



Surajya Movement – 2012

Round Table on Good Governance

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Draft Bills for Discussion:

1. The Andhra Pradesh Lokayukta Bill, 2012
2. Citizen's Right to Services, 2011

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THE ANDHRA PRADESH LOKAYUKTA BILL, 2012

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THE ANDHRA PRADESH LOKAYUKTA BILL, 2012

A

BILL

to provide for the establishment of a body of Lokayukta to inquire into allegations of corruption against certain public functionaries in the state and for matters connected therewith or incidental thereto.

CHAPTER I PRELIMINARY

1. Short title, extent, application and commencement:-

(1) This Act may be called the Andhra Pradesh Lokayukta Act, 2012.

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

(3) It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint;

2. Definitions:-

(1) In this Part unless the context otherwise requires,—

(a) “Anti-Corruption Bureau” means the Anti-Corruption Bureau set up by the Government of Andhra Pradesh;

(b) "Bench" means a Bench of the Lokayukta;

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

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

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

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

(iii) a member of State Legislature other than a Minister means—

(A) in the case of a member of the Legislative Council, the Chairman of the Council; and

(B) in the case of a member of the Legislative Assembly, the Speaker of the House;

(iv) an officer in the Ministry or Department of the State Government means the Minister in charge of the Ministry or Department under which such officer is serving;

(v) a chairperson or members of any body, or Board or corporation or authority or company or society or autonomous body (by whatever name called) established or constituted under an Act of Parliament or of a State Legislature or wholly or partly financed by the State Government or controlled by it, means the Minister in charge of the administrative Ministry of such body, or Board or corporation or authority or company or society or autonomous body;

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

(vii) in any other case not falling under sub-clauses (i) to (v) above, means such department or authority as the State Government may by notification specify:

Provided that if any person referred to in sub-clause (iv) or sub-clause (v) is also a Member of the State Legislature, then the competent authority shall be—

(A) in case such member is a Member of the Legislative Council, the Chairman of the Council; and

(B) in case such member is a Member of the Legislative Assembly, the Speaker of the House;

(e) "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;

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

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

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

(i) "Ombudsman" means the officers appointed by Lokayukta as per the provisions in section 17 of this Act;

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

(k) "Minister" means Minister of a State Government but does not include the Chief Minister;

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

(m) "investigation" means an inquiry conducted under this Act by the Lokayukta;

(n) "prescribed" means prescribed by rules made under this Act;

(o) "public servant" means a person referred to in clauses (a) to (g) of subsection (1) of section 14;

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

(q) "rules" means rules made under this Act;

(r) "Schedule" means a Schedule appended to this Act;

(s) "Special Court" means the court of a Special Judge appointed under subsection (1) of section 3 of the Prevention of Corruption Act, 1988.

(2) The words and expressions used herein and not defined in this part but defined in the Prevention of Corruption Act, 1988, shall have the meanings respectively assigned to them in that Act.

CHAPTER II ESTABLISHMENT OF LOKAYUKTA

3. Establishment of Lokayukta:-

(1) As from the commencement of this Act, there shall be established in a State, by notification in the Official Gazette, for the purpose of making investigation and prosecution in respect of complaints made under this Act, a body to be called the "Lokayukta".

(2) The Lokayukta shall consist of—

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

(b) such number of Members, not less than two and not exceeding four out of whom fifty per cent shall be Judicial Members:

Provided that not less than fifty per cent. of the Members of the Lokayukta shall be from amongst the persons belonging to the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, Minorities and women.

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

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

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

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

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

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

(iii) a person of less than forty-five years of age, on the date of assuming office as Chairperson or Member, as the case may be;

(iv) a member of any Panchayat or Municipality;

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

and shall not hold any office of trust or profit (other than his office as the Chairperson or a Member) or be connected with any political party or carry on any business or practise any profession and accordingly, before he enters upon his office, a person appointed as the Chairperson or a Member, as the case may be, shall, if —

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

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

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

4. Appointment of Chairperson and Members and on recommendation of Selection Committee:-

(1) The Chairperson and Members shall be appointed by the Governor 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 High Court of Andhra Pradesh or a Judge of the High Court nominated by him — member;

(e) an eminent jurist selected by a committee comprising the above Chairperson and members of the Selection Committee according to above sub-sections (1)(a) to (1)(d) — 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 may, 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 persons of standing and having special knowledge and expertise in the matters relating to anti-corruption policy, public administration, vigilance, policy making, finance including insurance and banking, law, and 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 not less than fifty per cent. of the Members of the Search Committee shall be from amongst the persons belonging to the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, Minorities and women:

Provided further 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 for selecting the Chairperson and Members of the Lokayukta, which shall be transparent.

(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.

5. Filling of vacancies of Chairperson or Members:-

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.

6. Term of office of Chairperson and Members:-

The Chairperson and every Member shall, on the recommendations of the Selection Committee, be appointed by the Governor by warrant under his hand and seal and 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 this Act.

7. Salary, allowances and other conditions of service of Chairperson and Members:-

The salary, allowances and other conditions of service of—

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

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

Provided that if the Chairperson or a Member is, at the time of his appointment, in receipt of pension (other than disability pension) in respect of any previous service under the Government of India or under the Government of a State, his salary in respect of service as the Chairperson or, as the case may be, as a Member, be reduced—

(a) by the amount of that pension; and

(b) 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.

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

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

(i) re-appointment 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 of a State;

(iv) contesting any election of Member of either House of Parliament or Member of either House of a State Legislature or 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.

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

(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 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.

10. Secretary, other officers and staff of Lokayukta:-

(1) There shall be a Secretary to the Lokayukta in the rank of Secretary to the State Government, who shall be appointed by the Chairperson from a panel of names sent by the State Government.

(2) The appointment of secretary and other 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 rules.

(3) Subject to the provisions of any law made by the State Legislature, 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 INVESTIGATION AGENCY

11. Anti-Corruption Bureau as the Investigation Agency of Lokayukta

(1) The Anti-Corruption Bureau shall function as the investigation agency of the Lokayukta.

(2) The State Government shall appoint the Director-General of the Bureau on the recommendation of the Committee consisting of—

(a) the Chief Minister — Chairperson;

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

(c) the Chief Justice of the High Court of Andhra Pradesh or a Judge of the High Court nominated by him — Member.

Provided that the Director-General before the commencement of this Act, shall continue to discharge his function and exercise powers conferred upon them until his term expires.

(3) The appointment, extension or curtailment of the tenure of officers to the posts of the level of Deputy Superintendent and above except the Director-General shall be done by a committee comprising the Chairperson of the Lokayukta, the Chief Secretary of the State Government and Director-General of Anti-Corruption Bureau.

(4) 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 Anti-Corruption Bureau.

(5) The Lokayukta shall, from time to time, assess the requirements of personnel, training and technical capacities of the Anti-Corruption Bureau and make appropriate recommendations to the State Government.

(6) The recommendations made under sub-section (5) shall ordinarily be accepted and complied with, by the State Government at the earliest. In case, there is any non-compliance,

the State Government shall place the matter before the State Legislature, with reasons for non-compliance.

CHAPTER IV PROSECUTION WING

12. Appointment of Director of prosecution:-

(1) The Lokayukta shall, by notification, constitute a Prosecution Wing headed by the Director of Prosecution for the purpose of prosecution of public servants in relation to any complaint by the Lokayukta under this Act:

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

(2) There shall be a Director of Prosecution not below the rank of the Additional Secretary to the State Government or equivalent, who shall be appointed by the Chairperson in consultation with the Chief Justice of the High Court, from the judiciary or the State Prosecution Wing or the Bar Council of Andhra Pradesh.

(3) The Director of prosecution shall, after having been so directed by the Lokayukta, file a case in accordance with the investigation report, before the Special Court, and 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.

(4) The report under sub-section (3) 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 CONSOLIDATED FUND OF STATE

13. Expenses of Lokayukta to be charged on Consolidated Fund of State:-

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 OF LOKAYUKTA

14. Jurisdiction of Lokayukta to include Chief Minister, Ministers, Members of Legislatures, officers and employees of State Government:-

(1) Subject to the other provisions of this Act, the Lokayukta shall investigate or cause an investigation to be conducted into any matter involved in, 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;

Provided that the Lokayukta shall not inquire into any matter involved in, or arising from, or connected with, any such allegation of corruption against the Chief Minister,—

(i) in so far as it relates to public order;

(ii) unless a full bench of the Lokayukta consisting of its Chairperson and all Members considers the initiation of inquiry and at least two-thirds of its Members approves of such inquiry:

Provided further that any such inquiry shall be held *in camera* and if the Lokayukta comes to the conclusion that the complaint deserves to be dismissed, the records of the inquiry shall not be published or made available to anyone;

(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 State Legislature;

(d) any person who is holding or held an elected or nominated office in all the local authorities;

(e) all officers and employees of the State, from amongst the public servants defined in sub-clause (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) all officers and employees referred to in clause (d) or 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 Parliament or of a State Legislature or wholly or partly financed by the State Government or controlled by it;

(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 State Government and the annual income of which exceeds such amount as the State Government may by notification specify;

Explanation.—For the purpose of clause (g), it is hereby clarified that any entity or institution, by whatever name called, corporate, society, trust, association of persons, partnership, sole proprietorship, limited liability partnership (whether registered under any law for the time being in force or not), shall be the entities covered in those clauses:

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:

(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 State Legislature in respect of anything said or a vote given by him in the State Legislature 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.

(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.

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.

15. Matters pending before any court or committee or authority for inquiry before Lokayukta not to be affected:-

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 State Legislature 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.

16. Decision to be by majority:-

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.

17. Appointment of Ombudsman for each district and municipal corporation:-

(1) Lokayukta may, appoint an Ombudsman for each district and municipal corporation, for dealing with complaints related to corruption under this Act and delegate jurisdiction over certain types of corruption cases or over a range of public servants to the Ombudsmen, as it deems fit.

(2) The Ombudsmen shall be drawn from the current or retired personnel of the judiciary or the government, or persons of standing and having special knowledge and expertise in the matters relating to anti-corruption policy, public administration, vigilance, policy making, finance and management, or in any other matter which, in the opinion of the Lokayukta, may be useful in exercising the functions delegated to Ombudsmen:

Provided that Lokayukta shall make these appointments in consultation with the High Court in respect of officers drawn from the judiciary or the Chief Secretary of the State in respect of officers drawn from the Government, as the case may be.

CHAPTER VII PROCEDURE IN RESPECT OF INVESTIGATION

18. Provisions relating to complaints and investigation:-

(1) The Lokayukta shall, on either *suo motu* or 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 order an investigation as it deems fit for proceeding in the matter:

Provided that Lokayukta shall have the discretion to prioritise complaints based on an economic criterion of the scale of corruption or an institutional criterion of the significance of the institution in the scheme of governance or a social criterion of number of citizens negatively affected by the alleged acts of corruption or any other criterion of public interest or a combination thereof:

Provided further that Lokayukta shall record the reasons in writing whenever such discretion has been used to prioritise complaints.

