taken by the Lokayukta shall form part of that Fund.

CHAPTER-VI

JURISDICTION IN RESPECT OF INQUIRY

Jurisdiction of Lokayukta to include Chief Minister, Ministers, Members of Legislature, officers and employees of the State Government.

14. (1) Subject to the other provisions of this Act, the Lokayukta shall inquire or cause an inquiry to be conducted into any matter involving, or arising from, or connected with, any allegation of corruption made in a complaint in respect of the following, namely:—

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

(b) any other person who is or has been a Minister of the State;

(c) any person who is or has been a Member of the Odisha Legislative Assembly;

(d) any person who is Chairperson or a member by whatever name called, of a Panchayat or a Municipality as respectively provided in articles 243-B and 243-Q of the Constitution of India;

(e) any officer or employee of the State, referred to in sub-clauses (i) and (ii) of clause (c) of section 2 of the Prevention of Corruption Act, 1988 when serving or who has served, in connection with the affairs of the State;

(f) any officer or employee referred to in clause (e) or holding equivalent post in any Body or Board or corporation or

authority or company or society or trust or autonomous body (by whatever name called) established by any Act of Parliament or of a State Legislature which is wholly or partly financed by the Government or controlled by it; 2 of 197

(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: 42 of 2010.

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 the provisions of that Act shall apply accordingly. 49 of 1988.

(i) any person or institution, who enters into any contract, by any means, with the Government for execution of any work or for rendering any service to the public on behalf of the Government by any means or receives Government grants, aids or external grants and aids for any purpose.

(2) Notwithstanding anything contained in sub-section (1), the Lokayukta shall not inquire into any matter involving or arising from, or connected with, any such allegation of corruption against any Member of the Odisha Legislative Assembly in respect of anything said or a vote given by him in the said Assembly or any committee thereof covered 49 o 198

under the provisions contained in clause (2) of article 194 of the Constitution of India.

(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 bribe giving or bribe taking or abetting the same or in conspiracy relating to any allegation of corruption under the Prevention of Corruption Act, 1988 against a person referred to in sub-section (1): 49 198

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.

(4) No matter in respect of which a complaint has been made to the Lokayukta under this Act shall be referred for inquiry under the Commissions of Inquiry Act, 1952. 60 19

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.

Matters pending before any court or committee or authority for inquiry not to be affected.

15. In case any matter or proceeding related to allegation of corruption under the Prevention of Corruption Act, 1988 has been pending before any Court or Committee of the Legislative Assembly of the State or before any other authority prior to commencement of this Act or prior to commencement of any inquiry after the commencement of this Act, such matter or proceeding shall be continued before such court, committee or authority, except the matter pending before the Lokpal under the Odisha Lokpal and Lokayuktas Act, 1995 which shall be disposed of by the Lokayukta.

Constitution of benches of Lokayukta.

16. (1) Subject to the provisions of this Act, —

(a) the jurisdiction of the Lokayukta may be exercised by benches thereof;

(b) a bench may be constituted by the Chairperson with two or more Members as the Chairperson may deem fit;

(c) every bench shall ordinarily consist of at least one Judicial Member;

(d) where a bench consists of the Chairperson, such bench shall be presided over by the Chairperson;

(e) where a bench consists of a Judicial Member and a non-Judicial Member, not being the Chairperson, such bench shall be presided over by the Judicial Member;

(f) the benches of the Lokayukta shall ordinarily sit at Bhubaneswar and at such other places as the Lokayukta may, by regulations, specify.

19 of 1988.

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

(3) Notwithstanding anything contained in sub-section (2), the Chairperson shall have the power to constitute or reconstitute benches from time to time.

60 of 1952.

(4) If at any stage of the hearing of any case or matter, it appears to the Chairperson or a Member that the case or matter is of such nature that it ought to be heard by a bench consisting of three 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.

49 of 1988

Distribution of business amongst benches.

17. Where benches are constituted, the Chairperson may, from time to time, by notification, make provisions as to the distribution of the business of the Lokayukta amongst the benches and also provide for the matters which may be dealt with by each bench.

Power of Chairperson to transfer cases.

Odish Act 8 1995.

18. On an application for transfer made by the complainant or the public servant, the Chairperson, after giving an opportunity of being heard to the complainant or the public servant, as the case may be, may transfer any case pending before one bench for disposal to any other bench.

Decision to be made by majority.

19. If the Members of a bench, consisting of an even number of Members, differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the Chairperson who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other Members of the Lokayukta and such point or points shall be decided according to the opinion of the majority of the Members of the Lokayukta who have heard the case, including those who first heard it.

CHAPTER-VII

PROCEDURE IN RESPECT OF PRELIMINARY INQUIRY AND INVESTIGATION

Provisions relating to complaints and preliminary inquiry and investigation.

