
(2014) 06 AP CK 0147

In the Andhra Pradesh High Court

Case No : Writ Petition No. 3379 of 2014

Rajkumar Bharatlal

APPELLANT

Vs

The Government of Andhra Pradesh

RESPONDENT

Date of Decision : 25-06-2014

Acts Referred:

Andhra Pradesh Lokayukta and Upa-Lokayukta Act, 1983 — Section 12, 7

Citation : AIR 2014 AP 31 : (2014) 5 ALD 106 : (2014) 4 ALT 645

Hon'ble Judges : Kalyan Jyoti Sengupta, C.J.; Sanjay Kumar, J

Bench : Division Bench

Advocate : P. Yadgir Rao, Advocate for the Appellant; Y. Ravinda, C.H. Satish Kumar, Standing Counsel and M. Adinarayana Raju, G.P, Advocate for the Respondent

Final Decision : Allowed

Judgement

Kalyan Jyoti Sengupta, C.J.—In this Writ Petition, portion of the order of the Hon''ble Lokayukta has been challenged basically by way of modification before this Court contending that the Hon''ble Lokayukta has no jurisdiction to grant interim relief but can enquire into the matter finally and recommend.

2. The learned Standing Counsel for the Hon''ble Lokayukta and the learned counsel for the added unofficial respondents submit that it is the writ petitioner who has invited the Hon''ble Lokayukta to pass interim order. So, he is estopped from challenging the order on the ground of jurisdiction. He has drawn our attention to the complaint made by the writ petitioner himself and now, the writ petitioner having found that a portion of the order passed, is adverse against him has taken a somersault and questioned the authority of the Hon''ble Lokayukta. Learned Standing Counsel for the Hon''ble Lokayukta has also drawn our attention to the prayer of the writ petition and submits that the writ petitioner has not challenged the order passed by the Hon''ble Lokayukta.

3. While taking note of the last objection, we have examined the body of the Writ

Petition and it has been specifically stated in paragraph 11 clause (c) thereof that the directions given by the Hon"ble Lokayukta are without jurisdiction and amount to taking away the rights of maintenance vested in the trustee. From a reading of the prayer portion, it appears to us that taking totality of the thing, power of the Hon"ble Lokayukta has to be examined, whether the point has been taken before First Authority or not, as there cannot be estoppel as it is the provision of law. What the Legislature has not empowered, cannot be done by any private individuals. We now examine whether the Hon"ble Lokayukta has power to grant any interim relief.

4. We set out hereunder Section 7 of the Andhra Pradesh Lokayukta Act, 1983 (hereinafter referred to as the Act), which is the source of power.

7. Matters which may be investigated by Lokayukta or Upa-Lokayukta:-(1) Subject to the provisions of this Act, the Lokayukta may investigate any action which is taken by, or with the general or specific approval of, or at the behest of,-

(i) a Minister or a Secretary; or

(ii) a Member of either House of the State Legislature; or

(iii) a Mayor of the Municipal Corporation constituted by or under the relevant law for the time being in force; or

(iii) a Vice Chancellor or a Registrar of a University; or

(iv) any other public servant, belonging to such class or section of public servants, as may be notified by the Government in this behalf after consultation with the Lokayukta, in any case where a complaint involving an allegation is made in respect of such action, or such action can be or could have been, in the opinion of the Lokayukta, the subject of an allegation.

(2) Subject to the provisions of this Act, the Upa-Lokayukta may investigate any action which is taken by, or with the general or specific approval of, any public servant, other than those referred to in sub-section (1), in any case where a complaint involving an allegation is made in respect of such action, or such action can be or could have been, in the opinion of the Upa-Lokayukta, the subject of an allegation.

(3) Notwithstanding anything in sub-section (2), the Lokayukta may, for reasons to be recorded in writing, investigate any allegation in respect of an action which may be investigated by the Upa-Lokayukta under that sub-section, whether or not complaint has been made to the Lokayukta in respect of such action.

(4) Where two or more Upa-Lokayuktas are appointed under this Act, the Lokayukta may, by general or special order, assign to each of them matters which may be investigated by them under this Act:

Provided that no investigation made by the Upa-Lokayukta under this Act and no action taken or thing done by him in respect of such investigation shall be called

in question on the ground only that such investigation relates to a matter which is not assigned to him by such order.

5. From the above, it is clear that the Hon''ble Lokayukta has been invested with the power of investigation, and while doing so, as required u/s 12 of the Act, a report has to be prepared, by recording findings and recommendations, and be communicated to the competent authority. Thus, it is manifest that Hon''ble Lokayukta has no power to issue any mandate either interim or final. We therefore accept the contention raised by the learned counsel for the petitioner that the Hon''ble Lokayukta is not empowered to do what has been done by it.

6. Hence, we set aside the impugned order and request the Hon''ble Lokayukta to investigate the matter finally and record the findings and recommendations, if any, by submitting a report to the competent authority. We desire that this entire exercise shall be completed within a period of two months from the date of receipt of a copy of this order.

7. The Writ Petition is accordingly allowed. No costs.

Consequently, miscellaneous petitions, if any pending, shall stand closed.