Abstract

A good administration is responsible and responsive to the people. With this object in view the institution of Ombudsman came to be established in several Democratic Countries for redressing the grievances of the public against Administrative faults. India is also a Democratic country therefore in India also the number of grievances against administrative faults came to abound. India has seen a lot of corruption in the last 72 years since independence. The economy of India was under socialist-inspired policies for an entire generation from the 1950s until the late 1980s. The economy was subject to extensive regulation, protectionism and public ownership, leading to pervasive corruption and slow growth, License Raj was often at the core of corruption. The stand-off between the Government and social activist groups, was led by Anna Hazare, has brought the issue of the Lokpal Bill to forefront in 2011. Meanwhile the Jan lokpal Bill was a draft anti-corruption bill drawn up by prominent civil society activists seeking the appointment of a Jan lokpal, an independent body that would investigate corruption cases, complete the investigation within a year and envisages trial in the case getting over in the next one year. Thereafter, the Lokpal and Lokayuktas Act, 2013 is an anti–Corruption law in India which seeks to provide for the establishment of the institution of Lokpal and Lokayuktas to inquire into allegations of corruption against public functionaries and for matters connecting them.

Keywords: Ombudsman, Democratic, Lokpal and Lokayuktas, Administration.

Introduction

Corruption poses a serious challenge. It undermines morality. It also undermines democracy, good governance, trust and tolerance. Corruption in government administration creates inefficiency in the services. Corruption in judiciary compromises the rule of law. Corruption in elections and in legislative bodies reduces accountability. It distorts representation in policy-making. Corruption reduces the institutional capacity of government. The procedures are disregarded and resources are siphoned off. The government offices are bought and sold.

Corruption generates distortions and inefficiency in economic development. The corruption is rampant in India. We have a system that allows corruption to flourish. It is a country where the people think that it is a common phenomenon of life and majority of the people are guilty of it. It is not confined to politics or the government machinery alone. It is prevalent amongst almost every section of the society at every level. The political corruption is the abuse of the public power, office, or resources by government officials or employees for personal gain by taking bribes.

India has provided institutions like Central Information Commission, Central Vigilance Commission and Central Bureau of Investigation and Ombudsman at state level for redress of public grievances. However, these institutions do not have powers to make independent inquiries against politicians and bureaucrats and punish them. Therefore, these institutions are without a force and have not proved effective.
Generally, a good administration is responsible and responsive to the people. With this object, in view the institution of Ombudsman came to be established in several Democratic Countries for redressing the grievances of the public against Administrative faults. As in other democratic countries, so in India also the number of grievances against administrative faults came to abound. Therefore, close supervision over the administration, and mechanism for redressal of grievances became essential and necessary. The Lokayukta is an anti-government corruption organisation in the Indian States. These institutions are based on the Ombudsman in Scandinavian countries. An amendment to the Constitution has been proposed to implement the Lokayukta uniformly across Indian States as a three-member body, headed by a retired Supreme Court Judge or High Court Chief Justice and comprise of the state vigilance commissioner and a jurist or an eminent administrator as other members.

Social Welfare worker Anna Hazare has led a movement to compel the Indian Government to notify the Committee for the implementation of the Lokayukta against corruption as an independent body and also giving enough powers to the Lokayukta to also receive corruption complaints against politicians, bureaucrats and even sitting judges.

**Evolution and Growth of the Institution of Ombudsman/ Lokpal**

Ombudsman is Scandinavian word. It is taken to mean officer or commissioner. It means a commissioner who has the duty of investigating and reporting to Parliament on citizens complaints against the Government.

**Meaning**

Garner observes that ombudsman is an officer of Parliament having as his primary function, the duty of acting as an agent for Parliament, for the purpose of safeguarding citizens against abuse or misuse of administrative power by the executive. According to Prof. S.K Aggarwal the term ‘Ombudsman’ refers only to institutions, which have three basic and unique characteristics;

i) Ombudsman is an independent and non-partisan officer of the legislature who supervises the administration.

ii) He deals with specific complaints from the public against administrative injustice and maladministration.

iii) He has the power to investigate, criticize and report back to the legislature, but not to reverse administrative action.