20. (1) The Lokayukta, on receipt of a complaint, if it decides to proceed further, may order—

(a) preliminary inquiry against any public servant by its Inquiry Wing or any agency to ascertain whether there exists a prima facie case for proceeding in the matter; or

(b) investigation by any agency or authority empowered under any law to investigate, where there exists a prima facie case:

Provided that any investigation under this clause shall be ordered only if in the opinion of the Lokayukta there is substantial material relating to the existence of a prima facie case or any earlier statutory investigation or enquiry regarding the same complaint reveals that a prima facie case exists:

Provided further that before ordering an investigation under this clause, the Lokayukta shall call for the explanation of the public servant and views of the competent authority, so as to determine whether there exists a prima facie case for investigation:

Provided also that a decision to order investigation under this clause shall be taken by a bench constituted by the Chairperson under section 16.

(2) During the preliminary inquiry referred to in sub-section (1), the Inquiry Wing or any agency shall conduct a preliminary inquiry and on the basis of material, information and 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) A bench consisting of not less than three Members of the Lokayukta shall consider every report received under sub-section (2) from the Inquiry Wing or any agency and after giving an opportunity of being heard to the public servant, decide as to whether there exists a *prima*

facie case, and make recommendations to proceed with one or more of the following actions, namely:—

(a) investigation by any agency (including any special investigation agency);

(b) initiation of the departmental proceedings or any other appropriate action against the concerned public servant by the competent authority;

(c) closure of the proceedings against the public servant and take action to proceed against the complainant under section 46.

(4) The promotion and other service benefits of a public servant mentioned in clauses (e) to (h) of sub-section (1) of section 14 shall not be affected until the public servant is put under suspension on recommendation of the Lokayukta under section 32 or charge sheet is filed after completion of investigation under clause (a) of sub-section (3) or a charge memo is issued against the said public servant in a disciplinary proceeding initiated on the recommendation of the Lokayukta under clause (b) of sub-section (3).

(5) Every preliminary inquiry referred to in sub-section (1) shall ordinarily be completed within a period of ninety days and for reasons to be recorded in writing, within a further period of ninety days from the date of receipt of the complaint.

(6) In case the Lokayukta decides to proceed to investigate into the complaint, it shall, by order in writing, direct any investigating agency (including any special agency) to carry out the investigation as expeditiously as possible and complete the investigation within a period of six months from the date of its order:

Provided that the Lokayukta, for the reasons to be recorded in writing, may extend the said period by a further period not exceeding six months at a time and for the maximum period of two years.

(7) Notwithstanding anything contained in section 173 of the Code of Criminal Procedure, 1973, any investigating agency (including any special agency) shall, in respect of cases referred to it by the Lokayukta, submit the investigation report to the Lokayukta.

2 of 1974.

(8) A bench consisting of not less than three Members of the Lokayukta shall consider every report received by it under sub-section (7) from any investigating agency (including any special agency) and may, decide as to—

(a) filing of charge-sheet or closure report before the Special Court against the public servant;

(b) initiating the departmental proceedings or any other appropriate action against the concerned public servant by the competent authority.

(9) The Lokayukta may, after taking a decision under sub-section (8) on the filing of the charge sheet, direct its Prosecution Wing to initiate prosecution in a Special Court in respect of cases investigated by any investigating agency (including any special agency).

(10) The Lokayukta may, during the preliminary inquiry or the investigation, 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, investigation, as it deems fit.

(11) 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.

(12) The Lokayukta may retain the original records and evidences, which are likely to be required in the process of preliminary inquiry or investigation or conduct of a case by it or by the Special Court.

(13) Save as otherwise provided, the manner and procedure of conducting a preliminary inquiry or investigation (including such material and documents to be made available to the public servant) under this Act, shall be such as may be specified by regulations.

Persons likely to be prejudicially affected to be heard.

21. If, at any stage of the proceeding, the Lokayukta—

(a) considers it necessary to inquire into the conduct of any person other than the accused; or

(b) is of opinion that the reputation of any person other than an accused is likely to be prejudicially affected by the preliminary inquiry,

it shall give to that person a reasonable opportunity of being heard in the preliminary inquiry and to produce evidence in his defence, consistent with the principles of natural justice.

Lokayukta may require any public servant or any other person to furnish information, etc.

22. Subject to the provisions of this Act, for the purpose of any preliminary inquiry or investigation, the Lokayukta or the investigating authority, as the case may be, may require any public servant or any other person who, in its opinion, is able to furnish information or produce documents relevant to such preliminary inquiry or investigation, to furnish any such information or produce any such document.

Cognizance by Special Court without sanction.

