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Part IV—Section 2

Tamil Nadu Acts and Ordinances

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The following Act of the Tamil Nadu Legislative Assembly received the assent of the Governor on the 13th July 2018 and is hereby published for general information:—

ACT No. 33 of 2018.

An Act for the establishment of a body of Lokayukta for the State of Tamil Nadu to inquire into allegations of corruption against certain public servants and for matters connected therewith or incidental thereto.

BE it enacted by the Legislative Assembly of the State of Tamil Nadu in the Sixty-ninth Year of the Republic of India as follows:—

CHAPTER – I.

PRELIMINARY.

1. (1) This Act may be called the Tamil Nadu Lokayukta Act, 2018. Short title and commencement.
 (2) It shall come into force on such date¹ as the Government may, by notification, appoint. Definitions.
2. (1) In this Act, unless the context otherwise requires,—
- (a) “Bench” means a bench of the Lokayukta;
- (b) “Chairperson” means the Chairperson of the Lokayukta;
- (c) “competent authority” means, in relation to,—
- (i) the Chief Minister, the Governor;
- (ii) a Minister, the Chief Minister;
- (iii) a Member of the Legislative Assembly of the State other than a Minister, the Speaker of the Legislative Assembly;
- (iv) an officer in any Department, the Government;
- (v) a Chairperson or Members of any Body, or Board or Corporation or Authority or Company or Society or Autonomous Body (by whatever name called) established or constituted under an Act of Parliament or of the Legislative Assembly of the State or wholly or partly financed by the Government or controlled by it, the Minister-in-charge or the Chief Minister, as the case may be, of the department of such Body or Board or Corporation or Authority or Company or Society or Autonomous Body;
- (vi) an officer of any Body or Board or Corporation or Authority or Company or Society or Autonomous Body (by whatever name called) established or constituted under an Act of Parliament or of the Legislative Assembly of the State or wholly or partly financed by the Government or controlled by it, the head of such Body or Board or Corporation or Authority or Company or Society or Autonomous Body;
- (vii) in any other case not falling under sub-clauses (i) to (vi) above, such department or authority as the Government may, by notification, specify:

1. **13th November 2018** - vide Notification No. II(2)/PLAR/957(c)/2018, dated 13th November 2018, see Tamil Nadu Government Gazette, Extraordinary, Part II-Section 2

Provided that if any person referred to in sub-clause (v) or sub-clause (vi) is also a Member of the Legislative Assembly of the State, then the competent authority shall be the Speaker of the Legislative Assembly;

(d) "complaint" means a complaint, made in such form as may be prescribed, alleging that a public servant has committed an offence punishable under the Prevention of Corruption Act, 1988;

Central Act 49 of
1988.

(e) "Government" means the State Government;

(f) "Judicial Member" means a Judicial Member of the Lokayukta;

(g) "Lokayukta" means the body established under section 3;

(h) "Member" means a Member of the Lokayukta;

(i) "Minister" means the Minister of the Government and includes the Chief Minister;

(j) "prescribed" means prescribed by rules made under this Act;

(k) "public servant" means a person referred to in clauses (a) to (e) of sub-section (1) of section 12;

(l) "regulations" means regulations made under this Act;

(m) "State" means the State of Tamil Nadu.

(2) The words and expressions used in this Act and not defined but defined in the Prevention of Corruption Act, 1988 and the Code of Criminal Procedure, 1973 shall have the meanings, respectively, assigned to them in those Acts.

Central Act 49 of
1988.
Central Act 2 of
1974.

CHAPTER – II.

ESTABLISHMENT AND COMPOSITION OF LOKAYUKTA.

Establishment and
Composition of
Lokayukta.

3. (1) On and from the date of notification to be issued by the Government in this behalf, there shall be established a body to be called the "Lokayukta".

(2) The Lokayukta shall consist of,—

(a) a Chairperson who is or has been a Judge of the High Court or a person with twenty-five years experience in anti-corruption policy, public administration, vigilance, finance and law; and

(b) four Members, out of whom two shall be Judicial Members.

(3) A person shall be eligible to be appointed,—

(a) as a Judicial Member if he is or has been a Judge of the High Court or has put in twenty-five years of experience in State judiciary with impeccable record;

(b) as a Non-Judicial Member if he has had twenty-five years of experience in anti-corruption policy, public administration, vigilance, finance and law.

(4) The Chairperson or a Member shall not be,—

(a) a Member of Parliament or a Member of the Legislative Assembly of any State or Union territory;

(b) a person convicted of any offence;

(c) a person of less than forty-five years of age, on the date of assuming office as Chairperson or Member, as the case may be;

(d) a Member of any Panchayat or Municipality;

(e) a person who has been removed or dismissed from service of the Union or a State and;

(f) a person holding any office of trust or profit (other than his office as the Chairperson or a Member) or be connected with any political party or carry on any business or practice any profession.

(5) A person who is appointed as the Chairperson or a Member, as the case may be, shall, before he enters upon his office, if,—

(a) he holds any office of trust or profit, resign from such office; or

(b) he is carrying on any business, sever his connection with the conduct and management of such business; or

(c) he is practicing any profession, cease to practice such profession.

4. (1) The Chairperson and the Members shall be appointed by the Governor.