**Historical Background of the Institution of Ombudsman**

The institution of Ombudsman first came into operation in Scandinavia. This institution was established in Sweden in 1809, in Finland in 1919, in Denmark in 1953 and in Norway in 1963. The Ombudsman system was adopted by New Zealand in 1962 and by England in 1966. In Australia, it has been established at the Centre as well as the State. The institution which thus developed came to be accepted in common law countries having Parliamentary form of government i.e., New Zealand, England and Australia. The working of Ombudsman systems in New Zealand, England and Australia makes one thing clear, viz., the purpose of Ombudsman is to control administration and thus to ensure protection to the citizens against injustice brought about by administrative faults. The Institution is designed to locate ‘mal-administration’ or ‘faults’ in the administration. Ombudsman is an external agency which acts outside the administrative hierarchy, to probe into administrative faults.

In England, the Ombudsman called Parliamentary Commissioner has been established by the Parliamentary Commissioner Act, 1967. He is appointed by the Crown on the advice of the Prime Minister. Complaints against the administration cannot be made to the Ombudsman directly. It can be made to the...
Ombudsman only through a member of the House of Commons. In Australia, two tier Ombudsman system has been adopted. There is Ombudsman system at the centre and each State has separate Ombudsman. The Common Wealth Ombudsman system has been established in Australia by Ombudsman Act, 1976 which has been amended for several times. The Ombudsman has been given powers to investigate the complaints made to him against action taken by several major government departments. His function is to investigate either on a complaint or *suo motu* into a “matter of administration” taken by a department. ‘Taking of action’ refers to the making of a decision or recommendation or the formulation of a proposal and failure or refusal to take action.

**The Institution of Ombudsman/ Lokpal – Indian Perspective**

In the year 1966 a commission was set up named the Administrative Reforms Commission and this commission recommended that an institution based on the lines of an ombudsman is necessary in India and in pursuance of this a bill was forwarded in the Lok Sabha in the year 1968 which was eventually passed in the year 1969. Since the governments have yielded so much power that can lead to its abuse, it eventually leads to the advent of the ombudsman in India.

There has been tremendous increase in the powers and functions of the administrative authorities. They discharge not only the administrative functions but also quasi-legislative and quasi-judicial functions. The administrative authorities enjoy wide discretionary powers. The increase in powers and functions of the administrative authorities has also increased the opportunities of misuse of the power by them. This has necessitated the effective control of the administrative authorities. The judiciary, Parliament and the executive have not been successful in controlling them. The Courts have, no doubt, expanded their supervision over the administration but still it is not sufficient. The judicial proceedings are time consuming and costly. They require the payment of Court fees and engagement of lawyers for the redress of grievances against the administration.

It is the function of the legislature to oversee the administration but nowadays instead of controlling the executive, in practice, it is controlled by the executive. As per Jain and Jain, “The Legislature has no mechanism at its disposal to probe into administrative faults and lapses in individual cases.” Besides, the internal administrative check or administrative review of the decisions of the administration is not adequate in practice. Often the original decisions are tried to be maintained. This necessitates an authority outside the administrative hierarchy to review the administrative decisions, and to check the administration to misuse its powers.

*Wade* has rightly observed that the consciousness of the Ombudsman’s vigilance has a healthy effect on the whole administration making it more sensitive to public opinion and to the demands of fairness. Where a complaint is found to be justified, an Ombudsman can often persuade a Government department to modify a decision or pay compensation in cases where the complaint unaided would get no satisfaction. The system of Ombudsman enables Parliament and Ministers both to correct the faults in the administration.

In India it will be proved much useful in redressing the grievances of the citizens against the administration. The Administration Reforms Commission has recommended for the adoption of Ombudsman system in India. The redressal of the grievances of the citizens is basic to the functioning of the democratic government.

**Administrative Reforms Commission, 1966**

The Government of India set up a high level Administrative Reforms Commission on January 5, 1966 under the chairmanship of Morarji Desai. They made recommendations for the creation of Ombudsman type institutions in India. The institution of Ombudsman first came into operation in Scandinavia. This institution was
established in Sweden 1809. The Ombudsman in India is called as Lokpal or Lokayukta. The establishment of the institution of Ombudsman is the demand of time. It will be much useful in redressing the grievances of the citizens against the administration. Administrative Reforms Commission (1966-1970) recommended two-tier machinery such as Lokpal at the Centre and Lokayukta at the State levels. A good administration is responsible and responsive to the people. With this object in view, the institution of Ombudsman came to be established in several Democratic Countries for redressing the grievances of the public against Administrative faults. India is also a Democratic country. As in, other democratic countries so in India also the number of grievances against administration and mechanism for redressal of grievances became essential and necessary.