23. (1) A Special Court may, notwithstanding anything contained in section 197 of the Code of Criminal Procedure, 1973 or section 19 of the Prevention of Corruption Act, 1988, on filing of a charge sheet on completion of investigation, by the Lokayukta or any officer authorised by it in this behalf, take cognizance of offence committed by any public servant. 2 of 1974. 49 of 1988.

(2) Nothing contained in sub-section (1) shall apply in respect of the persons holding the office in pursuance of the provisions of the Constitution of India and in respect of which a procedure for removal of such person has been specified therein.

(3) The provisions contained in sub-sections (1) and (2) shall be without prejudice to the generality of the provisions contained in article 311 and sub-clause (c) of clause (3) of article 320 of the Constitution of India.

Action on investigation against public servant being Chief Minister, Ministers or Members of the State Legislative Assembly.

24. Where, after the conclusion of the investigation, the findings of the Lokayukta disclose the commission of an offence under the Prevention of Corruption Act, 1988 by a public servant referred to in clause (a) or clause (b) or clause (c) of sub-section (1) of section 14, the Lokayukta may file a case in the Special Court and shall send a copy of the report together with its findings to the competent authority. 49 of 1988.

CHAPTER-VIII
POWERS OF THE LOKAYUKTA

Supervisory powers of the Lokayukta.

25. 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 investigating agency including the State Vigilance and Crime Branch in respect of the matters in so far as they relate to the investigation made by such agency under this Act:

Provided that while exercising power of superintendence or giving direction under this section, the Lokayukta shall not exercise powers on such manner so as to require any agency (including the State Vigilance and Crime Branch) to whom the investigation has been given, to investigate and dispose of any case in a particular manner.

Search and seizure.

26. (1) If the Lokayukta has reasons to believe that any document which, in its opinion, shall be useful for, or relevant to, any investigation under this Act, are secreted in any place, it may authorise any agency to whom the investigation has been given to search for and to seize such documents.

(2) If the Lokayukta is satisfied that any document seized under sub-section (1) may be used as evidence for the purpose of any preliminary inquiry or investigation under this Act and that it shall be necessary to retain the document in its custody or in the custody of such officer as may be authorised, it may so retain or direct such authorised officer to retain such document till the completion of such preliminary inquiry or investigation as the case may be:

Provided that where any document is required to be returned, the Lokayukta or the authorised officer may return the same after retaining copies of such document duly authenticated in the manner as may be prescribed.

Inquiry Wing to have powers of civil court in certain cases.

27. (1) Subject to the provisions of this section, for the purpose of any preliminary inquiry, the Inquiry Wing of the Lokayukta shall have all the powers of a civil court, under the Code of Civil Procedure, 1908,while trying a suit in respect of the following matters, namely:— **5 of 1908.**

(i) summoning and enforcing the attendance of any person and examining him on oath;

(ii) requiring the discovery and production of any document;

(iii) receiving evidence on affidavits;

(iv) requisitioning any public record or copy thereof from any court or office;

(v) issuing commissions for the examination of witnesses or documents:

Provided that such commission, in case of a witness, shall be issued only where the witness, in the opinion of the Lokayukta, is not in a position to attend the proceeding before the Lokayukta; and

(vi) such other matters as may be prescribed.

(2) Any proceeding before the Lokayukta shall be deemed to be a judicial proceeding within the meaning of section 193 of the Indian Penal Code, 1860. 45 of 1860.

Power of the Lokayukta to utilise services of officers of the Government.

28. (1) The Lokayukta may, for the purpose of conducting any preliminary inquiry or investigation, utilise the services of any officer or organisation or investigation agency of the Government.

(2) For the purpose of preliminary inquiry or investigating into any matter pertaining to such inquiry or investigation, any officer or organisation or agency whose services are utilised under sub-section (1) may, subject to the superintendence and direction 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) requisition any public record or copy thereof from any office.

(3) The officer or organisation or agency whose services are utilised under sub-section (2) shall inquire or, as the case may be, investigate into any matter pertaining to the preliminary inquiry or investigation and submit a report thereon to the Lokayukta within such period as may be specified by it in this behalf.

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Provisional attachment of assets.

29.(1) Where the Lokayukta or any investigating officer authorised by it in this behalf, has reasons to believe, the reason for such belief to be recorded in writing, on the basis of material in his possession, that—

(a) any person is in possession of any proceeds of corruption;

(b) such person is accused of having committed an offence relating to corruption; and

(c) such proceeds of offence are likely to be concealed, transferred or dealt with in any manner which may result in frustrating any proceedings relating to confiscation of such proceeds of offence,

the Lokayukta or the investigating officer, may, by order in writing, provisionally attach such property for a period not exceeding ninety days from the date of the order, in the manner as provided in the Second Schedule to the Income-tax Act, 1961 and the Lokayukta and the officer shall be deemed to be an officer under sub-rule (e) of rule 1 of that Schedule. 43 of 1961.