(2) In case the Lokayukta decides to proceed to investigate into the complaint, it shall direct the Anti-Corruption Bureau to carry out the investigation as expeditiously as possible and complete the investigation and submit an investigation report 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.

(3) Notwithstanding anything contained in section 173 of the Code of Criminal Procedure, 1973, the Anti-Corruption Bureau shall, in respect of cases referred to it by the Lokayukta, submit the investigation report to the Lokayukta.

(4) The Lokayukta shall consider every report received by it under sub-section (2) from the Anti-Corruption Bureau and may, decide as to—

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

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

(5) The Lokayukta may, after taking a decision under sub-section (4) on the filing of the charge-sheet, direct,—

(a) its prosecution Wing to initiate prosecution in the Special Court in respect of the cases investigated by the Anti-Corruption Bureau; or

(b) any other agency in respect of the cases investigated by such agency on the direction of Lokayukta to obtain its approval and thereafter initiate prosecution in the Special Court and forward a copy of charge-sheet filed by it under this clause to the Lokayukta for the purposes of superintendence.

(6) The Lokayukta may, during the investigation or the investigation, as the case may be, pass appropriate orders for the safe custody of the documents relevant to the investigation or, as the case may be investigation as it deems fit.

(7) The website of the Lokayukta shall, from time to time not exceeding an interval of three months and in such manner as may be specified by regulations, display to the public, the details of each case including the date of receipt of the complaint, initiation and completion of investigation, initiation and completion of investigation and initiation of prosecution, and the summary of complaints pending before it or disposed of by it.

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

(9) Save as otherwise provided, the manner and procedure of conducting an 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.

19. Persons likely to be prejudicially affected to be heard:-

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

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

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

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

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

Subject to the provisions of this Act, for the purpose of any investigation, the Lokayukta or the Anti-Corruption Bureau, 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 investigation, to furnish any such information or produce any such document.

21. Previous sanction not necessary for investigation and initiating prosecution by Lokayukta in certain cases:-

(1) No sanction or approval of any authority shall be required by the Lokayukta for conducting investigation by any agency in respect of the cases investigated by such agency on the direction of the Lokayukta, under section 197 of the Code of Criminal Procedure, 1973 or section 19 of the Prevention of Corruption Act, 1988, as the case may be, for the purpose of making investigation by the Anti-Corruption Bureau or for filing of any charge sheet or closure report on completion of investigation in respect thereof any complaint against any public servant or *suo motu* action taken by Lokayukta before the Special Court under this Act.

(2) 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.

(3) Nothing contained in sub-sections (1) and (2) shall apply in respect of the persons holding the office in pursuance of the provisions of the Constitution and in respect of which a

procedure for removal of such person has been specified therein.

(4) The provisions contained in sub-sections (1), (2) and (3) 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.

22. Action on inquiry against public servant being Chief Minister, Ministers or Members of State Legislature:-

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.

23. Action on inquiry in relation to public servants not being Chief Minister, Ministers or Members of State Legislature:-

(1) Where, after the conclusion of the inquiry or 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 (d) or clause (g) of sub-section (1) of section 14, the Lokayukta may—

(a) file a case in the Special Court and send a copy of the report together with its findings to the competent authority;

(b) recommend to the competent authority the initiation of disciplinary proceedings under the rules of disciplinary proceedings applicable to such public servant;

(c) provide a copy of the report to the public servant or his representative.

(d) recommend to the competent authority/appointing authority to impose a punishment of dismissal or removal or reduction in rank on a public servant if he is satisfied that the evidence warrants such an action on grounds of commission of an offence or misconduct, or willful omission to perform a duty or gross incompetence in preventing an offence or misconduct:

Provided further that no such recommendation shall be made without giving such public servant a reasonable opportunity of being heard according to Article 311(2) of the Constitution:

Provided further that such a recommendation of Lokayukta shall be binding on the appointing authority, and such a public servant shall be awarded the punishment forthwith without further enquiry.

(2) The competent authority shall, within a period of thirty days of the receipt of recommendation under clause (b) of sub-section (1), initiate disciplinary proceedings against the delinquent public servant accused of committing offence under the Prevention of Corruption Act, 1988 and forward its comments on the report, including the action taken or proposed to be taken thereon, to the Lokayukta ordinarily within six months of initiation of such disciplinary proceedings.

CHAPTER VIII POWERS OF LOKAYUKTA

24. Search and seizure:-

(1) If the Lokayukta has reason 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 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 investigation:

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.

25. Lokayukta to have powers of civil court in certain cases:-

(1) Subject to the provisions of this section, for the purpose of any investigation, the Anti-Corruption Bureau 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:—

- (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.

26. Power of Lokayukta to utilise services of officers of State Government:-

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

(2) For the purpose of investigation 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 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) 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 investigation and submit a report thereon to the Lokayukta within such period as may be specified by it in this behalf.

27. Provisional attachment of assets:-

(1) Where the Lokayukta or any investigation officer authorised by it in this behalf, has reason 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, he 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 provided in the Second Schedule to the Income-tax Act, 1961 and the Lokayukta shall be deemed to be an

officer under sub-rule (e) of rule 1 of that Schedule.

(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.

28. Confirmation of attachment of assets:-

(1) The Lokayukta, when it provisionally attaches any property under sub-section (1) of section 27 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 relating to the offence under the Prevention of Corruption Act, 1988 shall be confiscated and vest in the State Government free from any encumbrance or leasehold interest excluding any debt due to any bank or financial institution.

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.

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

(1) Without prejudice to the provisions of sections 27 and 28, where the Special Court, on the basis of *prima facie* evidence, has reason 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 authorise 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 at the rate of five per cent. per annum thereon calculated from the date of confiscation.

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

(1) Where the Lokayukta, while making an investigation 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 clause (e) or clause (f) of sub-section (1) of section 14 in his post while conducting the investigation is likely to affect such investigation adversely; or

(b) the public servant referred to in clause (a) is likely to destroy or in any way tamper with the evidence or influence witnesses,

then, the Lokayukta may recommend to the State 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.

(2) The State 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.

31. Power of Lokayukta to give directions to prevent destruction of records during investigation:-

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.

32. Power to delegate:-

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.

33. Power to institute a reward scheme to encourage complaints

The Lokayukta shall have the power to prepare an appropriate reward scheme to encourage complaints from within and outside the government to report acts and evidence of corruption.

CHAPTER IX
SPECIAL COURTS

34. Special Courts to be notified by State Government:-

(1) The State 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.

(2) The Special Courts constituted 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 the 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 month period, but not exceeding a total period of two years.

35. Letter of request to a contracting State in certain cases:-

(1) Notwithstanding anything contained in this Act or the Code of Criminal Procedure, 1973 if, in the course of an 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 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—

(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 the appropriate Government may prescribe in this behalf.

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

CHAPTER X COMPLAINTS AGAINST CHAIRPERSON, MEMBERS AND OFFICIALS OF LOKAYUKTA

36. Removal and suspension of Chairperson and Members of Lokayukta:-

(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 grounds of misbehaviour after the Supreme Court, on a reference being made to it—

(i) by the Governor; or

(ii) by the Governor on a petition being signed by at least one hundred Members of Legislature; or

(iii) by the Governor on receipt of a petition made by a citizen of India and where the Governor is satisfied that the petition should be referred,

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 office the Chairperson or any Member in respect of whom a reference has been made to the Supreme Court under sub-section (2) until the Governor has passed orders on receipt of the report of the Supreme 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, 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 any way 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 there-from 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.

37. Complaints against officials of Lokayukta:-

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

(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—

(a) 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

(b) an officer or employee of the Lokayukta or agency engaged or associated 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 hereto before exercised by it .

(4) On the 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 or of any wrongdoing, 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:

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

CHAPTER XI ASSESSMENT OF LOSS AND RECOVERY THEREOF BY SPECIAL COURT

38. Assessment of loss and recovery thereof by Special Court:-

If any public servant is convicted of an offence under the Prevention of Corruption Act, 1988 by the Special Court, notwithstanding and 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:

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

39. Budget:-

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 State Government for information.

40. Grants by State Government:-

The State Government may, after due appropriation made by Legislature 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.

41. Annual statement of accounts:-

(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 by the State Government in consultation with the Accountant General.

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

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

42. Furnishing of returns, etc., to State Government:-

The Lokayukta shall furnish to the State Government, at such time and in such form and manner as may be prescribed or as the State Government may request, such returns and statements and such particulars in regard to any matter under the jurisdiction of the Lokayukta, as the State Government may, from time to time, require.

CHAPTER XIII
DECLARATION OF ASSETS

43. Declaration of assets:-

(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 subsection (2) to the competent authority within thirty days of the coming into force of this Act.

(4) Every public servant shall file with the competent authority, on or before the 31st July of every year, an annual return of such assets and liabilities, as referred to in sub-section (2), as on the 31st 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 office or Department shall ensure that all such statements are published on the website of such officer or Department by 31st 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.

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

If any public servant wilfully or for reasons which are not justifiable, fails to—

(a) to declare his assets; or

(b) 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

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

(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 subsection (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 State 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" shall have the same meaning assigned to it in section 52 of the Indian Penal Code.

46. False complaint made by society or association of persons or trust:-

(1) Where any offence under sub-section (1) of section 45 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 ESTABLISHMENT OF COMMITTEE ON INDEPENDENT INSTITUTIONS

47. Reports of Lokayukta:-

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 respects of the cases or recommendations of Lokayukta to the Government in any matter, if any, where the advice of the Lokayukta was not accepted, the reason for such non-acceptance to be laid before the Legislative Assembly.

48. Committee on Independent Institutions for monitoring the functioning of Lokayukta:-

(1) As soon as practicable after the commencement of this Act, a Standing Committee of the Legislative Assembly, to be known as the Committee on Independent Institutions shall be appointed.

(2) This committee shall be drawn from the members of Legislative Assembly who are not ministers and shall have equal representation from the government and the opposition and shall be chaired by a member from the Opposition:

Provided that no member of the Legislative Assembly, on whom Lokayukta has a pending complaint, shall form part of this committee.

(3) This Standing Committee, as the case may be, shall monitor the functioning of Lokayukta on a regular basis.

(4) Without prejudice to the provisions contained in sub-section (3), the functions of this committee, amongst other things, include the following, namely—:

(a) monitoring and reviewing the powers exercised by the Lokayukta,

(b) reporting to the Legislative Assembly, with such comments as it thinks fit, on any matter appertaining to the Lokayukta or connected with the exercise of its functions to which,

in the opinion of the Committee, the attention of the Legislative Assembly should be directed,

(c) examining each annual report of the Lokayukta to the Governor and reporting to the Legislative Assembly on any matter appearing in, or arising out of, any such report,

(d) examining trends and changes in corrupt conduct, and practices and methods relating to corrupt conduct, and report to Legislative Assembly any change which the Committee thinks desirable to the functions, structures and procedures of the Lokayukta or to the procedures adopted by the government,

(e) inquiring into any question in connection with its functions which is referred to it by the Legislative Assembly, and report to the Legislative Assembly on that question:

Provided that nothing in this subsection shall authorise the Committee:

(a) to investigate a matter relating to particular conduct, or

(b) to reconsider a decision to investigate, not to investigate or to discontinue investigation of a particular complaint, or

(c) to reconsider the findings, recommendations, determinations or other decisions of the Commission in relation to a particular investigation or complaint.

