
(2021) 12 TEL CK 0061
In the Telangana High Court
Case No : Writ Petition No. 22212 Of 2017

Seetharama Chandraswamy

APPELLANT

Vs

Kandula Satyam, Another

RESPONDENT

Date of Decision : 21-12-2021

Acts Referred:

Telangana Lokayukta Act, 1983 — Section 7

Citation : (2021) 12 TEL CK 0061

Hon'ble Judges : Satish Chandra Sharma, CJ;N. Tukaramji, J

Bench : Division Bench

Final Decision : Disposed Of

Judgement

The present writ petition is arising out of a notice issued by the Upa-Lokayukta dated 01.03.2017 directing the petitioner to handover possession of the subject house to the respondent No.1 herein.

The facts of the case reveal that a complaint was preferred to the Upa-Lokayukta by the respondent No.1 herein stating that the petitioner Devasthanam has taken possession of the subject house and the Upa-Lokayukta has issued a notice to the petitioner directing delivery of possession.

This Court on 20.12.2021 had an occasion to deal with the issue of jurisdiction of Lokayukta in W.P.Nos.5196 and 5204 of 2021, which were filed by the Telangana State Film Development Corporation Limited being aggrieved by the notice received by them and the proceedings dated 18.06.2020 directing the petitioner to submit a representation in respect of a complaint filed before the Lokayukta/Upalokayukta for the State of Telangana under the Telangana Lokayukta Act, 1983 [as amended by Act 31 of 2017] for reimbursement of Rs.30 lakhs.

The order passed by this Court in W.P.Nos.5196 and 5204 of 2021 on 20.12.2021 is reproduced as under:-

"Regard being had to the controversy involved in the aforesaid cases, they were

being heard together and are being decided by this common order.

The facts in Writ Petition No.5204 of 2021 are reproduced as under :

Heard the counsel for petitioner, and Smt. Sharada, learned Standing Counsel for Lokayukta, appearing on behalf of Sri Y. Ravindra, counsel for 1st respondent, in the Writ Petitions.

The petitioner / Telangana State Film Development Corporation Limited has filed the present Writ Petition being aggrieved by the notice received by them and the proceedings dt.18.06.2020 directing the petitioner to submit a representation in respect of a complaint submitted by 2nd respondent to the Lokayukta establishment.

The petitioner's contention is that the so-called complaint was filed before the Lokayukta / Upalokayuta for the State of Telangana under the Telangana Lokayukta Act, 1983 [as amended by Act 31 of 2017] for reimbursement of Rs.30 lakhs.

The 2nd respondent has stated in the complaint that he has prepared some documentary for promotion of Children Films, and after preparation of documentary the amount has not been paid to him by the petitioner.

The learned counsel for petitioner has placed reliance upon the judgment delivered by this Court in the case of Dr. R.G. Sunil Reddy vs. The A.P. Lokayukta, Basheerbagh, Hyderabad and two others ((2015) 6 ALD 302 (F.B.)). He has also stated that a Money Suit / Recovery Proceedings for recovery of dues without there being any allegation of corruption is beyond the jurisdiction of the Lokayukta establishment. Further, he placed reliance upon Section 7 of the Act, and the same is reproduced as under :

"7. Matters which may be investigated by Lokayukta or Upa-Lokayukta:-

(I) 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

[(iiia) a Vice Chancellor or a Registrar of a University.]

(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-Inkayukta 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."

The aforesaid statutory provision of law empowers the Lokayukta to investigate the matters wherein a complaint is received involving an allegation against a public servant. In the present case, there is no such allegation except for making a statement that the 2nd respondent is to receive a sum of Rs.30 lakhs. It is purely a case filed before the Lokayukta in respect of recovery of amount due to a Film Producer.

The Full Bench in the case of Dr. R.G. Sunil Reddy (1 supra), while answering the issue whether the A.P. Lokayukta has jurisdiction to entertain a complaint which does not involve an allegation, has held at para nos.27 and 28 as under :

"27. So far as three impugned directions given by the Lokayukta are concerned, learned counsel for the third respondent defended the said orders under Rule 22 of the Rules by contending that they are part of preliminary verification permissible under Rule 5 of the Rules. We are, however, of the view that when the Act itself does not empower the Lokayukta to issue any directions of the nature, as issued under the impugned order, neither the Rules can be read so as to defeat the object and purpose of the Act nor the Rules can override the provisions of the Act. The power of Lokayukta to undertake preliminary verification arises only in the event of registration of the complaint and on its, prima facie, satisfaction that all the essential ingredients required to be maintained in the complaint under Section 7 of the Act are satisfied. Thus, as discussed above, when the complaint of the third respondent sans any such allegation cognizable under Section 7 of the Act, all further proceedings including the impugned orders, in our view, cannot be sustained.

28. We, accordingly, answer question No.1 in the negative and hold that the Lokayukta has no jurisdiction to entertain a complaint, which neither involves an allegation nor involves any action or inaction connected with such an allegation. We also hold that inter se private disputes between the parties including matrimonial dispute does not fall within the purview of the jurisdiction of the Lokayukta under the Act and that only such acts, which are actuated by allegation against public servants and the authorities as named under Section 7 of the Act alone fall within the domain of the Lokayukta or Upa-Lokayukta, as the case may be. The discussion, as above, also answers question No.2 in the negative. Question No.3, however, does not arise on the facts and circumstances of the case and would amount to adjudication on hypothetical question. Hence, the said question is left open."

As can be seen from the facts of the present case, the complaint does not include any allegation and it only refers to recovery of Rs.30 lakhs from the petitioner.

The 2nd respondent, is no more. An application for bringing on record the legal representatives was filed and acknowledgments in respect of service of notice along with net-tracking are provided, and a Memo to that effect has also been filed on 04.10.2021.

Therefore, in the light of the aforesaid contentions that the Lokayukta was not having jurisdiction to entertain the matter, the proceedings are hereby quashed with liberty to the complainant to pursue his remedies / legal representatives to pursue their remedies by taking recourse to other legal remedies.

Accordingly, the Writ Petitions are allowed. No costs.

As a sequel, miscellaneous petitions pending if any, in these Writ Petitions, shall stand closed."

In the light of the aforesaid, the impugned proceedings are hereby quashed with liberty to the complainant to pursue the remedies by taking recourse to other legal remedies.

It is made clear that this Court has only commented upon the jurisdiction of the Lokayukta Establishment in dealing with the matter relating to title. It is needless to mention that this order will not affect the rights of the parties in the pending civil suit, being O.S.No.464 of 2014.

The writ petition is accordingly disposed of. The miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.