(2) The Lokayukta shall, immediately after attachment under sub-section (1), forward a copy of the order, along with the material in his possession, referred to in that sub-section, to the Special Court, in a sealed envelope, in the manner as may be prescribed and such Court may extend the order of attachment and keep such material for such period as the Court may deem fit.

(3) Every order of attachment made under sub-section (1) shall cease to have effect after the expiry of the period specified in that sub-section or after the expiry of the period as directed by the Special Court under sub-section (2).

(4) Nothing in this section shall prevent the person interested in the enjoyment of the immovable property attached under sub-section (1) or sub-section (2), from such enjoyment.

Explanation.—For the purposes of this sub-section, "person interested", in relation to any immovable property, includes all persons claiming or entitled to claim any interest in the property.

Confirmation of attachment of assets.

30. (1) The Lokayukta, when it provisionally attaches any property under sub-section (1) of section 29 shall, within a period of thirty days of such attachment, direct its prosecution wing to file an application stating the facts of such attachment before the Special Court and make a prayer for confirmation of attachment of the property till completion of the proceedings against the public servant in the Special Court.

(2) The Special Court may, if it is of the opinion that the property provisionally attached had been acquired through corrupt means, make an order for confirmation of attachment of such property till the completion of the proceedings against the public servant in the Special Court.

(3) If the public servant is subsequently acquitted of the charges framed against him, the property, subject to the orders of the Special Court, shall be restored to the concerned public servant along with

benefits from such property as might have accrued during the period of attachment.

(4) If the public servant is subsequently convicted of the charges of corruption, the proceeds relatable to the offence under the Prevention of Corruption Act, 1988 shall be confiscated and vest in the Government free from any encumbrance or leasehold interest excluding any debt due to any bank or financial institution. 49 of 1988.

Explanation.—For the purposes of this sub-section, the expressions "Bank", "debt" and "financial institution" shall have the meanings respectively assigned to them in clauses (d), (g) and (h) of section 2 of the Recovery of Debts Due to Banks and Financial Institutions Act, 1993. 51 of 1993.

Confiscation of assets, proceeds, receipts and benefits arisen or procured by means of corruption in special circumstances.

31.(1) Without prejudice to the provisions of sections 29 and 30, where the Special Court, on the basis of prima facie evidence, has reasons to believe or is satisfied that the assets, proceeds, receipts and benefits, by whatever name called, have arisen or procured by means of corruption by the public servant, it may pass an order for the confiscation of such assets, proceeds, receipts and benefits till his acquittal.

(2) Where an order of confiscation made under sub-section (1) is modified or annulled by the High Court or where the public servant is acquitted by the Special Court, the assets, proceeds, receipts and benefits, confiscated under sub-section (1) shall be returned to such public servant, and in case it is not possible for any reason to return the assets, proceeds, receipts and benefits, such public servant shall be paid the price thereof including the money so confiscated with the interest from the date of confiscation at the rate as may be prescribed.

Power of Lokayukta to recommend transfer or suspension of public servant connected with allegation of corruption.

32. (1) Where the Lokayukta, while making a preliminary inquiry into allegations of corruption, is prima facie satisfied, on the basis of evidence available that the continuance of the public servant, referred to in clauses (e) to (h) of sub-section (1) of section 14, in his post is likely to affect such preliminary inquiry adversely or 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 till such period as may be specified in the order.

(2) The Government shall ordinarily accept the recommendation of the Lokayukta made under sub-section (1), except for the reasons to be recorded in writing in a case where it is not feasible for administrative reasons.

Power of the Lokayukta to give directions to prevent destruction of records during preliminary inquiry.

33. The Lokayukta may, in discharge of its functions under this Act, issue appropriate directions to a public servant entrusted with the preparation or custody of any document or record—

(a) to protect such document or record from destruction or damage; or

(b) to prevent the public servant from altering or secreting such document or record; or

(c) to prevent the public servant from transferring or alienating any assets allegedly acquired by him through corrupt means.

Power to delegate.

34. The Lokayukta may, by general or special order in writing and subject to such conditions and limitations as may be specified therein, direct that any administrative or financial power conferred on it may also be exercised or discharged by such of its Members or officers or employees as may be specified in the order.

CHAPTER -IX

SPECIAL COURTS

Special Courts to be constituted by the Government.