(5) The procedure of this Committee, shall be as determined by the Committee.

CHAPTER XVI MISCELLANEOUS

49. Lokayukta to function as appellate authority for appeals arising out of any other law for the time being in force:-

The Lokayukta shall function as the final appellate authority in respect of appeals arising out of any other law for the time being in force providing for delivery of public services and redressal of public grievances by any public authority in cases where the decision contains findings of corruption under the Prevention of Corruption Act, 1988.

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

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.

51. Protection of action taken in good faith by others:-

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.

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

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.

53. Limitation to apply in certain cases:-

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.

54. Bar of Jurisdiction:-

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

55. Legal assistance:-

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.

56. Bar on re- appointment of public servants:-

Till two years, after the retirement or resignation, no government official shall be eligible to take up jobs, assignments, consultancies, etc. with any person, company, or organisation that he had dealt with in his official capacity.

57. Immunity to the bribe giver by the special court:-

Any bribe giver may be granted immunity from prosecution by the special court if he voluntarily gives timely information to the Lokayukta about the giving of bribe by him with entire evidence for the purpose of getting the concerned bribe taker/public servant caught and convicted, provided he also relinquishes all the illegitimate benefits which he had received by the giving of that bribe, if any. If the information provided by such bribe giver is subsequently found to be false, the immunity could be withdrawn by the special court.

58. Act to have overriding effect:-

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.

59. Power to make rules:-

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

(2) In particular, and without prejudice to the generality of the foregoing power, 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 under the proviso to subsection (2) 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 25;

(e) the manner of sending the order of attachment along with the material to the Special Court under sub-section (2) of section 27;

(f) the manner of transmitting the letter of request under sub-section (2) of section 35;

(g) 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 39;

(h) the form for maintaining the accounts and other relevant records and the form of annual statement of accounts under sub-section (1) of section 41;

(i) the form and manner and the time for preparing the returns and statements along with particulars under sub-section (1) of section 42;

(j) the form and the time for preparing an annual report giving a summary of its activities during the previous year under sub-section (5) of section 43;

(k) the form of annual return to be filed by a public servant under sub-section (5) of section 43;

(l) 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 44;

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

60. Power of Lokayukta to make regulations:-

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

(2) In particular, and without prejudice to the generality of the foregoing power, 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 sub-section (3) of section 10;

(b) the manner for displaying on the website of the Lokayukta, the details of the cases being handled and the status of all complaints pending or disposed of along with records and evidence with reference thereto under sub-section (7) of section 18;

(d) the manner and procedure of conducting an investigation under sub-section (8) of section 18;

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

61. Laying of rules and regulations:-

Every rule and regulation made under this Act shall be laid, as soon as may be after it is made, before State Legislative Assembly, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

62. Repeal and Saving:-

(1) The Andhra Pradesh Lokayukta and Upa-Lokayukta Act, 1983 along with the amendments made in it from time to time is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken in exercise of the powers conferred by or under the said Andhra Pradesh Lokayukta and Upa-Lokayukta Act, shall be deemed to have been done or taken in the exercise of powers conferred by or under this Act as if this Act were in force on the day on which such thing was done or action taken.

62. Power to remove difficulties:-

(1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty:

Provided that no such order shall be made under this section 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 State Legislature.

STATEMENT OF OBJECTS AND REASONS

The need to strengthen the existing Lokayukta institution in the state has been felt for quite sometime. Similar legislative efforts have been taking place in the Parliament and in the states across the country. As the existing Andhra Pradesh Lokayukta and Upa-Lokayukta Act, 1983 needs drastic revisions to provide for a strong and independent anti-corruption for the state, this bill is being introduced to replace the existing act.

This bill is almost similar to the Lokpal and Lokayuktas bill, 2011 passed by Lok Sabha in December 2011, except for a few modifications. Anti-Corruption Bureau has been brought under the supervision of Lokayukta. A provision for appointing Obmudsmen for each district and municipal corporation has been made for an effective decentralized anti-corruption mechanism. A provision for setting up a “Committee on Independent Institutions” drawn from the Assembly, has been incorporated to monitor the broad functioning of the Lokayukta.

The bill provides for the appointment of a Lokayukta and Ombudsmen to investigate and report on complaints relating to the conduct of public servants, namely—

- Chief Minister;
- all other Ministers and Members of the State Legislature;
- all officers of the State Government;
- Chairman, Vice Chairman of local authorities, Statutory bodies or Corporations established by or under any law of the State Legislature, including Co-operative Societies
- all officers and employees referred to in the clause above or 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 Parliament or of a State Legislature or wholly or partly financed by the State Government or controlled by it;
- 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 State Government and the annual income of which exceeds such amount as the State Government may by notification specify.

The Andhra Pradesh Lokayukta Bill 2012, seeks to, *inter alia*, provide for the following matters, namely—

- (i) to set up the institution of Lokayukta for the state of Andhra Pradesh and Ombudsman for each district and municipal corporation, for dealing with complaints related to corruption under this bill;
- (ii) to provide for a mechanism to ensure that no sanction or approval under section 197 of the Code of Criminal Procedure, 1973 or section 19 of the Prevention of Corruption Act, 1988, will be required in cases where prosecution is proposed by the Lokayukta;
- (iii) to confer on the Lokayukta the power of search and seizures and certain powers of a Civil Court;
- (iv) to empower the Lokayukta or any investigation officer authorised by it in this behalf to attach property which, *prima facie*, has been acquired by corrupt means;
- (v) to lay down a period of limitation of seven years from the date of commission of alleged offence for filing the complaints before the Lokayukta;

- (vi) to confer powers of police upon Lokayukta which the police officers have in connection with investigation;
- (vii) to charge the expenses of Lokayukta on the Consolidated Fund of the State;
- (viii) to utilise services of officers of State Government with the consent of the State Government for the purpose of conducting inquiry;
- (ix) to recommend transfer or suspension of public servants connected with allegation of corruption;
- (x) to constitute sufficient number of Special Courts as may be recommended by the Lokayukta to hear and decide the cases arising out of the Prevention of Corruption Act, 1988 under the proposed enactment;
- (xi) to make every public servant to declare his assets and liabilities, and in case of default or furnishing misleading information, to presume that the public servant has acquired such assets by corrupt means;
- (xii) to provide for prosecution of persons who make false or frivolous or vexatious complaints;
- (xiii) to setup a “Committee on Independent Institutions” of the Legislature to monitor the functioning of the Lokayukta.

This Bill seeks to achieve the above objects.

JAYAPRAKASH
NARAYAN

Hyderabad;

PART II:
Citizen's Right to Services, 2011
(THE RIGHT OF CITIZENS FOR TIME BOUND
DELIVERY OF GOODS AND SERVICES AND
REDRESSAL OF THEIR GRIEVANCES BILL,
2011)

THE RIGHT OF CITIZENS FOR TIME BOUND DELIVERY OF GOODS AND SERVICES
AND REDRESSAL OF THEIR GRIEVANCES BILL, 2011

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¹ The numbering of the sections, sub-sections and clauses has been kept the same for easy comparison with the bill introduced by the Government. All insertions and deletions are explained through footnotes in the text of the bill.

THE RIGHT OF CITIZENS FOR TIME BOUND DELIVERY OF GOODS AND SERVICES AND
REDRESSAL OF THEIR GRIEVANCES BILL, 2011

A

BILL

to lay down an obligation upon every public authority to publish citizens charter stating therein the time within which specified goods shall be supplied and services be rendered and provide for a grievance redressal mechanism for non-compliance of citizens charter and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Sixty-second Year of the Republic of India as follows:—

CHAPTER I
PRELIMINARY

1. Short title, extent and commencement:

(1) This Act may be called the Right of Citizens for Time Bound Delivery of Goods and Services and Redressal of their Grievances Act, 2011.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that the Central Government shall appoint such date within six months from the date on which the Right of Citizens for Time Bound Delivery of Goods and Services and Redressal of their Grievances Bill, 2011 receives the assent of the President:

Provided further that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

2. Definitions:

In this Act, unless the context otherwise requires,—

(a) "action taken report" means a report furnished to the complainant by the Grievance Redress Officer or the designated authority or the State Public Grievance Redressal Commission or the Central Public Grievance Redressal Commission in response to a complaint or appeal, as the case may be;

(b) "appropriate Government" means in relation to a public authority which is established, constituted, owned, controlled or substantially financed by funds provided directly or indirectly—

(i) by the Central Government or the Union territory administration, the Central Government;

(ii) by the States, the State Government;

(ba)² "assisted access" means assistance to access electronic services³;

(c) "Central Public Grievance Redressal Commission" means the Central Public Grievance Redressal Commission constituted under section 30;

(d) "Chief Commissioner" means the Chief Commissioner of State Public Grievance Redressal Commission or the Central Public Grievance Redressal Commission appointed under section 15 or section 32, as the case may be;

(e) "Citizens Charter" means a document declaring the functioning, obligations, duties, commitments of a public authority for providing goods and services effectively and efficiently with acceptable levels of standards, time limits and designation of public servants for delivery and grievance redress as defined in sub-section (1) of section 4;

(ea) "complainant" means a person or a company or a society or an academic institution or any organization who is entitled to a good/service such as birth certificate, ration, tax registration etc., under the citizens charter and files a complaint⁴;

(f) "complaint" means a complaint filed by a citizen or an organization⁵ regarding any grievance relating to, or arising out of, any failure in the delivery of goods or rendering of service pursuant to the

² All the amendments made to this bill are shaded. The numbering of the sections, sub-sections and clauses has been kept the same for easy comparison with the bill introduced by the Government. Accordingly, the inserted provisions are numbered as ba, 44A etc.

³ Inserted this definition from Electronic Delivery of Services (EDS) Bill, 2011

⁴ Inserted this definition to indicate that organizations including companies, NGOs also would have rights under this bill in addition to citizens.

⁵ Inserted "or organization".

Citizens Charter, or any violation of any law, rule or order relating to the corresponding public authority⁶ but does not include grievance relating to the service matters of a public servant whether serving or retired;

(g) "days" means the working days, referred to as the timeline;

(h) "Designated Authority" means such officer or authority appointed as per section 10A⁷:

Provided that in case an officer is designated as the Designated Authority, such officer shall be above the rank of the Grievance Redress Officer referred to in sub- section (I) of section 7;

(ha) "electronic mode" includes any method, process or application to deliver any service electronically⁸;

(hb) "electronic service delivery" means the delivery of public services or other services through electronic mode including, the receipt of forms and applications, issue or grant of any license, permit, certificate, sanction or approval and the receipt or payment of money⁹;

(i) "Grievance Redress Officer" means a Grievance Redress Officer appointed under section 7;

(j) "Head of the Department" means an officer designated as such by the appropriate Government, as the head of a Government Department or public authority;

(k) "Information and Facilitation Centre" means an Information and Facilitation Centre, including customer care centre, call centre, help desk, people's support centre established under section 6;

(l) "notification" means a notification published in the Official Gazette;

(m) "prescribed" means prescribed by the rules made under this Act;

(n) "public authority" means any authority or body or institution of self- government established or constituted,—

(i) by or under the Constitution;

⁶ Substituted for "*or in the functioning of a public authority, or any violation of any law, policy, programme, order or scheme*" to make it more specific.