Interim report of the Administrative Reforms Commission, 1966

Administrative reforms Commission in its report also record the reasons for the need of establishment of the institution of Lokpal, which are as under:

A democratic government is a ‘government of the people, by the people, and for the people.’ Government has an obligation to satisfy the citizens about its functioning and to offer them adequate means for the ventilation and redress of their grievances. The redressal of citizens’ grievances is basic to the functioning of democratic governments, and will strengthen the hands of the government in administering the laws of the land without fear or favour, affection of ill will and enable it to go up in public faith and confidence without which progress would not be possible. The existing institutions of judicial review and Parliamentary control are inadequate in view of the ever expanding range of governmental functions most of which are discretionary. There prevails a public feeling against prevalence of corruption, widespread inefficiency, and administration’s unresponsiveness to popular needs.

On the basis of the above-mentioned observation, the Administrative Reforms Commission recommended the establishment of institutions of Lokpal and Lokayukta, which should have the following features:-

- Lokpal and Lokayukta should be demonstratively independent and impartial.
- The investigations and proceedings should be conducted by Lokpal and Lokayukta in private and should be informal in character.
- The appointment of Lokpal and Lokayukta should be, as far as possible, non-political.
- The status of Lokpal and Lokayukta should compare with the highest judicial functionaries in the country.
- Lokpal and Lokayukta should deal with matters in the discretionary field involving acts of injustice corruption or favouritism.
- The proceedings conducted by Lokpal and Lokayukta should not be subject to judicial interference and they should have the maximum latitude and powers in obtaining information relevant to their duties.
- Lokpal and Lokayukta should not look forward to any benefit or pecuniary advantage from the executive government.

The Draft Bill was affixed to the interim Report of the Administrative Reforms Commission. The Government of India accepted the recommendations of Administrative Reforms Commission regarding the establishment of Lokpal and Lokayukta institution. Eight official attempts have been made to bring about
legislation on the subject of Ombudsman. The Lokpal and Lokayukta bill was first brought before the fourth Lok Sabha in 1968 but before it could be passed, the Lok Sabha was dissolved and therefore the Bill lapsed. The legislation was revived in 1971. Another Bill was introduced in the Lok Sabha in 1971, but again Bill lapsed due to the dissolution of the Lok Sabha. In 1977, a new Bill called Lokpal Bill, 1977 was introduced in the Lok Sabha. This Bill was referred to the Joint Select Committee of the House of Parliament but the Bill again lapsed because of the dissolution of the Lok Sabha. Again, The Lokpal Bill was introduced in the Lok Sabha in 1985 however; the Bill again lapsed because of the dissolution of the Lok Sabha. Thereafter, the Lokpal Bill 1989 was introduced in the Lok Sabha the Bill again lapsed because of the dissolution of the Lok Sabha. The Lokpal Bill 1996 was introduced in the Lok Sabha. Thereafter, it was referred to the department related Parliamentary Standing Committee on Home Affairs for examination and report. The Standing Committee presented its report to the Parliament on May 9, 1997. Before the Government could finalize its stand on the various recommendations of the committee, unfortunately Lok Sabha was dissolved on December 4, 1997 and Bill lapsed. The Prime Minister Atal Bihari Vajpayee on August 3, 1998 in the Lok Sabha again introduced the Lokpal Bill, 1998. The Prime Minister has also been brought within the jurisdiction of power of Lokpal. This Bill also has not been enacted into an Act. In August 2001, the Lokpal Bill had again been introduced in the Lok Sabha. In 2003, the Lokpal Bill has once again introduced in Parliament. Different versions of the Bill have varied on coverage of public servants as well as scope of offences. Thereafter, the Venkta Chaliah Commission in 2002 and the Second Administrative Reforms Commission in 2005 recommended that the office of the Lok Pal to be established immediately and to setup a mechanism to protect the whistleblowers.