35. (1) The Government shall constitute such number of Special Courts, as recommended by the Lokayukta, to hear and decide the cases arising out of the Prevention of Corruption Act, 1988 or under this Act. 49 of 198

(2) The Special Courts constituted in accordance with the recommendation under sub-section (1) shall ensure completion of each trial within a period of one year from the date of filing of the case in that Court:

Provided that in case the trial cannot be completed within a period of one year, the Special Court shall record reasons therefor and complete the trial within a further period of not more than three months or such further periods not exceeding three months each, for reasons to be recorded in writing before the end of each such three months period, but not exceeding a total period of two years.

Letter of request to a contracting State in certain cases.

36. (1) Notwithstanding anything contained in this Act or the Code of Criminal Procedure, 1973 if, in the course of a preliminary inquiry or investigation into an offence or other proceeding under this Act, an application is made to a Special Court by an officer of the Lokayukta authorised in this behalf that any evidence is required in connection with the preliminary inquiry or investigation into an offence or proceeding under this Act and he is of the opinion that such evidence may be available in any place in a contracting State, and the Special Court, on being satisfied that such evidence is required in connection with the preliminary inquiry or investigation into an offence or proceeding under this Act, may issue a letter of request to a court or an authority in the contracting State competent to deal with such request to— 2 of 1974.

(i) examine the facts and circumstances of the case;

(ii) take such steps as the Special Court may specify in such letter of request; and

(iii) forward all the evidence so taken or collected to the Special Court issuing such letter of request.

(2) The letter of request shall be transmitted in such manner as may be prescribed.

(3) The evidence collected in pursuance of the letter of the request under sub-section (1) by the Special Court shall be made available to the concerned authorised officer.

(4) Every statement recorded or document or thing received under sub-section (1) shall be deemed to be evidence collected during the course of the preliminary inquiry or investigation. 49 of 1988.

CHAPTER- X

COMPLAINTS AGAINST CHAIRPERSON, MEMBERS AND OFFICIALS OF THE LOKAYUKTA

Removal and suspension of Chairperson and Members of Lokayukta.

37.(1) The Lokayukta shall not inquire into any complaint made against the Chairperson or any Member.

(2) Subject to the provisions of sub-section (4), the Chairperson or any Member shall be removed from his office by order of the Governor on the grounds of misbehaviour after the High Court of Orissa, on a reference being made to it by the Governor on a petition signed by at

least twenty-five Members of the Legislative Assembly, has, on an inquiry held in accordance with the procedure prescribed in that behalf, reported that the Chairperson or such Member, as the case may be, ought to be removed on such ground.

(3) The Governor may suspend from the office, the Chairperson or any Member in respect of whom a reference has been made to the High Court under sub-section (2), on receipt of the recommendation or interim order made by the High Court in this regard until the Governor has passed orders on receipt of the final report of the High Court on such reference.

(4) Notwithstanding anything contained in sub-section (2), the Governor may, by order, remove from the office, the Chairperson or any Member, if the Chairperson or such Member, as the case may be,—

(a) is adjudged an insolvent; or

(b) engages himself during his term of office, in any paid employment outside the duties of his office; or

(c) is, in the opinion of the Governor, unfit to continue in office by reason of infirmity of mind or body.

(5) If the Chairperson or any Member is, or becomes, in anyway concerned or interested in any contract or agreement made by or on behalf of the Government of India or the Government of a State or participates in any way in the profit thereof or in any benefit or emolument arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (2), be deemed to be guilty of misbehaviour.

Complaints against officials of Lokayukta.

38.(1) Every complaint or allegation made against any officer or employee or agency under, or associated with, the Lokayukta for an offence punishable under the Prevention of Corruption Act, 1988 shall be dealt with in accordance with the provisions of this section. 49 of 1988

(2) The Lokayukta shall complete the inquiry into the complaint or allegation made within a period of thirty days from the date of its receipt.

(3) While making an inquiry into the complaint against any officer or employee of the Lokayukta or agency engaged or associated with the Lokayukta, if it is prima facie satisfied on the basis of evidence available, that continuance of such officer or employee of the Lokayukta or agency

engaged or associated in his post while conducting the inquiry is likely to affect such inquiry adversely or is likely to destroy or in any way tamper with the evidence or influence witnesses, then, the Lokayukta may, by order, suspend such officer or employee of the Lokayukta or divest such agency engaged or associated with the Lokayukta of all powers and responsibilities heretobefore exercised by it .

(4) On completion of the inquiry, if the Lokayukta is satisfied that there is prima facie evidence of the commission of an offence under the Prevention of Corruption Act, 1988, it shall, within a period of fifteen days of the completion of such inquiry, order to prosecute such officer or employee of the Lokayukta or such officer, employee, agency engaged or associated with the Lokayukta and initiate disciplinary proceedings against the official concerned: 49 of 1988.

Provided that no such order shall be passed without giving such officer or employee of the Lokayukta, or agency so engaged or associated, a reasonable opportunity of being heard.