⁷ Substituted for "*outside the concerned public authority as may be prescribed by the appropriate Government*" to reflect the new appointment process suggested in this bill in section 10A.

⁸ Inserted to include definitions pertaining to EDS Bill.

⁹ Inserted to include definitions pertaining to EDS Bill.

- (ii) by any other law made by Parliament;
- (iii) by any other law made by State Legislature;
- (iv) by notification issued or order made by the appropriate Government, and includes any,—

(A) body owned, controlled or substantially financed;

(B) non-Government organisation substantially financed, directly or indirectly by funds provided by the appropriate Government;

(C) an organisation or body corporate in its capacity as an instrumentality of “State” as defined under article 12 of the Constitution and rendering services of public utility in India;

(D) a Government company as defined under section 617 of the Companies Act, 1956;

(E) any other company which supplies goods or renders services in pursuance of an obligation imposed under any Central or State Act or under any licence or authorisation under any law for the time being in force or by the Central or State Government;

(v) by an agreement or memorandum of understanding between the Government and any private entity as Public-Private Partnership or otherwise;

(o) “service” means all goods and services being provided to any person by the Central Government and the State Government or public authority either directly or through any service provider and includes the receipt of forms and applications, issue or grant of any license, permit, certificate, sanction or approval and the receipt or payment of money by whatever name called in a particular manner¹⁰;

(oa) “service provider” means any individual, agency, company, partnership firm, sole proprietor firm or any such other body or agency which has been authorized by the Central Government or the State Government to offer services through electronic mode¹¹;

(p) "State Public Grievance Redressal Commission" means the State Public Grievance Redressal Commission constituted under section 13.

¹⁰ Substituted for the existing definition of service “(o) *“service” means all the goods and services, including functions, obligations, responsibility or duty, to be provided or rendered by a public authority*” to reflect the definition in EDS Bill;

¹¹ Inserted to include definitions pertaining to EDS Bill.

CHAPTER II
RIGHT TO SERVICE

3. Right to service:

Subject to the provisions of this Act, every individual citizen and organization¹² shall have the right to time bound delivery of goods and provision for services and redressal of grievances.

CHAPTER III
PUBLICATION OF CITIZENS CHARTER AND GRIEVANCE REDRESSAL OFFICER BY PUBLIC
AUTHORITIES

4. Obligation of public authority to publish Citizens Charter

(1) Every public authority shall publish, within six months of the commencement of this Act, a Citizens Charter specifying therein all the category of goods supplied and services rendered by it, in respect of all services that are either quantifiable or amenable to timely delivery without supply constraints¹³.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the Citizens Charter shall provide all or any of the following matters, namely:—

(a) the details of all the goods supplied and services rendered by the public authority and the name of person or agency through which such goods are supplied or services rendered and timings during which such goods are supplied or services rendered;

(b) the conditions under which a person or organization becomes entitled for goods and services, the class of persons who are entitled to receive such goods and avail services, the process through which a person or organization can apply for such goods and services and the time within which such goods shall be supplied or services be rendered, the form in which the services that are rendered are going to be provided, the nature of assisted access available at the public authority for accessing electronic services¹⁴;

(c) the quantitative and tangible parameters (including weight, size, frequency) of the goods and services available to the public;

¹² Inserted to provide a right to any citizen or organization dealing with the government.

¹³ Omitted “*the time within which such goods shall be supplied or services be rendered*” to restrict legal liability of public authority to create citizens charters only for those public goods and services that are amenable to it.

¹⁴ Inserted to include mandatory elements of citizens charters and provisions of EDS bill.

(d) complaint redressal mechanism including the time within which the complaint be disposed of and the officer of the public authority to whom such complaint may be made;

(e) the name and addresses of individuals responsible for the delivery of goods or rendering of services as designated officer mentioned in (a) above;

(f)¹⁵;

(g) any other information relevant to delivery of goods or provision of services or such other information as may be prescribed;

(h) the person responsible for providing feedback forms and receiving the feedback or comments or suggestions offered by the citizens or organizations dealing with the respective public authority¹⁶.

(3) The appropriate Government may, by notification, make rules in relation to citizens charter and grievance redressal.

5. Obligation of Head of the Department for updating and verifying the Citizens Charter:

(1) The Head of the Department in each public authority shall be responsible for updating and verifying the Citizens Charter every year and the accuracy of the contents thereof.

(2) It shall be the responsibility of the Head of the Department of every public authority to ensure that the Citizens Charter is widely disseminated to the public.

(3) It shall be the responsibility of the Head of the Department of every public authority to take steps in accordance with section 4 of the Right To Information Act, 2005 for providing relevant information to the public enabling them to exercise their rights mandated under this Act.

(4) Every Head of the Department shall ensure that all material be disseminated taking into consideration the local language and the most effective method of communication in that local area free of cost.

Explanation.—For the purposes of this section the expression "disseminated" means making known and communicating the information to the public through notice boards, newspapers, public announcements, media broadcasts, the internet or any other means, including inspection of offices of any public authority by any citizen.

¹⁵ Omitted "(f) any other functions, obligations, responsibility or duty of the public authority is required or reasonably expected to provide;" as it is too broad to be amenable for Citizens Charters.

¹⁶ Inserted to ensure that Citizens charters also contain information regarding the official responsible for receiving feedback.

(5) Every Head of the Department shall to the extent possible, ensure that the Citizens Charter is made available at the website of the public authority and in other electronic forms and shall be available free of cost.

(6) Every Head of the Department shall ensure that a copy of the Citizens Charter of the public authority duly certified by him is submitted to appropriate bodies, including appropriate Central and State Public Grievance Redress Commission, when it is published and subsequently, every time that it is modified, updated or amended.

(7) Every Head of the Department shall ensure that an appropriate feedback receiving mechanism is instituted and appropriate actions are taken to improve the delivery mechanisms of goods and services to the citizens¹⁷.

CHAPTER IV ESTABLISHMENT OF INFORMATION AND FACILITATION CENTRE

6. Establishment of Information and Facilitation Centre:

(1) Every public authority shall establish Information and Facilitation Centre for efficient and effective delivery of services and redressal of grievances, which may include establishment of customer care centre, call centre, help desk and people's support centre.

(2) Every Head of the Department of the public authority shall be responsible for the development, improvement, modernisation and reform in service delivery and redressal of grievance system and also include adoption of electronic modes, internet, etc.

(3) The appropriate Government may, by notification, make rules in relation to Information and Facilitation Centre.

¹⁷ Inserted to ensure that a feedback mechanism is put in place.

CHAPTER V
APPOINTMENT AND OBLIGATION OF GRIEVANCE REDRESS OFFICERS BY PUBLIC
AUTHORITY

7. Appointment and Obligations of Grievance Redress Officers, including for each municipality and Panchayat:

(1) Every public authority shall, within six months from the date of the coming into force of this Act, designate as many officers as may be necessary as Grievance Redress Officers in all administrative units or offices at the Central, State, district and sub-district levels, municipalities, Panchayats whereat supplies of goods or render services to receive, enquire into and redress any complaints from citizens in the manner as may be prescribed:

Provided that the Grievance Redress Officer so appointed shall be at least one level above and be deemed to have administrative control on the individual designated to deliver goods or render services as per the Citizens Charter as referred to in section 4.

(2) Every public authority shall, immediately on appointment or designation of a Grievance Redress Officer,—

(a) give, through a public notice in a newspaper published in Hindi or English language and in a newspaper published in an Indian language in circulation in the area in which such service provider is providing services, indicating therein the name of the Grievance Redress Officer, his address and telephone number, e-mail address, facsimile number and other means of contacting him in respect of each area for which the Grievance Redress Officer has been appointed or designated and thereafter give such public notice at least once in twelve months in the same manner:

Provided that in case of change of the name of the Grievance Redress Officer, his address and telephone number, e-mail address, facsimile number and other means of contacting him shall be intimated by public notice, in the same manner specified in this clause;

(b) display, at its each office, Information and Facilitation Centre, call centre, customer care centre, help desk, People's Support Centre and at the sales outlets, website and at the office of the Grievance Redress Officer and the appellate authorities, the name of the Grievance Redress Officer, their addresses and telephone numbers, e-mail addresses, facsimile numbers and other means of contacting them, in respect of each area for which the Grievance Redress Officer have been appointed or designated.

(3) Every public authority shall appoint or designate such number of Grievance Redress Officer under sub-section (1) and for such areas, as may be considered by it necessary, for Grievance Redress Officer being easily accessible and available for redressal of grievance of the public.

(4) The Grievance Redress Officer shall provide all necessary assistance to citizens in filing complaints.

(5) Where a complainant is unable to make a complaint in writing, the Grievance Redress Officer shall render all reasonable assistance to the person making the request orally to reduce the same in writing.

8. Acknowledgement of complaint by receipt thereof:

All complaints shall, within two days of the making of the complaint, be acknowledged by a receipt, issued in writing or through electronic means or through text message or through telephone or through any other means as may be prescribed, specifying the date, time, place, unique complaint number and particulars of receiver of complaint along with the stipulated time frame in accordance with its Citizens Charter within which the complaint will be redressed.

Provided that where the complaint pertains to another public authority, the recipient shall refer the complainant to the appropriate authority¹⁸.

9. Action to be taken by Grievance Redress Officer:

(1) Upon receipt of a complaint as defined in clause (f) of section 2, it shall be the duty of the concerned Grievance Redress Officer to ensure that,—

(a) the grievance is remedied in a time frame not exceeding three days in case of complaints relating to electronic services or goods/services which have no supply constraints, fifteen days in case of those complaints that warrant physical works, and sixty days in case of complaints related to violation of any law or rules or order pertaining to that public authority¹⁹, from the date of receipt of the complaint;

Provided that an appeal of an urgent or immediate nature shall be disposed of within the same day of the receipt of the appeal or before the date on which the cause of action may cease to exist, which shall not be later than thirty days from the date of receipt of the appeal²⁰.

(b) the reason for the occurrence of the grievance is identified and the responsibility of the defaulting office or individual is fixed and the grievance is redressed satisfactorily within thirty days from the date of receipt of the complaint by the Grievance Redress Officer;

(c) where the grievance has occurred as a result of a deficiency, negligence or malfeasance on the part of an office or individual then the action is taken in accordance with conduct rules and departmental procedures;

¹⁸ Inserted to ensure that citizens who are not aware of the appropriate authority are provided assistance.

¹⁹ Substituted for “*thirty days*” to include differentiated timeframes for different class of complaints.

²⁰ Inserted to keep this provision related to urgent complaints in sync with sub-section (7) of section 11 of this bill.