Anti-Corruption Movement 2011

Due to the agitation led by Anna Hazare, the government constituted a Joint Drafting Committee in April 2011. The Committee included government representatives and nominees of Civil Society to draft the Lok Pal Bill by June 30, 2011. The Government of India constitutes a Joint Drafting Committee in order to prepare a draft of the Lok Pal Bill. The Joint Drafting Committee shall consist of five nominee Ministers of the Government of India and five nominees of Shri Anna Hazare” (including himself). The Chairperson of the Joint Drafting Committee shall be Shri Pranab Mukherjee. The Co chairperson of the Joint Drafting Committee shall be Shri Shanti Bhushan. The Convener of the Joint Drafting Committee shall be Dr M. Veerappap Mally. Thereafter, the Joint Drafting Committee shall commence its work in order to prepare the proposed legislation on the Lokpal Bill. The Joint Drafting Committee shall complete its work latest by 30 June 2011. However, the two groups could not agree on key points and prepared two drafts of the Bill (the draft by Hazare’s nominees is known as Jan Lok Pal Bill).

The Lokpal Bill, 2011 was introduced in the Lok Sabha on August 4, 2011. Thereafter, this Bill was referred to a Select Committee of the Rajya Sabha. After the report of the Select Committee was submitted in November 2012, the bill was again introduced in the Rajya Sabha and passed, with several amendments, on December 17, 2013. The amended bill was sent back to the Lok Sabha. The Lok Sabha on December 18, 2013 passed the historic
Lokpal and Lokayukta Bill, 2013. The bill received the assent of the President on January 1, 2014, thereby becoming the Lokpal and Lokayukta Act of 2014. It aims to set up an independent body at the central level called Lokpal in order to prevent and control corruption. Lokpal would receive complaints regarding corruption against most categories of public servants and further ensure that such complaints should be investigated properly. However, “the Lokpal and Lokayukta Act, 2013 does not contain specific provisions for the protection of whistleblowers. Unfortunately, still the Government of India does not notify this.

An Act to provide for the establishment of a body of Lokpal for the Union and Lokayukta for States to inquire into allegations of corruption against certain public functionaries. And for the matters connected therewith or incidental thereto. The Statement of Objects and Reasons of the Act, 2013 has been stated that the need to have a legislation for Lokpal felt for quite some time. In pursuance of the efforts to constitute a mechanism for dealing with complaints on corruption against public functionaries including in high places, the Government introduces the Constitutional bodies as Lokpal and Lokayuktas. India is committed to pursue the policy of “Zero Tolerance against Corruption”. India also ratified the United Nations Convention against Corruption by deposit of Instruments of Ratification on 9th May 2011. Due to this policy the Lokpal and Lokayuktas Bill seeks to establish in the country, a more effective mechanism to receive complaints relating to allegations of corruption against public servants including ministers, M.P’s, Chief Ministers, MLA’s and public servants and inquire into them and take follow up actions. The bodies such as Lokpal and Lokayuktas which are being setup for the purpose will be constitutional bodies.

Salient Features of Lokpal and Lokayuktas Act, 2013

Lokpal means the body established under section 3 of the Lokpal and Lokayuktas Act, 2013. Lokpal is watchdog institution on ministerial probity.

- Section 3 of the Act, 2013 provides for the establishment of Lokpal consisting of a chairperson and eight members. It also provides that fifty percent of the members shall be Judicial Members. The Chairperson shall be a person who is or has been a Chief Justice of India or is or has been a Judge of the Supreme Court or an eminent Person who fulfils the eligibility specified for members under subsection (3).

- The Judicial member shall be a person who is or has been a Judge of the Supreme Court or who is or has been a Chief Justice of High Court. The members shall be the persons who are of impeccable integrity and outstanding ability and standing having special knowledge and experience of not less than twenty-five years in the matters relating to anti-corruption policy, public administration, vigilance, finance including insurance and banking, law and management.

- It also provides that not less than fifty percent, of the members of the Lokpal, shall be from amongst the persons belonging to the Scheduled Castes, the Scheduled Tribes, Other Backward Classes, Minorities and Women.

- It further provides that chairperson or members of the lokpal shall not be member of Parliament or a member of Legislature of any State or Union Territory and shall not be a person, convicted of any offence involving moral turpitude, who is less than forty-five years of age, on the date of assuming office as chairperson or member, who is a member of any Panchayat or Municipality, who has been removed or dismissed from service of the Union or a State and shall not hold any office of trust or profit or affiliated with any political party or carry on own business or practice any profession.