CHAPTER- XI

ASSESSMENT OF LOSS AND RECOVERY THEREOF BY SPECIAL COURT

Assessment of loss and recovery thereof by Special Court.

39. If any public servant is convicted of an offence under the Prevention of Corruption Act, 1988 by the Special Court, without prejudice to any law for the time being in force, it may make an assessment of loss, if any, caused to the public exchequer on account of the actions or decisions of such public servant not taken in good faith and for which he stands convicted, and may order recovery of such loss, if possible or quantifiable, from such public servant so convicted: 49 of 1988.

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Provided that if the Special Court, for reasons to be recorded in writing, comes to the conclusion that the loss caused was pursuant to a conspiracy with the beneficiary or beneficiaries of actions or decisions of the public servant so convicted, then such loss may, if assessed and quantifiable under this section, also be recovered from such beneficiary or beneficiaries proportionately.

CHAPTER-XII

FINANCE, ACCOUNTS AND AUDIT

Budget.

40. The Lokayukta shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Lokayukta and forward the same to the Government for information.

Grants by the Government.

41. The Government may, after due appropriation made by the Legislative Assembly by law in this behalf, make to the Lokayukta grants of such sums of money as are required to be paid for the salaries and allowances payable to the Chairperson and Members and the administrative expenses, including the salaries and allowances and pension payable to or in respect of officers and other employees of the Lokayukta.

Annual statement of accounts.

42. (1) The Lokayukta shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed in consultation with the Accountant General, Odisha.

(2) The accounts of the Lokayukta shall be audited by the Accountant General, Odisha at such intervals as may be specified by the Accountant General, Odisha.

(3) The Accountant General, Odisha or any person appointed by him in connection with the audit of the accounts of the Lokayukta under this Act shall have the same rights, privileges and authority in connection with such audit, as the Accountant General, Odisha generally has, in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Lokayukta.

(4) The accounts of the Lokayukta, as certified by the Accountant General, Odisha or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Government and the Government shall cause the same to be laid before the Odisha Legislative Assembly.

Furnishing of returns etc, to Government.

43. The Lokayukta shall furnish to the Government, at such time and in such form and manner as may be prescribed or as the Government

may request, such returns and statements and such particulars in regard to any matter under the jurisdiction of the Lokayukta, as the Government may, from time to time, require.

CHAPTER- XIII

DECLARATION OF ASSETS

Declaration of assets.

44. (1) Every public servant shall make a declaration of his assets and liabilities in the manner as provided by or under this Act.

(2) A public servant shall, within a period of thirty 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, his spouse and his dependent children are, jointly or severally, owners or beneficiaries;

(b) his liabilities and that of his spouse and his dependent children.

(3) A public servant holding his office as such, at the time of the commencement of this Act, shall furnish information relating to such assets and liabilities, as referred to in sub-section (2), to the competent authority within ninety days of the coming into force of this Act.

(4) Every public servant shall file with the competent authority, on or before the thirty-first July of every year, an annual return of such assets and liabilities, as referred to in sub-section (2), as on the thirty-first March of that year.

(5) The information under sub-section (2) or sub-section (3) and annual return under sub-section (4) shall be furnished to the competent authority in such form and in such manner as may be prescribed.

(6) The competent authority in respect of each Department shall ensure that all such statements are published on the website of such Department by thirty-first August of that year.

Explanation.—For the purposes of this section, "dependent children" means sons and daughters who have no separate means of earning and are wholly dependent on the public servant for their livelihood.

Presumption as to acquisition of assets by corrupt means in certain cases.

45. If any public servant wilfully or for reasons which are not justifiable, fails to declare his asset or gives misleading information in respect of such assets and is found to be in possession of assets not disclosed or in respect of which misleading information was furnished, then, such assets shall, unless otherwise proved, be presumed to belong to the public servant and shall be presumed to be assets acquired by corrupt means:

Provided that the competent authority may condone or exempt the public servant from furnishing information in respect of assets not exceeding such minimum value as may be prescribed.

CHAPTER- XIV

OFFENCES AND PENALTIES

Prosecution for false complaint and payment of compensation, etc., to public servant.

46. (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, except a Special Court, shall take cognizance of an offence under sub- section (1).

(3) No Special 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.

(4) 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.

(5) 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 Special Court may determine.

(6) 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 or by mistake of fact believing himself justified by law under section 79 of the Indian Penal Code,1860. 45 of 1860.

False complaint made by society or association of persons or trust.

47. (1) Where any offence under sub-section (1) of section 46 has been committed by any society or association of persons or trust (whether registered or not), every person who, at the time the offence was committed, was directly in charge of, and was 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.