(d) where the Grievance Redress Officer is convinced that the individual responsible for the delivery of the goods and services has wilfully neglected to deliver the goods or services or there exist *prima facie* grounds for a case under the Prevention of Corruption Act, 1988, the Grievance Redress Officer can make an observation to that effect along with a recommendation for the penalty, including compensation to the complainant, to be imposed, to the designated authority.

(2) The Grievance Redress Officer may seek the assistance of any other officer required for the proper discharge of his duties or may direct any other officer to take action to redress a complaint.

(3) Any officer, whose assistance has been sought under sub-section (2), shall render all assistance to the Grievance Redress Officer seeking his assistance and for the purposes of any contravention of the provisions of this Act, such other officer shall be deemed to be a Grievance Redress Officer for the purposes of this Act.

(4) The Grievance Redress Officer shall ensure that the complainant is informed in writing the manner in which the grievance is redressed and shall give him a report in the form of an action taken report.

10. Forwarding of details of non-redressal of complaints to designated authority:

The Grievance Redress Officer shall, immediately after the expiry of the period of thirty days, report every complaint which has not been redressed along with the details of the complainant, nature of complaint, and reasons for non-redressal of complaints to the designated authority.

CHAPTER VI APPEAL TO THE DESIGNATED AUTHORITY

10A. Appointment of Designated Authority:

(1) The State Grievance Redressal Commission shall appoint an Ombudsman for each district and municipal corporation in consultation with the State Government, to act as the Designated authority for purposes of this Act.

(2) The Central Government shall appoint a Designated authority for each public authority under its purview who shall be an officer or authority outside the concerned public authority²¹.

11. Appeal:

²¹ Inserted to appoint Ombudsmen at the state level at each district and municipal corporation. The mechanism for Centre has not been changed.

(1) Every complaint forwarded along with the details under section 10 shall be deemed to have been filed by way of an appeal to the designated authority.

(2) Any individual aggrieved by a decision of the concerned Grievance Redress Officer or who has not received an action taken report in respect of a complaint filed by him, may, if he so desires, within thirty days from the expiry of such period or from the receipt of such decision, prefer an appeal to the designated authority:

Provided that the designated authority may admit the appeal after the expiry of thirty days if it is satisfied that the complainant was prevented by sufficient cause from filing the appeal in time.

(3) The receipt of the appeal under sub-section (2) shall be acknowledged by the office of the designated authority.

(4) The designated authority shall, for the purposes of its functions under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:—

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

(b) discovery and production of any document or other material object producible as evidence;

(c) receiving evidence on affidavits;

(d) requisitioning of any public record;

(e) issuing commission for the examination of witnesses;

(f) reviewing its decisions, directions and orders;

(g) any other matter which may be prescribed.

(5) The designated authority shall have original jurisdiction to adjudicate upon every application made to it under this section 11.

(6) The designated authority shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice and subject to the other provisions of this Act and of any rules made thereunder, the Authority shall have the power to regulate its own procedure.

(7) Every appeal filed under this section or complaint deemed to be by way of an appeal shall be disposed of by the designated authority within three days in case of appeals relating to electronic services or

goods/services which have no supply constraints, fifteen days in case of appeals that warrant physical works, and sixty days in case of appeals related to violation of any law or rules or order pertaining to that public authority²², from the date of receipt of such appeal:

Provided that an appeal of an urgent or immediate nature shall be disposed of within the same day of the receipt of the appeal or before the date on which the cause of action may cease to exist, which shall not be later than thirty days from the date of receipt of the appeal.

(8) The designated authority shall arrange to deliver copies of the decisions to the parties concerned within a period of five working days from the date of such decisions.

(9) The designated authority shall²³ impose penalty, including compensation to the complainant, in deciding an appeal against concerned officer for acting in a *mala fide* manner or having failed to discharge their duties without any sufficient and reasonable cause:

Provided that the concerned officers of the public authority shall be given a reasonable opportunity of being heard before any penalty is imposed on them.

(10) Where it appears to the designated authority that the grievance complained of is, *prima facie*, indicative or representative of a corrupt act or practice in terms of the Prevention of Corruption Act, 1988, on the part of the individual officer of the public authority complained against, then, it shall record in writing such evidence as may be found in support of such conclusion and shall initiate the proceedings or in writing refer the same to the appropriate authorities competent to take cognizance of such corrupt practice.

(11) The designated authority shall upon adjudication of a complaint have the powers to issue directions requiring the concerned officers of the public authority to take such steps as may be necessary to secure compliance with the provisions of Citizens Charter.

CHAPTER VII ESTABLISHMENT OF STATE PUBLIC GRIEVANCE REDRESSAL COMMISSION

12. Appeal to State Commission:

(1) Any person who, does not receive a decision within the time specified in Chapter V, or is aggrieved by a decision of the designated authority, falling within the jurisdiction of the State Government, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to the State Public Grievance Redressal Commission:

²² Substituted for “*thirty days*” to include differentiated timeframes for different class of complaints.

²³ Substituted for “*may*” to provide for mandatory penalties.

Provided that the Commission may admit the appeal after the expiry of thirty days if it is satisfied that the complainant was prevented by sufficient cause from filing the appeal in time.

(2) The decision of the State Public Grievance Redressal Commission under this section shall be binding.

13. Constitution of State Public Grievance Redressal Commission:

The State Government shall constitute, by notification, a Commission to be known as "the State Public Grievance Redressal Commission" to exercise the jurisdiction, power and authority conferred under this Act:

Provided that the State Information Commission appointed under section 15 of the Right to Information Act, 2005 prior to the commencement of this Act shall function as the State Public Grievance Redressal Commission:

Provided further that henceforth the appointment of State Public Grievance Commissioners shall take place according to section 15 of this Act²⁴.

14. Composition of State Commission:

The State Public Grievance Redressal Commission shall consist of,—

(a) a Chief Commissioner; and

(b) such number of Commissioners, not exceeding ten, as may be prescribed, out of which at least one each shall be from amongst the Scheduled Castes, Scheduled Tribes and Women.

15. Selection committee for appointment of State Commissioners:

(1) The Chief Commissioner and Commissioners shall be appointed by the Governor on the recommendation of a Selection Committee consisting of,—

(a) the Chief Minister, who shall be the Chairperson of the Committee;

(b) the Leader of Opposition in the Legislative Assembly; and

²⁴ Inserted to make Information Commission the Grievance Redressal Commission and the appointment prescribed in this Act is retained as it includes a judge in the Selection Panel as opposed to a Minister nominated by the Chief Minister.

(c) a sitting judge of the High Court to be nominated by the Chief Justice of the State.

(2) The selection committee shall select out of a panel of five eligible candidates for each vacancy which shall be finalised by a search committee consisting of such members as may be prescribed.

(3) Subject to the provisions of sub-sections (1) and (2), the Selection Committee may regulate its own procedure.

16. Qualifications for appointment of State Commissioners:

A person shall not be qualified for appointment as a Chief Commissioner or a Commissioner of the State Public Grievance Redressal Commission unless,—

(a) he is, or has been an officer of the State Government and has held the post in the rank of Secretary or the Principal Secretary to that Government; or

(b) he is or has been a District Judge for at least ten years; or

(c) he is or has been a Judge of the High Court of the State; or

(d) he is an eminent person recognised for his work towards public service in the area and who has worked for at least fifteen years in the social sector with a post-graduate degree in a relevant subject:

Provided that the State Government may prescribe criteria in addition to the above for the appointment of the Chief Commissioner and Commissioners.

17. Terms of office of Chief Commissioner and other Commissioners:

(1) The Chief Commissioner and the Commissioners shall hold office for a term of five years from the date on which they enter upon office or until they attain the age of sixty- five years whichever is earlier.

(2) The Chief Commissioner and the Commissioners shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment.

18. Staff, Salary and allowances of State Commission:

(1) The State Government shall provide the State Public Grievance Redressal Commission with such officers and employees as may be required for the discharge of its functions under this Act.

(2) The officers and employees so appointed under sub-section (1) shall discharge their functions under the general superintendence of the Chief Commissioner.

(3) The salary and allowances payable to, and the other terms and conditions of service of,—

(a) the Chief Commissioner shall be the same as that of an Election Commissioner;

(b) the Commissioners shall be the same as that of the Chief Secretary of the State:

Provided that if the Chief Commissioner or Commissioner, at the time of his appointment is, in receipt of a pension, other than a disability or wound pension in respect of any previous service under the Government of India or the Government of State, his salary in respect of the service as Chief Commissioner or Commissioner shall be reduced by the amount of that pension, including any portion of pension, which was commuted and pension equivalent of other forms of retirement benefits, excluding pension equivalent or retirement gratuity:

Provided further that where the Chief Commissioner or Commissioner, if at the time of his appointment, is in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as a Chief Commissioner or the Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:

Provided also that neither the salary and allowances nor the other terms and conditions of service of the Chief Commissioner or Commissioner shall be varied to their disadvantage after appointment.

19. Filling up of vacancies:

If, for any reason other than temporary absence, any vacancy occurs in the office of the State Public Grievance Redressal Commission then the Chief Commissioner shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Commission from the stage at which the vacancy is filled.

20. Resignation and removal:

(1) Any member of the State Public Grievance Redressal Commission may, by notice in writing under his hand addressed to the Governor of the State with a copy to the Chief Commissioner, resign his office.

(2) Notwithstanding anything contained in sub-section (1), the Governor may by order remove from office the Chief Commissioner or any Commissioner if the Chief Commissioner or a Commissioner, as the case may be,—

(a) is adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the Governor, involves moral turpitude; or

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

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

(e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chief Commissioner or as a Commissioner.

(3) The State Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the aforesaid Chief Commissioner or Commissioners.

21. Powers of Commission and procedure before it:

(1) The State Public Grievance Redressal Commission shall, for the purposes of its functions under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:—

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

(b) discovery and production of any document or other material object producible as evidence;

(c) receiving evidence on affidavits;

(d) requisitioning of any public record;

(e) issuing commission for the examination of witnesses;

(f) reviewing its decisions, directions and orders;

(g) any other matter which may be prescribed.

(2) The State Public Grievance Redressal Commission shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice and subject to the other provisions of this Act and of any rules made thereunder, the Commission shall have the power to regulate its own procedure.

22. Procedure of adjudication by State Public Grievance Redressal Commission:

(1) The State Public Grievance Redressal Commission shall have original jurisdiction to decide every appeal made to it under section 12.

(2) The State Public Grievance Redressal Commission shall arrange to deliver copies of the decision to the parties concerned within a period of fifteen days from the date of such decision.

23. Proceedings before Commission to be judicial proceedings:

All proceedings before the State Public Grievance Redressal Commission shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code and the Commission shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973.

24. Staff and officers to be public servants:

The staff and officers of the State Public Grievance Redressal Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

25. Time frame for disposal of appeals:

(1) An appeal under section 12 shall be disposed of within six days in case of appeals relating to electronic services or goods/services which have no supply constraints, thirty days in case of appeals that warrant physical works, and one hundred and twenty days in case of appeals related to violation of any law or rules or order pertaining to that public authority²⁵, from the date of receipt from the date of filing of the appeal:

Provided that an appeal of an urgent or immediate in nature shall be disposed of within the same day of the receipt of the appeal or before the date on which the cause of action may cease to exist, which shall not be later than fifteen days from the date of receipt of the appeal.

