
(2001) 08 AP CK 0113

In the Andhra Pradesh High Court

Case No : Writ Petition No. 29689 of 1998

Superintending Engineer, Irrigation Circle, Visakhapatnam
and another

APPELLANT

Vs

Institution of Lokayukta and Upa-Lokayukta, Hyderabad and
another

RESPONDENT

Date of Decision : 23-08-2001

Acts Referred:

Andhra Pradesh Lokayukta and Upa-Lokayukta Act, 1983 — Section 12, 12(1), 12(2),
2, 9

Citation : (2001) 5 ALD 635 : (2001) 5 ALT 744

Hon'ble Judges : E. Dharma Rao, J; Bilal Nazki, J

Bench : Division Bench

**Advocate : A.A.G, for the Appellant; Mr. M.V.S. Suresh Kumar and Mr. V.V.N.
Narayana Rao, for the Respondent**

Final Decision : Allowed

Judgement

Bilal Nazki, J.—In this case orders of the Lokayukta dated 17-6-1998 and 9-9-1998 have been challenged. It appears that a complaint had been filed before lokayukta against the petitioners herein who are public servants. The complaint was that the complainant was a contractor and he was not paid the bills in time. The Lokayukta found that certain payment was made after a long delay, therefore the contractor was held to be entitled to receive an interest at the rate of 10% P.A. with effect from 16-3-1995 to 31-3-1998 and the officers concerned were directed to make payment of the interest promptly and they were also directed to submit a report by 3rd August, 1998. After this order was passed, the officers concerned sought more time to finalise the matter. Time was extended, but even after extension, compliance report was not submitted. Therefore, another order was passed on 9-9-1998, but the Lokayukta had given further time and stated that,

"It is made clear that if compliance report is not submitted coercive steps will be

taken by issuing bailable or non-bailable warrants for not complying with the orders passed by the Hon"ble Lokayukta. Post on 2-11-1998."

2. The learned Additional Advocate-General appearing for the petitioners has made two submissions, (1) that the Lokayukta has no jurisdiction to investigate the matters pertaining to the contracts, the contractor and the department had an agreement and there was arbitration clause and he could have gone for arbitration. He further submitted that all the actions of the officers are not subject to the jurisdiction of the Lokayukta, but only the actions which are in the nature of allegations within the meaning of definitions in the Andhra Pradesh Lokayukta and Upa-Lokayukta Act, 1983 (for short "the Act") are subject to investigation by the Lokayukta. He submitted that in terms of Section 9 read with Section 2(a) of the Act only the actions or omissions which are in the nature of allegations can be investigated by Lokayukta, but a delayed payment cannot be investigated. Secondly, he contended that the Lokayukta has no jurisdiction to enforce its orders by issuing bailable or non-bailable warrants. Since we are going to allow this writ petition on the basis of the second submission made by the learned Additional Advocate-General, we are not dealing with the first submission made by the learned Additional Advocate-General in this writ petition and it is left open as to whether the Lokayukta has jurisdiction to entertain the matters pertaining to the contracts or not.

3. On the second submission made by the learned Additional Advocate-General it would be necessary to examine as to what are the powers of the Lokayukta if he makes his recommendation. Section 12 of the Andhra Pradesh Lokayukta and Upa-Lokayukta Act, 1983 (for short "the Act") pertains to the reports of the Lokayukta or Upa-Lokayukta. Sub-section (1) of Section 12 of the Act lays down that, if, after investigation of any allegation in respect of any action under this Act, the Lokayukta or Upa-Lokayukta is satisfied that such allegation is substantiated either wholly or partly, he shall by a report in writing, communicate his findings and recommendations along with the relevant documents, materials or other evidence to the competent authority. Under sub-section (2) of Section 12 of the Act it is left to the competent authority to examine the report forwarded to it and take action without any further enquiry and intimate the action taken within three months of the date of receipt of the report to the Lokayukta. Subsection (4) of Section 12 of the Act is important which lays down that if the Lokayukta or Upa-Lokayukta is satisfied with the action taken or proposed to be taken on his findings and recommendations referred to in sub-section (1), he shall close the case under intimation to the complainant, the public servant and the competent authority concerned. So, going by subsections (1), (2) and (4) of Section 12 of the Act it is clear that after the investigation is complete and if the Lokayukta is satisfied that the allegations are proved, he shall submit his recommendations to the competent authority who has to take action within a prescribed period of time and report back to the Lokayukta. Till the matter is reported back by the competent authority to the Lokayukta the matter remains pending before the Lokayukta. But once the Lokayukta receives

the report, he has two options. In case he is satisfied with the action of the competent authority, he will close the matter, and if he is not satisfied, he cannot further take any action to see that his recommendations are given effect to, except forward a special report to the Governor. Therefore, we are of the considered view that Lokayukta has no enforcing power except to make recommendations to the competent authority and seeks its report of compliance and if it is not implemented to his satisfaction, the Lokayukta has only one option i.e., to make a special report to the Governor. If the Lokayukta is satisfied that his recommendations have been followed and his order has been complied with, he has to close the complaint and in case he is not satisfied with the compliance of his report, he has to send a special report to the Governor and the matter stands closed as far as Lokayukta is concerned. We have not seen any power under the Act or rules whereby the Lokayukta can issue bailable or non-bailable warrants of arrest as a coercive measure for enforcing the orders.

4. The writ petition is accordingly allowed, the order dated 9-9-1998 is set aside. However, we do not comment upon the legality or otherwise of the order passed by the Lokayukta dated 17-6-1998. The Lokayukta shall be at liberty to make a special report to the Governor.