CHAPTER-XV

MISCELLANEOUS

Reports of Lokayukta.

48. It shall be the duty of the Lokayukta to present annually to the Governor a report on the work done by the Lokayukta and on receipt of such report the Governor shall cause a copy thereof together with a memorandum explaining, in respect of the cases, if any, where the advice

of the Lokayukta was not accepted, the reason for such non-acceptance to be laid before the Odisha Legislative Assembly.

Protection of action taken in good faith by any public servant.

49. No suit, prosecution or other legal proceedings under this Act shall lie against any public servant, in respect of anything which is done in good faith or intended to be done in the discharge of his official functions or in exercise of his powers.

Protection of action taken in good faith by others.

50. No suit, prosecution or other legal proceedings shall lie against the Lokayukta or against any officer, employee, agency or any person, in respect of anything which is done in good faith or intended to be done under this Act or the rules or the regulations made thereunder.

Members, officers and employees of Lokayukta to be public servants.

51. The Chairperson, Members, officers and other employees of the Lokayukta shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code,1860. **45 of 1860.**

Limitation to apply in certain cases.

52. The Lokayukta shall not inquire or investigate into any complaint, if the complaint is made after the expiry of a period of seven years from the date on which the offence mentioned in such complaint is alleged to have been committed.

Bar of Jurisdiction.

53. No civil court shall have jurisdiction in respect of any matter which the Lokayukta is empowered by or under this Act to determine.

Legal assistance.

54. The Lokayukta shall provide to every person against whom a complaint has been made, before it, under this Act, legal assistance to defend his case before the Lokayukta, if such assistance is requested for.

Act to have overriding effect.

55. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect by virtue of any enactment other than this Act.

Provisions of this Act to be in addition to other laws.

56. The provisions of this Act shall be in addition to, and not in derogation of, any other laws for the time being in force.

Power to make rules.

57. (1) The Government may, by notification, make rules to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—

(a) the form of complaint referred to in clause (d) of sub-section (1) of section 2;

(b) the term of the Search Committee, the fee and allowances payable to its members and the manner of selection of panel of names under sub-section (5) of section 4;

(c) the post or posts in respect of which the appointment shall be made after consultation with the Odisha Public Service Commission under the proviso to sub- section (3) of section 10;

(d) other matters for which the Lokayukta shall have the powers of a civil court under clause (vi) of sub-section (1) of section 27;

(e) the manner of sending the order of attachment along with the material to the Special Court under sub-section (2) of section 29;

(f) the rate of interest as contemplated under sub-clause (2) of section 31;

(g) the manner of transmitting the letter of request under sub-section (2) of section 36;

(h) the form and the time for preparing in each financial year the budget for the next financial year, showing the estimated receipts and expenditure of the Lokayukta under section 40;

(i) the form for maintaining the accounts and other relevant records and the form of annual statement of accounts under sub-section (1) of section 42;

(j) the form and manner and the time for preparing the returns and statements along with particulars under section 43;

(k) the form and the time for preparing an annual return giving a summary of its activities during the previous year under sub-section (5) of section 44;

(l) the form of annual return to be filed by a public servant under sub-section (5) of section 44;

(m) the minimum value for which the competent authority may condone or exempt a public servant from furnishing

information in respect of assets under the proviso to section 45; and

(n) any other matter which is to be or may be prescribed.

Power to make regulations.

58. (1) Subject to the provisions of this Act and the rules made thereunder, the Lokayukta may, by notification, make regulations to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such regulations may provide for all or any of the following matters, namely:—

(a) the conditions of service of the Secretary and other officers and staff of the Lokayukta and the matters which, in so far as they relate to salaries, allowances, leave or pensions, require the approval of the Governor under the proviso to sub-section (4) of section 10;

(b) the place of sittings of Benches of the Lokayukta under clause (f) of sub-section (1) of section 16;

(c) the manner for displaying on the website of the Lokayukta, the status of all complaints pending or disposed of along with records and evidence with reference thereto under sub-section (11) of section 20;

(d) the manner and procedure of conducting preliminary inquiry or investigation under sub-section (13) of section 20;

(e) any other matter which is required to be, or may be, specified under this Act.

Power to remove difficulties.

59. (1) 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 this 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 this Act.

(2) Every order made under this section shall be laid, as soon as may be, after it is made, before the Odisha Legislative Assembly.

Repeal and its effect.

60. (1) The Odisha Lokpal and Lokayuktas Act, 1995 is hereby repealed. **Odisha Act 8 of 1995.**

(2) On such repeal, every inquiry, investigation and other proceedings together with record thereof, relating to allegation of corruption pending under the Act so repealed, shall stand transferred to the Lokayukta immediately on the date of establishment of such Lokayukta under sub-section (1) of section 3 and shall be dealt in accordance with the provisions of this Act.