- It also provides that the person appointed as Chairperson or a member before he enters upon his office shall resign from the office of trust or profit held by him or server his connection with the conduct and management of nay business carried on by him or cease to practice if he is practising any profession.
The chairperson and Members shall be appointed after obtaining the recommendations of a Selection Committee consisting of the Prime Minister, the Speaker of the House of People, the leader of Opposition in the House of People, the Chief Justice of India or Judge of the Supreme Court nominated by him, one eminent jurist as recommended by the Chairperson and members referred in clauses (a) to (d) of section 4 of the Act, 2012, to be nominated by the President.

For the purpose of holding the Chairperson and other members of Lokpal and for preparing a panel of persons to be considered for appointment, the selection Committee may constitute a Search Committee consisting of such persons having special knowledge and expertise in the matters relating to anti-corruption policy, public administration, vigilance, policy making, finance including insurance and banking, law and management or in any other matter which in the opinion of the selection committee may be useful for making the selection of a chairperson and members of the Lokpal. It also provides that not less than fifty percents of the members of the selection committee shall be from amongst the persons belonging to the Scheduled Castes, Scheduled Tribes, Backward Classes, minorities and women.

It provides that the chairperson and every member shall be appointed by the President for a term of five years. From the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier.

Section 11 of the Lokpal and Lokayuktas Act, 2013 provides for setting up of an Inquiry Wing of the Lokpal headed by the Director of Inquiry for the purpose of conducting preliminary inquiry into any offence alleged to have been committed by a public servant punishable under the Prevention of Corruption Act, 1988. It further provides that until such time the investigation Wing is constituted by the Lokpal, the Central Government will make available the services of its investigation officers and other staff required by the Lokpal. It also provides that for the purposes of assisting he Lokpal in conducting preliminary inquiry under the proposed legislation, the officers of the Inquiry Wing not below the rank of Under Secretary to the Government of India, shall have the same powers as are conferred upon the Lokpal under section 27.

Section 12 of the Lokpal and Lokayuktas Act, 2013 provides that the Lokpal shall constitute a prosecution wing headed by the Director of Prosecution for the purpose of prosecution of public servants in relation to any complaint by the Lokpal under the Act. It further provides that the Director of prosecution after having been so directed by the Lokpal, file a case in accordance with the investigation report, before the special Court and take all necessary steps in respect of the prosecution of public servants in relation to any offence punishable under the Prevention of Corruption Act, 1988. It further provides that the case filed by the Director of prosecution before the Special Court shall be deemed to be a report, filed by the Director of prosecution before the Special Court shall be deemed to be report, filed on completion of investigation, referred to in section 173 of the Code of Criminal Procedure, 1973.

Section 14 of the Lokpal and Lokayuktas Act, 2013 provides jurisdiction of Lokpal to include Prime Minister, Ministers, Members of Parliament, Groups A, B, C and D officers and officials of Central Government.

Section 15 of the Lokpal and Lokayuktas Act, 2013 provides that matters pending before any Court or Committee or Authority prior to the commencement of the proposed legislation shall be continued before such court, Committee or Authority, as the case may be.

Section 16 of the Lokpal and Lokayuktas Act, 2013 provides that the jurisdiction of the Lokpal may be exercised by benches thereof. A bench of the Lokpal may be constituted by the Chairperson with two
or more Members. Every bench shall ordinarily consist of at least one judicial member in it. The
benches of Lokpal shall ordinarily be at New Delhi and at such places as the Lokpal may,
by regulations, specify. Section 17 seeks to empower the Chairperson to distribute the business of Lokpal
amongst its Benches and also specify the matters which may be dealt with by each Bench.

- Section 18 seeks to provide that the chairperson may transfer any case pending before one Bench for
disposal to any other bench on receipt of an application for such transfer from the complainant or the
public servant. Section 19 provides that the decision of the Lokpal shall be according to the opinion of
the majority of the members of Lokpal.

- Section 22 provides that Lokpal may require any public servant or any other person to furnish
information or produce documents relevant to inquiry or investigation.