(2) The State Public Grievance Redressal Commission shall²⁶ impose penalty, including compensation to the complainant, while deciding an appeal against designated officer and Grievance Redress Officers for

²⁵ Substituted for “*sixty days*” to include differentiated timeframes for different class of complaints and increased in proportion to the time frame provided to the Grievance Redressal Officer and Designated Authority.

²⁶ Substituted for “*may*” to provide for mandatory penalties.

acting in a *mala fide* manner or having failed to discharge their duties without any sufficient and reasonable cause:

Provided that the concerned officers of the public authority shall be given a reasonable opportunity of being heard before any penalty is imposed on them under this section.

26. Power to issue directions and exercise original jurisdiction:

(1) The State Public Grievance Redressal Commission shall, upon adjudication of a complaint, have the power to issue directions,—

(a) requiring the public authority to take such steps as may be necessary to secure compliance with the provisions of the Citizens Charter;

(b) requiring the timely creation, updation and wide dissemination of the Citizens Charter of the public authority.

(2) It shall be the duty of the State Public Grievance Redressal Commission to receive and inquire into a complaint from any person,—

(a) who has been unable to submit an appeal to the designated authority;

(b) who has been refused redress of grievance under this Act;

(c) whose complaint has not been disposed of within the time limit specified;

(d) who has been denied access to the Citizens Charter of the public authority either because the Charter was not created by the public authority or is inadequate in any regard or it is not widely disseminated to make people aware of it;

(e) in respect of any other matter relating to registering and redressing of a complaint or appeal under this Act.

(3) The State Public Grievance Redressal Commission may, *suo motu*, take notice of failure to deliver goods and services in accordance with the provisions of this Act and refer such cases for disposal to the Head of the Department of the Public Authority and in such cases, an action taken report shall be sent by the Head of the Department of the Public Authority to the State Commission within thirty days from the date of such reference.

(4) Where the State Public Grievance Redressal Commission, is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry *suo motu* in respect thereof.

27. Burden of proof to be on Grievance Redress Officer:

In any appeal proceedings, the burden of proof to establish that a non-redressal of complaint by the Grievance Redress Officer shall be on the Grievance Redress Officer who denied the request.

28. Where Grievance complained of is a result of Corrupt practices:

Where it appears to the Commission that the grievance complained of is, *prima facie*, indicative of a corrupt act or practice in terms of the Prevention of Corruption Act, 1988, on the part of the responsible officer of the public authority complained against, then, it shall record such evidence as may be found in support of such conclusion and shall refer the same to the appropriate authorities.

CHAPTER VIII

ESTABLISHMENT OF THE CENTRAL PUBLIC GRIEVANCE REDRESSAL COMMISSION

29. Appeal to Central Commission:

(1) Any person who, does not receive a decision within the time specified in Chapter V, or is aggrieved by a decision of the designated authority falling within the jurisdiction of the Central Government, may within thirty days from the expiry of such period or from the receipt of such a decision prefer an appeal to the Central Public Grievance Redressal Commission:

Provided that the Commission may admit the appeal after the expiry of thirty days if it is satisfied that the complainant was prevented by sufficient cause from filing the appeal in time.

(2) The decision of the Central Public Grievance Redressal Commission under this section shall be binding.

30. Constitution of Central Public Grievance Redressal Commission:

The Central Government shall constitute, by notification, a body to be known as "Central Public Grievance Redressal Commission" to exercise the jurisdiction, powers and authority conferred under this Act.

Provided that the State Information Commission appointed under section 15 of the Right to Information Act, 2005 prior to the commencement of this Act shall function as the State Public Grievance Redressal Commission:

Provided further that henceforth the appointment of State Public Grievance Commissioners shall take place according to section 15 of this Act²⁷.

31. Composition of Central Commission:

The Central Public Grievance Redressal Commission shall consist of,—

(a) the Chief Public Grievance Redress Commissioner; and

(b) such number of Central Public Grievance Redress Commissioners, not exceeding ten, as may be prescribed out of which at least one each shall be from amongst Scheduled Castes, Scheduled Tribes and Women.

32. Selection committee for appointment of Central Public Grievance Redress Commissioners:

(1) The Chief Public Grievance Redress Commissioner and Central Public Grievance Redress Commissioners shall be appointed by the President on the recommendation of a Committee consisting of,—

(a) the Prime Minister, who shall be the Chairperson of the committee;

(b) the Leader of Opposition in the Lok Sabha; and

(c) a sitting Judge of the Supreme Court to be nominated by the Chief Justice of India.

(2) The Selection Committee shall select out of a panel of five eligible candidates for each vacancy which shall be finalised by a search committee consisting of such members as may be prescribed.

(3) Subject to the provisions of sub-sections (1) and (2), the Selection Committee may regulate its own procedure.

33. Qualifications for appointment of Central Public Grievance Redress Commissioners:

(1) A person shall not be qualified for appointment as a Chief Commissioner or Commissioners of Central Public Grievance Redressal Commission unless,—

²⁷ Inserted to make Information Commission the Grievance Redressal Commission and the appointment prescribed in this Act is retained as it includes a judge in the Selection Panel as opposed to a Minister nominated by the Prime Minister.

(a) he is, or has been an officer of the Central Government and has held the post in the rank of Secretary to the Government of India; or

(b) he is, or has been a Chief Justice of a High Court or a Judge of the Supreme Court;

(c) he is, an eminent person recognised for his work towards public service in the area and who has worked for at least twenty years in the social sector with a post-graduate degree in a relevant subject:

Provided that the Central Government may prescribe criteria in addition to the above for the appointment of the Chief Commissioner and Commissioners.

34. Terms of office of Central Grievance Redress Commissioners:

(1) The Chief Public Grievance Redress Commissioner and the Central Public Grievance Redress Commissioners shall hold office for a term of five years from the date on which they enter upon the office or until the age of sixty-five years whichever is earlier²⁸.

(2) The Chief Grievance Redress Commissioner and the Central Public Grievance Redress Commissioners²⁹ shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment.

35. Staff, Salary and allowances of Central Commission:

(1) The Central Government shall provide the Central Public Grievance Redressal Commission with such officers and employees as may be required for the discharge of its functions under this Act.

(2) The officers and employees so appointed under sub-section (1) shall discharge their functions under the general superintendence of the Chief Public Grievance Redress Commissioner.

(3) The salary and allowances payable to and the other terms and conditions of service of,—

(a) the Chief Public Grievance Redress Commissioner shall be the same as that of the Chief Election Commissioner; and

(b) the Central Public Grievance Redress Commissioner shall be the same as that of an Election Commissioner:

²⁸ Inserted to include retirement age in line with terms of State Grievance Redressal Commission according to section 17 of this bill.

²⁹ Inserted to restrict the term of Commissioners in line with those of State Grievance Redressal Commission as provided in section 17 of this bill.

Provided that if the Chief Public Grievance Redress Commissioner or Central Public Grievance Redress Commissioner, at the time of his appointment is, in receipt of a pension, other than a disability or wound pension in respect of any previous service under the Government of India or the Government of State, his salary in respect of the service as Chief Public Grievance Redress Commissioner or Central Public Grievance Redress Commissioner shall be reduced by the amount of that pension, including any portion of pension, which was commuted and pension equivalent of other forms of retirement benefits, excluding pension equivalent or retirement gratuity:

Provided further that where the Chief Public Grievance Redress Commissioner or Central Public Grievance Redress Commissioner, if at the time of his appointment, is in receipt of retirement benefits in respect of any previous service rendered in a Corporation established by or under any Central Act or State Act or a Government company owned or controlled by the Central Government or the State Government, his salary in respect of the service as a Chief Public Grievance Redress Commissioner or the Central Public Grievance Redress Commissioner shall be reduced by the amount of pension equivalent to the retirement benefits:

Provided also that neither the salary and allowances nor the other terms and conditions of service of the members of the Central Public Grievance Redressal Commission shall be varied to their disadvantage after appointment.

36. Filling up of vacancies:

If, for any reason other than temporary absence, any vacancy occurs in the office of the Central Public Grievance Redressal Commission then the Chief Public Grievance Redress Commissioner shall appoint another person in accordance with the provisions of this Act to fill the vacancy and the proceedings may be continued before the Commission from the stage at which the vacancy is filled.

37. Resignation and removal:

(1) Any member of the Central Public Grievance Redressal Commission may, by notice in writing under his hand addressed to the President with a copy to the Chief Public Grievance Redress Commissioner, resign his office.

(2) Notwithstanding anything contained in sub-section (1), the President may by order remove from office the Chief Public Grievance Redress Commissioner or any Central Public Grievance Redress Commissioner if the Chief Public Grievance Redress Commissioner or the Central Public Grievance Redress Commissioner, as the case may be,—

(a) is adjudged an insolvent; or

(b) has been convicted of an offence which, in the opinion of the President, involves moral turpitude; or

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

(d) is, in the opinion of the President, unfit to continue in office by reason of infirmity of mind or body; or

(e) has acquired such financial or other interest as is likely to affect prejudicially his functions as the Chief Public Grievance Redress Commissioner or a Central Public Grievance Redress Commissioner.

(3) The Central Government may, by rules, regulate the procedure for the investigation of misbehaviour or incapacity of the aforesaid Chief Public Grievance Redress Commissioner or Central Public Grievance Redress Commissioners.

38. Powers of Central Commission and procedure before it:

(1) The Central Public Grievance Redressal Commission shall, for the purposes of its functions under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 in respect of the following matters, namely:—

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

(b) discovery and production of any document or other material object producible as evidence;

(c) receiving evidence on affidavits;

(d) requisitioning of any public record;

(e) issuing commission for the examination of witnesses;

(f) reviewing its decisions, directions and orders;

(g) any other matter which may be prescribed.

(2) The Central Public Grievance Redressal Commission shall have original jurisdiction to adjudicate upon every appeal made to it under section 29.

(3) The Central Public Grievance Redressal Commission shall not be bound by the procedure laid down in the Code of Civil Procedure, 1908 but shall be guided by the principles of natural justice and subject to the other provisions of this Act and of any rules made thereunder, the Commission shall have the power to regulate its own procedure.

(4) The Central Public Grievance Redressal Commission shall arrange to deliver copies of the decision to the parties concerned within a period of fifteen days from the date of such decision.

39. Proceedings before Central Commission to be judicial proceedings:

All proceedings before the Central Public Grievance Redressal Commission shall be deemed to be judicial proceedings within the meaning of sections 193 and 228 of the Indian Penal Code and the Commission shall be deemed to be a civil court for the purposes of sections 345 and 346 of the Code of Criminal Procedure, 1973.

40. Burden of proof to be on Grievance Redress Officer:

In any appeal proceedings, the burden of proof to establish that a non-redressal of complaint by the Grievance Redress Officer shall be on the Grievance Redress Officer who denied the request.

