
(2011) 08 CHH CK 0045
In the Chhattisgarh High Court
Case No : Writ Petition (C) No. 3750 of 2011

B.D. Pradhan

APPELLANT

Vs

Chhattisgarh Lok Aayog

RESPONDENT

Date of Decision : 03-08-2011

Acts Referred:

Chhattisgarh Lok Aayog Adhiniyam, 2002 — Section 10, 7, 7(2), 7(3)(a), 8

Citation : (2011) 5 MPHT 43

Hon'ble Judges : Satish K. Agnihotri, J

Bench : Division Bench

Advocate : Neerja Pradhan, for the Appellant;

Final Decision : Dismissed

Judgement

Satish K. Agnihotri, J.—The petitioner seeks to challenge the order dated 8-1-2010 (Annexure P-1) passed on the complaint dated 11-12-2009 (Annexure P-2), whereunder the Pramookh Lok Ayukt/respondent No. 1 having considered the complaint came to the conclusion that no case has been made out for further enquiry on the complaint under the provisions of Section 7 of the Chhattisgarh Lok Aayog Adhiniyam, 2002 (for short "the Adhiniyam, 2002"). The brief facts, in nutshell, as projected by the petitioner is that the petitioner has filed a complaint u/s 8(1) of the Adhiniyam, 2002, on 11-12-2009 (Annexure P-2) against several public servants, making serious allegations of misconduct committed by them. The case was registered as preliminary enquiry case No. 157/2009. Thereafter, on enquiry, it was found that no case has been made out for further enquiry. Thus, the complaint was filed.

2. It was found that the complainant has personal animosity with Shri Sarthi and after enquiry, the enquiry initiated on the basis of false complaint was discontinued by the Government. The State Government initiated the Departmental Enquiry against the complainant vide order dated 22-10-2002, which was also dropped on consideration of the reply filed by the complainant on 10-3-2005. The complaint-in-dispute was filed after a period of 4 years 9

months, which cannot be entertained under provisions of Section 7(3) (a) of the Adhiniyam, 2002, as the petitioner claims to have knowledge from the beginning.

3. u/s 8(1) of the Adhiniyam, 2002, the complaint has to be filed within a period of 12 months from the date of incidence. The Aayog is debarred from undertaking enquiry into the complaint, which is not filed within a period of 12 months from the date of incidence. Before filing of the complaint, the petitioner has approached the Government also, which was examined and Departmental Enquiry was initiated against the officer. The other allegation against Mr. Narayan Singh was not found proved. In fact, the allegations against all the officers have not been prima facie established. Thus, the complaint was filed.

4. Section 7 makes it clear that the Lok Aayog shall not conduct any enquiry in case of complaint in respect of any action if such action relates to any matter specified in the Third Schedule, and further under provisions of Section 7(2) of the Adhiniyam, 2002, which reads as under :--

7. (2) Lok Aayog shall not inquire into any action,--

(a) in respect of which a formal and public inquiry has been ordered under the Public Servants (Inquiries) Act, 1950 (Act No. 37 of 1950); or

(b) in respect of a matter which has been referred for enquiry under the Commission of Inquiry Act, 1952 (Act No. 60 of 1952).

(3) Lok Aayog shall not inquire into any complaint,--

(a) if it is made after expiry of twelve months from the date on which the action complained against become known to the complainant.

(b) if it is made after expiry of five years from the date on which the action complained against is alleged to have taken place :

Provided that Lok Aayog may entertain a complaint referred to in clause (a), if the complainant satisfies it that he had sufficient cause for not making the complaint within the period specified in that clause.

5. Sub-section (4) of Section 7 of the Adhiniyam, 2002 is a non obstante clause which provides that nothing in this Adhiniyam shall be construed as empowering the Lok Aayog to question any administrative action involving the exercise of a discretion, except where it is satisfied that the elements involved in the exercise of the discretion are absent to such an extent that the discretion cannot be regarded as having been properly exercised.

6. Section 8(1) of the Adhiniyam, 2002 provides for making a complaint to the Lok Aayog. Section 8(2) of the Adhiniyam, 2002 provides for imposition of punishment on the complainant, if it is found by the Lok Aayog that a false complaint was made willfully and maliciously. For that purpose, proviso to sub-section (2) of Section 8 of the Adhiniyam, 2002 provides that on a complaint made by or under the authority of the Lok Aayog, the Court may take cognizance

of the offence punishable under this section.

7. Section 9 provides for ensuring compliance of the principles of natural justice. u/s 10 of the Adhiniyam, 2002, the Lok Aayog has been entrusted with all the powers of a Civil Court for the purposes of summoning and enforcing the attendance of any person and examining him on oath, requiring the discovery and production of any document, receiving evidence on affidavits, requisitioning any public record or copy thereof from any Court or office, issuing commission for examination of witnesses and documents and such other matters as may be prescribed.

8. With regard to nature and authenticity of the report submitted by the Lok Ayukt, a Constitution Bench of the Supreme Court in *Madhya Pradesh Special Police Establishment Vs. State of Madhya Pradesh and Others*, observed as under :--

29. The office of the Lok Ayukt was held by a former Judge of this Court. It is difficult to assume that the said high authority would give a report without any material whatsoever.

9. Having considered the facts as aforestated and legal provisions, I am of the view that the decision of Pramookh Lok Ayukt to close the enquiry case, as no case was made out for further enquiry is just and proper, warranting no interference. In view of foregoing, the writ petition is dismissed. No order as to costs.