- Section 24 makes provisions for action to be taken by the Lokpal on conclusion of investigation against
public servants being Ministers or Members of Parliament. It provides that where the commission of
offence under Prevention of Corruption Act, 1988 by such public servants has taken place, the Lokpal
may file a case in the Special Court and send a copy of the report along with its findings to the
competent authority as defined in the proposed legislation. It also provides that the competent
authority shall examine or cause to be examined the report and communicate or cause to be
communicated to the Lokpal within a period of ninety days from the date of receipt of the report, the
action taken or proposed to be taken on the basis of the report and the reasons for not taking any
action on the recommendation of the Lokpal. However, in computing the period of ninety days, the
period during which the Parliament will not be in session shall be excluded.

- Section 25 of the Act, 2013 declares the supervisory powers of Lokpal.

- Section 26 seeks to confer power of search and seizure of documents on the Lokpal.

- Section 27 provides that the Lokpal shall have all the powers of a Civil Court in certain matters and the
proceedings before the Lokpal shall be deemed to be judicial proceedings within the meaning of
Section 193 of the Indian Penal Code.

- Section 28 makes provisions that the Lokpal may utilize the services of any officer or organisation or
investigating agency of the Central Government or the State Government as the case may be.

- Section 29 declares that provisional attachment of assets by the Lokpal or any officer authorised by it if
such assets are any proceeds of corruption.

- Section 30 makes provisions for the confirmation of provisional attachment of assets made by the
Lokpal under section 29 of the Act by the special Court.

- Section 31 makes provisions for confiscation of assets, proceeds, receipts and benefits arisen or
procured by means of corruption in special circumstances.

- Section 32 seeks to provide that the Lokpal may recommend transfer or suspension of any public
servant connected with allegation of corruption. This section also provides that ordinarily the
recommendations of the Lokpal shall be accepted by the Government.

- Section 33 makes provisions that the Lokpal may give directions to prevent destruction of records
during inquiry.

- Section 35 provides for the Constitution of Special Courts by the Central Government as recommended
by the Lokpal to hear and decide the cases arising out of the prevention of Corruption Act, 1988 or
under the Act. It also provides that the Special Courts shall ensure completion of each trial within a
period of one year from the date of filing the case in the Court. However, in case the trial cannot be
completed within a one year, then the special court shall record reasons therefore and completes the
trial within a further period of not more than three months or such further periods not exceeding three
months each, for reasons to be recorded in writing, before the end of each such three month period, but not exceeding a total period of two years.

- Section 36 makes provisions for issue of letter of request to a court or an authority in the contracting state in certain cases.
- Section 37 makes provisions for removal and suspension of Chairperson and members of Lokpal.
- Section 38 seeks to provide for the provisions for the complaints against officials of Lokpal.
- Section 39 provides that when a public servant has committed an offence under the Prevention of Corruption Act, 1988, the Special Court may make, an assessment of loss, if any, caused to the public exchequer on account of actions or decisions of such public servant not taken in good faith and for which he stands convicted and order recovery of such losses.
- Section 44 makes it clear that the public servants shall make a declaration of their assets and liabilities in the manner as provided in this Act.
- Section 45 of the Act, 2013 makes it clear that any willful failure on the part of a public servant to declare his assets shall amount to presumption that the assets have been acquired by corrupt means.
- Section 46 provides that if any person makes false or frivolous or vexatious complaint under this Act, he shall be liable for prosecution and on conviction he may be punished with imprisonment for a term which may extend to one year and with fine which may extend to one lakh rupees. However, there would not be any punishment in case of complaints made in good faith.
- Section 47 declares that if false complaint is made by the Society or association of persons or trust, in that case every person who, at the time of commission of offence, was directly in-charge of the affairs or activities of such society etc. shall be deemed to be guilty of the offence under section 53 and liable for punishment.
- Section 48 provides for the Lokpal to present annually a report to the President as to work done by it and on receipt of such report the President shall cause a copy thereof together with a memorandum explaining, as respects the cases, if any, where the advice of the Lokpal was not accepted. The reasons for such non-acceptance to be laid before each house of the Parliament.
- Section 49 seeks to empower the Lokpal to function as appellate authority for appeals arising out of any other law for the time being in force.
- Section 50 seeks to provide protection of public servant from legal proceedings etc. for the action taken in good faith.
- Section 51 provides protection of action taken in good faith by Lokpal, any officer, employee, agency, or any person in respect of anything done or intended to be done under the proposed legislation or the rules or regulations made there under.
- Section 52 provides that the chairperson, members, officers, and other employees of the Lokpal shall be public servants within the meaning of section 21 of the Indian Penal Code.
- Section 53 lays down that the period of limitation for filing of complaints before the Lokpal as seven years from the date of commission of the alleged offence.
- Section 54 provides that no civil court shall have jurisdiction in the matters for which Lokpal is empowered under the proposed legislation.
- Section 55 provides that legal assistance for defending a case before the Lokpal shall be provided to every person against whom complaint has been made before it, if such assistance is requested for.
- Section 56 seeks to provide that the provisions of the proposed legislation shall have overriding effect.
- Section 59 seeks to empower the Central Government to make rules for carrying out the provisions of the proposed legislation.
• Section 60 confers power on the Lokpal to make regulations for carrying out the provisions of the Act consistent with the provisions of the Act and the rules made by the Central Government under section 59. Section 61 provides that every rule and every regulation made under the proposed legislation shall be laid before each house of Parliament.