41. Staff and officers to be public servants:

The staff and officers of the Central Public Grievance Redressal Commission shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

42. Time frame for disposal of Appeals:

(1) An appeal under section 29 shall be disposed of within six days in case of appeals relating to electronic services or goods/services which have no supply constraints, thirty days in case of appeals that warrant physical works, and one hundred and twenty days in case of appeals related to violation of any law or rules or order pertaining to that public authority³⁰, from the date of filing of the appeal:

Provided that an appeal of an urgent or immediate in nature shall be disposed of within the same day of the receipt of the appeal or before the date on which the cause of action may cease to exist, which shall not be later than fifteen days from the date of receipt of the appeal.

(2) The Central Public Grievance Redressal Commission shall³¹ impose penalty, including compensation to the complainant, in deciding an appeal against designated officers and Grievance Redress Officers for acting in a *mala fide* manner or having failed to discharge their duties without any sufficient and reasonable cause:

³⁰ Substituted for “*sixty days*” to include differentiated timeframes for different class of complaints and increased in proportion to the time frame provided to the Grievance Redressal Officer and Designated Authority.

³¹ Substituted for “*may*” to provide for mandatory penalties.

Provided that the concerned officers of the public authority shall be given a reasonable opportunity of being heard before any penalty is imposed on them.

43. Power to issue directions:

(1) The Central Public Grievance Redressal Commission shall, upon adjudication of a complaint, have the power to issue directions,—

(a) requiring the public authority to take such steps as may be necessary to secure compliance with the provisions of the Citizens Charter;

(b) requiring the timely creation, updation and wide dissemination of the Citizens Charter of the public authority

(2) It shall be the duty of the Central Public Grievance Redressal Commission to receive and inquire into a complaint from any person,—

(a) who has been unable to submit an appeal to the designated authority;

(b) who has been refused redress of grievance under this Act;

(c) whose complaint has not been disposed of within the time limit specified;

(d) who has been denied access to the Citizens Charter of the public authority either because the Charter was not created by the public authority or is inadequate in any regard or it is not widely disseminated to make people aware of it;

(e) in respect of any other matter relating to registering and redressing of a complaint or appeal under this Act.

(3) The Central Public Grievance Redressal Commission may, *suo motu*, take notice of failure to deliver goods and services in accordance with the provisions of this Act and refer such cases for disposal to the Head of the Department of the Public Authority and in such cases, an action taken report shall be sent by the Head of Department of the Public Authority to the Central Commission within thirty days from the date of such reference.

(4) Where the Central Public Grievance Redressal Commission, is satisfied that there are reasonable grounds to inquire into the matter, it may initiate an inquiry *suo motu* in respect thereof.

44. Where Grievance complained of is a result of corrupt practices:

Where it appears to the Central Public Grievance Redressal Commission that the grievance complained of is *prima facie* indicative of a corrupt act or practice in terms of the Prevention of Corruption Act, 1988, on the part of the responsible officer of the public authority complained against then it shall record such evidence as may be found in support of such conclusion and shall refer the same to the appropriate authorities.

CHAPTER IX PENALTIES AND COMPENSATION

45. Penalty and compensation for mala fide action:

(1) The designated authority, the State Public Grievance Redressal Commission or the Central Public Grievance Redressal Commission, as the case may be, shall³² impose a penalty of two hundred and fifty rupees for each day of delay or³³ a lump sum penalty in the provision of goods and services, against designated official responsible for delivery of goods and services or Grievance Redress Officer for their failure to deliver goods or render services to which the applicant is entitled or Head of the Department for his failure to publish citizen charters in accordance to the provisions in sections 4 and 5 of this Act, as the case may be³⁴, which may extend up to fifty thousand rupees which shall be recovered from the salary of the official against whom penalty has been imposed.

(2) On imposition of the penalty under sub-section (1), the appellate authority shall³⁵, by order, direct that such portion of the penalty imposed under the said section shall be awarded to the appellant, as compensation, as it may deem fit or in lieu of compensation, a written apology and an explanation of the steps being taken to ensure that such failures are not repeated shall be provided by the designated official to the appellant within a stipulated timeframe, if the appellant so desires³⁶:

³² Substituted for “*may*” to provide for mandatory penalties.

³³ Inserted to provide for imposing pro-rata penalties if the Commission deems fit.

³⁴ Inserted to provide for imposing penalties on the Head of the Department if the Citizen Charters are not published.

³⁵ Substituted for “*may*” to provide for mandatory compensation to the appellants.

³⁶ Inserted to provide for non-financial compensation for the appellant, if he so desires, as it is the minimum courtesy that is owed to him. Moreover the written explanation will lead to a reduction in such failures in the future. This provision is drawn from recommendations of a Parliamentary Select Committee of the United Kingdom. In fact, this committee goes to the extent of suggesting that the compensation to the complainant should be equivalent to restoring him to the position he would have been if the maladministration had not occurred. However, this might be too broad for the current Indian

Provided that the amount of such compensation awarded shall not exceed the amount of penalty imposed under the said section.

(3) If any public servant is found guilty under sub-section (1), the disciplinary authority shall initiate the disciplinary proceedings against such officer of the public authority, who if proved to be guilty of a *mala fide* action in respect of any provision of this Act, shall be liable to such punishment including a penalty as the disciplinary authority may decide.

CHAPTER IXA REWARDS FOR PERFORMANCE

45A Rewards for better performing public officials and authorities:

(1) The Central Public Grievance Redressal Commission or the State Public Grievance Redressal Commission, as the case may be, shall design and implement a reward scheme with financial incentives for public authorities or their employees, who are fulfilling their duties better than the expected service levels laid down in the Citizens Charters in consultation with the Central Government or the State Government, as the case may be.

(2) The financial incentives to be provided in sub-section (1) would be drawn from the penalties collected from erring public servants and a percentage of the fee collected from the citizens for the goods and services delivered³⁷.

context. Presented in “Public Administration Public Administration Select Committee. (2008). *When Citizens Complain*. House of Commons, London”.

³⁷ Inserted to provide a reward scheme, which will complement the penalty mechanism proposed in this bill. Together they would orient the incentives of the public servants to strive towards better delivery of public services.

CHAPTER IXB
FUNCTIONS OF THE GRIEVANCE REDRESSAL COMMISSION³⁸

45B. Functions of the Grievance Redressal Commission:

(1) The Central Grievance Redressal Commission or State Grievance Redressal Commission, as the case may be, shall monitor the implementation of this Act on a regular basis.

(2) Without prejudice to the provisions contained in sub-section (1), the functions of the Central Grievance Redressal Commission or State Grievance Redressal Commission, as the case may be, shall, amongst other things, include the following, namely:—

(a) directing the provision of services in electronic form within five years where feasible, except those services the Central Government or the State Government, notifies not to deliver electronically for the reasons to be specified in such notification³⁹;

(b) monitoring the publication of services to be delivered in the citizens charters and adherence to the time schedule, manner of delivery and quality of service notified for delivery of public services by the Central Government or the State Government, as the case may be;

(c) acting as a unified dissemination centre for all the information pertaining to the citizens charters of all the public authorities in its jurisdiction by setting up a call centre for related enquiries and displaying this information on its website⁴⁰;

(d) monitoring the periodic progress made by the Central Government or the State Government or any public authority, as the case may be, towards achieving the delivery of all services in accordance with the provisions of this Act;

(e) monitoring the periodic progress made by the Central Government or the State Government or any public authority, as the case may be, towards compliance with the applicable electronic governance standards and make recommendations in respect thereof⁴¹;

³⁸ Inserted a chapter to list out functions of Grievance Redressal Commission to incorporate functions envisaged for Electronic Service Delivery Commission in section 24 of EDS Bill, to incorporate feedback mechanisms, to disseminate good practices in public service delivery and other functions to improve the overall public service delivery.

³⁹ Inserted to incorporate the mandatory provisions listed in section 3 of the EDS Bill.

⁴⁰ Inserted to provide for a single window to get information related to any charter in the respective jurisdiction.

(f) recommending the simplification of processes and forms relating to delivery of goods and services by the Central Government or the State Government or any public authority, as the case may be and appropriate modifications to the Citizens Charters⁴²;

(g) recommending the simplification of processes and forms relating to delivery of services to be provided in electronic form;

(h) recommending the integration of delivery points through single window outlets such as common service centres⁴³;

(i) recommending the integration of Information and Facilitation Centres and Common Service Centres, where appropriate;

(j) conducting citizen awareness surveys of citizen charters and satisfaction surveys of citizens and organizations for the goods and services delivered by the public authorities⁴⁴;

(k) undertaking independent evaluations or performance audits of government schemes or programmes, when referred to by the Parliament or the Central Government or the State Government or the State Legislature, as the case may be⁴⁵;

(l) offering recommendations on design of new schemes or programmes, when referred to by the Parliament or the Central Government or the State Government or the State Legislature, as the case may be⁴⁶;

⁴¹ Inserted to provide for ease of inter-operability, harmonization and integration of different electronic services in accordance with the standards stipulated by the Central Government. This clause is in accordance with section 55 of this Bill, introduced in line with section 5 of the EDS Bill.

⁴² Inserted to ensure that Citizens Charters get reviewed from time to time. This will complement the obligations of the Head of the Department to review the Charters in accordance with section 5 of this Bill.

⁴³ Inserted to provide for ease of transactions to the citizens or organizations.

⁴⁴ Inserted to ensure that the dissemination of citizen charters is adequate. Surveys have shown that only 7% of the citizens knew about the existence of citizens charters that were launched as part of the reform initiatives in 1997. Presented in “Paul, S. (2008). India's Citizen's Charters: In Search of a Champion. *Economic and Political Weekly*, 43 (7), 67-73”.

⁴⁵ Inserted to leverage synergies in administration. This Commission would most likely have the data on grievances related to all the schemes and programmes of the Government and hence would have an advantage in taking up studies related to them.

⁴⁶ Inserted to leverage the experience of the Commission in the design of the schemes.

(m) compiling the best practices adopted in the process of delivery of goods and services including processes of e-governance, from the action taken reports sent by the Heads of the Departments or from any other source and organizing appropriate events such as training workshops or conferences etc., to disseminate and aid in adoption of such best practices⁴⁷; and

(n) monitoring the progress made by the Central Government or the State Government or any public authority, as the case may be, in adopting the recommendations provided.

Provided that the recommendations of the Central Grievance Redressal Commission or State Grievance Redressal Commission, as the case may be, shall be ordinarily implemented by the Central Government or the State Government or any public authority, as the case may be, in the specified time frame and reasons for any disagreement in implementation of these recommendations shall be provided to the appropriate Commission in writing⁴⁸.

CHAPTER X REPORTING OF REDRESSAL OF GRIEVANCES BY PUBLIC AUTHORITY

46. Reporting requirements:

(1) Every public authority shall ensure that every Grievance Redress Officer keeps a record of complaints made to it or appeal therein and the decisions on such complaints and appeals.

(2) Every public authority shall publish on its website, by the 15th day of every month or at such shorter intervals, as may be prescribed, a report mentioning therein—

- (a) the number of complaints received;
- (b) the number of complaints pending;
- (c) the number of complaints disposed of; and

⁴⁷ Inserted to provide for the Commission to act as a nodal point in disseminating good practices in public service delivery.

