
(2015) 01 UK CK 0049

In the Uttarakhand High Court

Case No : Writ Petition Nos. 217, 142, 304, 306 and 358 (MS) of 2008

Madan Lal and Others

APPELLANT

Vs

Lokayukta and Others

RESPONDENT

Date of Decision : 07-01-2015

Acts Referred:

Uttar Pradesh Lokayukta and Up-Lokayuktas Act, 1975 — Section 2, 2 (j)(iii), 9, 9(1), 9(1)(b)

Citation : (2015) 1 UC 432

Hon'ble Judges : Alok Singh, J

Bench : Single Bench

Advocate : Rakesh Thapliyal, for the Appellant

Final Decision : Allowed

Judgement

Alok Singh, J.

1. In all the writ petitions identical questions of fact and law are involved, therefore, with the consent of learned counsel for the parties, all the writ petitions are heard together and are being disposed of by this common judgment. A complaint was made by Mr. Ramesh Chandra Chauhan, claiming himself to be the State President of Uttaranchal Bhoomi Evam Jal Sangrakshan Jalagam Vikas Pravidhik Association, to the Lokayukata demonstrating certain irregularities and illegalities being committed by the Director and Higher officials of the Agriculture Department of State of Uttarakhand; another complaint was preferred under the signature of Smt. Rama Chauhan, wife of Ramesh Chandra Chauhan; and both the complaints are verbatim same. At the time of making complaint, Mr. Ramesh Chandra Chauhan, was posted and working as Group II Officer, Agricultural Services, in Government Soil Conservation Training Centre, Pauri, District Pauri Garhwal.

2. There is no fight between the parties on the question that complainant Ramesh Chandra Chauhan was a public servant at the relevant time and he falls

within the definition of public servant as defined under Section 2 (j)(iii) of the U.P. Lokayukta and Up Lokayukta Act, 1975 (for short Act, 1975).

3. Section 9 of the Act, 1975 reads as under:

"Section 9 - Provisions relating to complaints

(1) Subject to the provisions of this Act, a complaint may be made under this Act to the Lokayukta or an Up-Lokayukta-

(a) in the case of a grievance, by the person aggrieved;

(b) in the case of an allegation, by any person other than a public servant:

Provided that where the person aggrieved is dead or is for any reason unable to act for himself, the complaint may be made by any person who in law represents his estate or, as the case may be, by any person who is authorized by him in this behalf.

(Provided further that in the case of grievance involving a complaint referred to in sub-clause (ii) of clause (d) of section 2, the complaint may be made also by an organization recognized in that behalf by the State Government.)

(2) Every complaint shall be accompanied by the complainant's own affidavit in support thereof and also and also affidavits of all persons from whom he claims to have received information of facts relating to the accusation, verified before a notary together with all documents in his possession or power pertaining to the accusation.

(3) Every complaint and affidavit under this section as well as any schedule or annexure thereto shall be verified in the manner laid down in the Code of Civil Procedure, 1908, for the verification of pleadings and affidavits respectively.

(4) Not less than three copies of the complaint as well as of each of its annexures shall be submitted by the complainant.

(5) A complaint which does not comply with any of the foregoing-provisions shall not be entertained.

(6) Notwithstanding anything contained in sub-sections (1) to (5), or in any other enactment, any letter written to the Lokayukta or Up-Lokayukta by a person in police custody, or in gaol or in any asylum or other place for insane persons, shall be forwarded to the addressee unopened and without delay by the police officer or other persons in charge of such gaol, asylum, or other place, and the Lokayukta or Up-Lokayukta as the case may be, may entertain it and treat it as a complaint, but no action in respect of such complaint shall be taken unless it is accompanied or subsequently supported by an affidavit under sub-section (2)."

4. A bare perusal of the Section 9(1)(b) of the Act, 1975 would demonstrate that a complaint can be made about the allegations by any person other than public servant, however, as per sub-Section (a) of Section 9(1) of the Act, complaint

pertaining to the redressal of the grievance can be made by any person aggrieved.

5. Since complaint was pertaining to certain allegations against the Director and Higher Officials, therefore, complaint could have been filed only by any other person other than public servant. However, in the present case, complaint was filed by Ramesh Chandra Chauhan, a public servant, against his higher-ups as well as by his wife against the superior officers of Ramesh Chandra Chauhan, therefore, complaints were barred by Section 9 of the Act, 1975. Consequently, complaints were not maintainable before the Lokayukata.

6. All the writ petitions are allowed. Impugned orders are hereby quashed. Let copy of this judgment be placed in all the connected petitions.