(3) On such repeal, every inquiry, investigation and other proceedings pending under the Act so repealed, not relating to allegations of corruption against the public functionaries or matter incidental thereto shall be transferred to the Government after the date of notification to be dealt by the appropriate forum which may be constituted by the Government in that behalf.

(4) Notwithstanding anything contained in this Act, the offices and the posts created for the functioning of the Lokpal and any other official appointed to function under the Lokpal in any capacity immediately before such repeal are to continue as such under this Act until further provisions are made by the Government in that behalf.

By order of the Governor

B.P. ROUTRAY

Principal Secretary to Government

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THE ODISHA LOKAYUKTA (AMENDMENT) ACT, 2022

CONTENTS

PREAMBLE:

SECTIONS:

1. Short title.
2. Amendment of Section 2.
3. Amendment of Section 14.
4. Amendment of Section 22.
5. Power to punishment for contempt.
6. Amendment of Section 41.
7. Amendment of Section 42.
8. Amendment of Section 57.

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LAW DEPARTMENT

NOTIFICATION

The 8th September, 2022

No.9940—l-Legis-15/2022/L.— The following Act of the Odisha Legislative Assembly having been assented to by the Governor on the 2nd September, 2022 is hereby published for general information.

ODISHA ACT 11 OF 2022

THE ODISHA LOKAYUKTA (AMENDMENT) ACT, 2022

AN

ACT

FURTHER TO AMEND THE ODISHA LOKAYUKTA ACT, 2014.

BE it enacted by the Legislature of the State of Odisha in the Seventy-third Year of the Republic of India as follows: —

Short title. **1.** This Act may be called the Odisha Lokayukta (Amendment) Act, 2022.

Amendment of Section 2. **2.** In the Odisha Lokayukta Act, 2014 (hereinafter called the principal Act), in section 2, in sub-section (1), in clause (c), for sub-clause (iv), the following sub-clause shall be substituted, namely: — Odisha Act 12 of 2018.

"(iv) an officer or employee in any Department of the Government,—

(A) in case of Chief Secretary, means the Chief Minister;

(B) in case of Secretary of a Department of Government, means the Chief Secretary; and

(C) in case of other officers or employees means the Secretary of a Department under which such officer is serving,

Explanation ― For the purpose of this sub-clause, the expression "Secretary" means Secretary-in-Charge of a Department of Government and shall include an Additional Chief Secretary, a Principal Secretary, a Commissioner-*cum*-Secretary or a Special Secretary;".

Amendment of Section 14.

3. In the principal Act, in Section 14, in sub-section (1), in clause (h), after the words "in receipt of any donation" and before the words "from any foreign source", the words "from the public and the annual income of which exceeds such amount as the Government may, by notification, specify or" shall be omitted.

Amendment of Section 22.

4. In the principal Act, Section 22 shall be renumbered as sub-section(1) thereof and after sub-section (1), as so renumbered, the following sub-section shall be inserted, namely: ―

"(2) For any willful disobedience of any process, order or direction of the Lokayukta by a public servant shall be treated as misconduct for which disciplinary action may be taken up against the concerned officer under the service rules applicable to him on the recommendation of the Lokayukta.".

Insertion of new Section 27 A.

5. In the principal Act, after Section 27, the following Section shall be inserted, namely: ―

" Power to punish for contempt.

27A. The Lokayukta shall have, and exercise the same jurisdiction, powers and authority in respect of contempt of itself as a High Court has and may exercise, and, for this purpose, the provisions of the Contempt of Courts Act., 1971 shall have effect subject to the modification that the references therein to a High Court shall be construed as including a reference to the Lokayukta.". 70 of 1971.

Amendment of section 41.

6. In the principal Act, in Section 41,―

(a) for the marginal heading, the following marginal heading shall be substituted, namely:―

"Allocation of fund by the Government."; and

(b) for the words “make to the Lokayukta grants”, the words “allocate fund to the Lokayukta” shall be substituted.

Amendment of Section 42.

7. In the principal Act, in Section 42,—

(a) for the marginal heading, the following marginal heading shall be substituted, namely:—

“Maintenance of Accounts and other records.”;

(b) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The Lokayukta shall maintain proper accounts and other relevant records in such manner as may be prescribed.”; and

(c) sub-section (4) shall be omitted.

Amendment of Section 57.

8. In the principal Act, in Section 57, in sub-section (2), for clause (i), the following clause shall be substituted, namely:—

“(i) manner of maintenance of accounts and other relevant records under sub-section (1) of Section 42;”.

By Order of the Governor
PRAMOD KUMAR NANDA
Principal Secretary to Government (I/C)

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