⁴⁸ Inserted to strengthen the Commission to make binding recommendations to improve public service delivery, unless the Government gives reasons in writing the reasons for non-compliance. The flexibility for the Governments is provided, as ultimately the process of public service delivery is a policy issue and therefore an independent body ought not to have binding powers over the Government. This is also in sync with sections 37 and 38 of the EDS Bill, where the decision of the Government prevails over that of the Commission.

(ca) the number of complaints upheld by the designated authority;

(cb) the number of complaints upheld by the Central Grievance Redressal Commission or the State Grievance Redressal Commission, as the case may be⁴⁹;

(d) such other particulars, as may be prescribed, for discharge of its functions under this Act.

(3) Every public authority shall furnish the following information to the Central Grievance Redressal Commission or the State Grievance Redressal Commission, as the case may be, namely⁵⁰:—

(a) information specified in sub-section (2);

(b) a compilation of the feedback received and an action taken report in pursuance thereof;

(c) action taken reports on the recommendations of the Commission in the stipulated time frame;

(d) the steps taken to enhance the services that are provided in electronic form;

(e) the steps taken to ensure availability of assisted access provided to the citizens to access electronic services;

(f) the steps taken to ensure compliance with the applicable electronic governance standards;

(g) the steps taken to simplify the processes and integrate delivery points of different goods and services;

(h) recommendations for further improvement of delivery of goods and services and the legal and policy interventions which may be required for this improvement;

(i) any other information, which the Commission seeks in relation to the provisions of this Act, from time to time.

Explanation:- For purposes of this section, the Head of the Department in the public authority shall be responsible for ensuring that the provisions are followed.

⁴⁹ Inserted to provide for this information to the public, as these indicators reflect the quality of grievance redressal by the Grievance Redressal Officer and the public display could induce performance improvements in the respective public authority.

⁵⁰ Inserted to incorporate provisions in section 25 of the EDS Bill and customized according to the broader objectives of this bill.

CHAPTER XA
ANNUAL REPORTS

46A. Annual reports:

(1) It shall be the duty of the Central Grievance Redressal Commission or State Grievance Redressal Commission, as the case may be, to present annually to the President or the Governor, as appropriate, a report on the implementation of the provisions of this Act, the work done by the Commission and a memorandum explaining, in respects of the cases, if any, where the recommendations of the Commission was not complied with and the reasons given by the appropriate Government for such non-compliance⁵¹.

(2) On receipt of such report, the President or Governor, as appropriate, shall cause a copy thereof, to be laid before each House of Parliament or the Legislative Assembly, as the case may be.

CHAPTER XI
MISCELLANEOUS

47. Appeal against decision of State Commission or Central Commission:

(1) Any person aggrieved by the decision of the Central Public Grievance Redressal Commission, which contains the findings relating to corruption under the Prevention of Corruption Act, 1988, may prefer an appeal to the appropriate authorities⁵².

(2) Any person aggrieved by the decision of the State Public Grievance Redressal Commission, which contains the findings relating to corruption under the Prevention of Corruption Act, 1988, may prefer an appeal to the appropriate authorities⁵³.

(3) The time within which and the manner in which the appeal may be filed under this section shall be such as may be prescribed by the appropriate Government.

⁵¹ Inserted to incorporate sub-section 4 of section 25 of EDS Bill. Moreover these provisions could give the recommendations of the Commission a binding effect ordinarily. This provision will also result in constant updation of the processes in the public service delivery in terms of simplification, integration and ease of access for the citizens.

⁵² Substituted for “*Lokpal constituted under the Lokpal and Lokayuktas Act, 2011*”, as the bill has not yet been passed by both the houses.

⁵³ Substituted for “*Lokayukta constituted under the Lokpal and Lokayuktas Act, 2011*”, for the above reasons.

48. Bar of jurisdiction of court:

No civil court shall have jurisdiction to settle, decide or deal with any question or to determine any matter which is by or under this Act required to be settled, decided or dealt with or to be determined by the Grievance Redress Officer or the designated authority or the State Public Grievance Redressal Commission or the Central Public Grievance Redressal Commission.

49. Enforcement of orders by State Public Grievance Redressal Commission or the Central Public Grievance Redressal Commission:

Every order made by the State Public Grievance Redressal Commission or the Central Public Grievance Redressal Commission may be enforced by the State Public Grievance Redressal Commission or the Central Public Grievance Redressal Commission, as the case may be, in the same manner as if it were a decree or order made by a court in a suit pending therein and it shall be lawful for the State Public Grievance Redressal Commission or the Central Public Grievance Redressal Commission, as the case may be, to send, in the event of its inability to execute it, such order to the court within the local limits of whose jurisdiction,—

(a) in the case of a public authority not falling under clauses (b) and (c), the place at which the main office of such public authority is situated; or

(b) in the case of an order against a public authority being a company, the registered office of the company is situated; or

(c) in the case of an order against any other person, the place where the person concerned voluntarily resides or carries on business or personally works for gain is situated, and

thereupon, the court to which the order is so sent, shall execute the orders as if it were a decree or order sent to it for execution.

50. Protection for acts done in good faith:

No suit, prosecution or other legal proceeding shall lie against any person or anything which is in good faith done or intended to be done under this Act or any rule made thereunder.

50A. Specification of electronic governance standards⁵⁴:

Any Department in the Government of India may, from time to time, notify, in such manner as may be prescribed, electronic governance standards, being not inconsistent with electronic governance standards notified by the Central Government, as may be necessary for ensuring inter-operability, integration, harmonisation and security of electronic services:

⁵⁴ Inserted in line with section 5 of the EDS Bill.

Provided that a State Government may prescribe such standards which had not been notified by the Central Government and the standards so notified by the State Government shall remain in force till such standards are notified by the Central Government.

51. Provisions to be in addition to existing laws:

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

52. Power to make rules:

(1) The appropriate Government may, by notification, make rules for carrying out the provisions of this Act.

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

(a) the officer or the authority to be designated as Designated Authority under clause(h) of section 2;

(b) other information under clause (g) of sub-section (2) of section 4;

(c) matters in relation to Citizens Charter under sub-section (3) of section 4;

(d) matters in relation to the information and facilitation centre, under sub-section (3) of section 6;

(e) the manner of inquiry into and redressal of grievance of the complaints received from citizens under sub-section (1) of section 7;

(f) the other means by which complaints may be made under section 8;

(g) the other matters for which the designated authority shall have power under clause (g) of sub-section (4) of section 11;

(h) the number of Commissioners of the State Public Grievance Redressal Commission under clause (b) of section 14;

(i) the members of the search committee under sub-section (2) of section 15;

(j) additional criteria in relation to selection of Chief Commissioner and the Commissioners of the State Public Grievance Redressal Commission under proviso to section 16;

(k) the procedure of investigation of misbehaviour or incapacity for removal of the Chief Commissioners and other Commissioners of, the State Public Grievance Redressal Commission under sub-section (3) of section 20;

(l) the other matters for which the State Public Grievance Redressal Commission shall have the powers under clause (g) of sub-section (1) of section 21;

(m) the number of Commissioners of the Central Public Grievance Redressal Commission under clause (b) of section 31;

(n) the members of the search committee under sub-section (2) of section 32;

(o) additional criteria in relation to selection of Chief Commissioner and the Commissioners of the Central Public Grievance Redressal Commission under proviso to section 33;

(p) the procedure of investigation of misbehaviour or incapacity for removal of the Chief Commissioner and other Commissioners of, the Central Public Grievance Redressal Commission under sub-section (3) of section 37;

(q) the other matters for which the Central Public Grievance Redressal Commission shall have the powers under clause (g) of sub-section (1) of section 38;

(r) the time within which the record of complaints to the public authority and the decisions on the complaints and appeals shall be published on the website and other particulars under sub-section (2) of section 46;

(s) the time within which and the manner in which an appeal may be filed under sub-section(3) of section 47;

(t) any other matter which is required to be or may be prescribed under this Act.

53. Laying of rules:

(1) Every rule made by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

(2) Every rule made by the State Government shall be laid, as soon as may be after it is made, before the State Legislature.

54. Power to remove difficulties:

(1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Provided that no order shall be made under this section after the expiry 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 each House of Parliament.

54A. Amendments to other Acts:

The enactments specified in the Schedule shall be amended in the manner specified therein.

THE SCHEDULE
AMENDMENTS TO THE RIGHT TO INFORMATION ACT, 2005
No. 22 of 2005

1. In section 2, the following clause shall be inserted:

(o) “Head of the Department” means an officer designated as such by the appropriate Government, as the head of the a Government Department or public authority⁵⁵;

2. In section 4, following shall be inserted:

Explanation II:—For the purposes of this section, the Head of the Department shall be responsible for duties of the public authority listed in the sub-sections⁵⁶.

3. For section 12, the following section shall be substituted:

12. The Central Public Grievance Commission established under section 30 of the Right of Citizens for Time Bound Delivery of Goods and Services and Redressal of their Grievances Act, 2011 shall function as the Central Information Commission⁵⁷.

4. For section 15, the following section shall be substituted:

15. The State Public Grievance Commission established under section 13 of the Right of Citizens for Time Bound Delivery of Goods and Services and Redressal of their Grievances Act, 2011 shall function as the State Information Commission⁵⁸.

5. Sections 13, 14, 16, and 17 shall be omitted⁵⁹.

⁵⁵ Inserted a definition “*Head of the Department*” as mentioned in this bill.

⁵⁶ Inserted a definition to make the Head of the Department responsible for providing the information listed in section 4 of RTI Act.

⁵⁷ Substituted for Section 12 of RTI Act to make the Grievance Redressal Commission the Information Commission.

⁵⁸ Substituted for Section 12 of RTI Act to make the Grievance Redressal Commission the Information Commission

⁵⁹ Omitted sections relating to terms and conditions of Information Commissions as the terms and conditions mentioned in this bill shall take effect.

6. In clause 18(1)(b), for the words “who has been refused access to any information requested under this Act” the words “who has been refused access to any information to be provided under section 4 of this Act or any information requested under this Act”⁶⁰;

7. The words “or sub-section (3)⁶¹” shall be inserted after “sub-section (1) or sub-section (2)” in sub-section 6 of section 19 of this Act.

8. In section 20, the following sub-section shall be inserted:

(3) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Head of the Department of the concerned public authority, has, without any reasonable cause, failed to fulfill the functions under section 4 of this Act, it shall impose a lump sum penalty, which may extend to fifty thousand rupees:

Provided that the Head of the Department shall be given a reasonable opportunity of being heard before any penalty is imposed on him

Provided further that the burden of proving that he acted reasonably and diligently shall be on the Head of the Department⁶².

⁶⁰ Inserted to provide original jurisdiction for Information Commission on complaints regarding non-provision of information according to section 4 of the RTI Act.

⁶¹ Inserted to provide for a stipulated timeframe in which the Information Commissions have to dispose of the appeals in line with that of the Public Information Officer.

⁶² Inserted to provide for provisions to penalize the Head of the Department for non-provision of information according to section 4 in line with sub-section (1) and (2) of section 20 in the RTI Act.

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