• Section 63 of the Act, 2013 declares that every State shall establish a body of Lokayukta in their respective States.

The Lokpal and Lokayukta (Amendment) Bill, 2016

The Lokpal and Lokayuktas (Amendment) Bill, 2016 was introduced in Lok Sabha on July 27, 2016 by the Minister for Personnel, Public Grievances and Pensions, Dr. Jitendra Singh. The Bill amends the Lokpal and Lokayuktas Act, 2013 in relation to declaration of assets and liabilities by public servants. The provisions of the Bill would apply retrospectively, from the date of the coming into force of the 2013 Act. The Lokpal Act requires a public servant to declare his assets and liabilities, and that of his spouse and dependent children. Such declarations must be made to the competent authority within 30 days of entering office. Further, the public servant must file an annual return of such assets and liabilities by July 31st of every year. The Lokpal Act also mandates statements of such declarations be published on the website of the relevant Ministry by August 31 of that year. The Bill replaces these provisions to state that a public servant will be required to declare his assets and liabilities. However, the form and manner of making such a declaration will be prescribed by the central government.

Conclusion and Suggestions

The institution of lokpal has tried to bring a much needed change in the battle against corruption in the administrative structure of India but at the same time, there are loopholes and lacunae which need to be corrected. The Lokpal act also called upon states to appoint a Lokayukta within a year of its coming to force. But only 16 states have established the Lokayukta. Lokpal is not free from political influence as the appointing committee itself consist of members from political parties. The appointment of Lokpal can be manipulated in a way as there is no criterion to decide who is an ‘eminent jurist’ or ‘a person of integrity.’ The 2013 Act did not provide concrete immunity to the whistle blowers. The provision for initiation of inquiry against the complainant if the accused is found innocent will only discourage people from complaining. The biggest lacuna is the exclusion of judiciary from the ambit of the Lokpal. The Lokpal is not given any constitutional backing and there is no adequate provision for appeal against the Lokpal. The specific details in relation to the appointment of Lokayukta have been left completely on the States. To some extent, the need for functional independence of the CBI has been catered to by a change brought forth in the selection process of its Director, by this Act. The complaint against corruption cannot be registered after a period of seven years from the date on which the offence mentioned in such complaint is alleged to have been committed.

Recently on March 19, 2019 former Supreme Court judge, Justice Pinaki Chandra Ghose, was appointed as the country’s first Lokpal, the anti-corruption ombudsman. The Apex court has consistently kept up the pressure on the government every step of the way. On April 24, 2017, a Bench led by Justice Ranjan Gogoi held that India should honour its credo of ‘zero tolerance against corruption’.

In order to tackle the problem of corruption, the institution of the ombudsman should be strengthened both in terms of functional autonomy and availability of manpower. Greater transparency, more right to information and empowerment of citizens and citizen groups is required along with a good leadership that is willing to subject itself to public scrutiny. Appointment of Lokpal in itself is not enough. The government should address the issues based on which people are demanding a Lokpal. Merely
adding to the strength of investigative agencies will increase the size of the government but not necessarily improve governance. The slogan adopted by the government of “less government and more governance”, should be followed in letter and spirit. Moreover, Lokpal and Lokayukta must be financially, administratively and legally independent of those whom they are called upon to investigate and prosecute. Lokpal and Lokayukta appointments must be done transparently so as to minimize the chances of the wrong sorts of people getting in. There is a need for a multiplicity of decentralized institutions with appropriate accountability mechanisms, to avoid the concentration of too much power, in any one institution or authority.

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