(2) The appointment shall be made on the recommendation of the Selection Committee comprising of the following Members:—

(a) Chief Minister — Chairperson;

(b) Speaker of the Legislative Assembly — Member;

(c) Leader of Opposition or the Leader of the single largest Party in Opposition in the Legislative Assembly— Member.

Appointment of
Chairperson
and Members
on the
recommen-
dation of
Selection
Committee.

(3) The Selection Committee may for the purposes of selecting the Chairperson and Members and for preparing a panel of persons to be considered for appointment as such, choose to constitute a Search Committee consisting of three persons having special knowledge and expertise in anti-corruption policy, public administration, vigilance, finance and law.

(4) The Selection Committee shall regulate its own procedure for selecting the Chairperson and Members which shall be transparent.

(5) The term of the Search Committee, if constituted, referred to in sub-section (3), the fees and allowances payable to its Members and the manner of selection of panel of names shall be such as may be prescribed.

Term of office of
Chairperson
and Members.

5. The Chairperson and every Member shall, on the recommendations of the Selection Committee, be appointed by the Governor by warrant under his hand and seal and hold office as such 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:

Provided that he may,—

(a) by writing under his hand addressed to the Governor, resign his office; or

(b) be removed from his office in the manner provided in this Act.

Salary,
allowances
and other
conditions
of service of
Chairperson
and Members.

6. The salary, allowances and other conditions of service of,—

(a) the Chairperson shall be the same as those of the Chief Justice of the High Court;

(b) other Members shall be the same as those of a Judge of the High Court:

Provided that if the Chairperson or a Member is, at the time of his appointment, in receipt of pension (other than disability pension) in respect of any previous service under the Government of India or under any State Government, his salary in respect of service as the Chairperson or, as the case may be, as a Member, be reduced,—

(i) by the amount of that pension; and

(ii) if he has, before such appointment, received, in lieu of a portion of the pension due to him in respect of such previous service, the commuted value thereof, by the amount of that portion of the pension:

Provided further that the salary, allowances and pension payable to, and other conditions of service of, the Chairperson or a Member shall not be varied to his disadvantage after his appointment.

7. (1) On ceasing to hold office, the Chairperson and every Member shall be ineligible for,—
- (a) reappointment as the Chairperson or a Member of the Lokayukta;
- (b) any other assignment or appointment which is required by law to be made by the Governor;
- (c) further employment to any other office of profit under the Government of India or under the Government.
- (2) Notwithstanding anything contained in sub-section (1), a Member shall be eligible to be appointed as a Chairperson, if his total tenure as Member and Chairperson does not exceed five years.
- Explanation.*— For the purposes of this section, it is hereby clarified that where the Member is appointed as the Chairperson, his term of office shall not be more than five years in aggregate as the Member and the Chairperson.
8. (1) In the event of occurrence of any vacancy in the office of the Chairperson by reason of his death, resignation or otherwise, the Governor may, by notification, authorise the senior-most Member to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy.
- (2) When the Chairperson is unable to discharge his functions owing to absence on leave or otherwise, the senior-most Member available, as the Governor may, by notification, authorise in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.
9. (1) There shall be a Secretary to the Lokayukta not below the rank of Deputy Secretary to Government, who shall be appointed by the Chairperson from a panel of names sent by the Government.
- (2) There shall be a Director of Inquiry not below the rank of Deputy Secretary to Government, who shall be appointed by the Chairperson from a panel of names sent by the Government.
- (3) The appointment of officers and staff of the Lokayukta shall be made as may be required for smooth functioning, by the Government and as may be prescribed.
- (4) The conditions of service of Secretary and other officers and staff of the Lokayukta shall be such as may be prescribed from time to time.

Restriction on employment by Chairperson and Members after ceasing to hold office.

Member to act as Chairperson or to discharge his functions in certain circumstances.

Secretary, other officers and staff of Lokayukta.

CHAPTER – III**INQUIRY WING.**

Inquiry Wing.

10. (1) Notwithstanding anything contained in any law for the time being in force, the Lokayukta shall constitute an Inquiry Wing headed by the Director of Inquiry for the purpose of conducting inquiry into any offence alleged to have been committed by a public servant:

Provided that till such time the Inquiry Wing is constituted by the Lokayukta, the Government shall make available such number of officers and other staff from such of its Departments, as may be required, for conducting inquiry under this Act.

(2) For the purposes of assisting the Lokayukta in conducting a inquiry under this Act, the officers of the Inquiry Wing shall have the same powers as are conferred upon the Lokayukta under section 24.

CHAPTER – IV.**EXPENSES OF LOKAYUKTA TO BE CHARGED ON CONSOLIDATED FUND OF STATE.**

Expenses of Lokayukta to be charged on Consolidated Fund of State.

11. The administrative expenses of the Lokayukta, including all salaries, allowances and pensions payable to or in respect of the Chairperson, Members or Secretary or other officers or staff of the Lokayukta, shall be charged upon the Consolidated Fund of the State and any fees or other moneys taken by the Lokayukta shall form part of that Fund.

CHAPTER – V.**JURISDICTION OF THE LOKAYUKTA.**

Jurisdiction of Lokayukta to include Ministers, Members of Legislative Assembly, officers and employees of Government.

12. (1) Subject to the other provisions of this Act, the Lokayukta shall have its jurisdiction on all the following categories, namely:—

(a) any person who is or has been a Minister of the State;

(b) any person who is or has been a Member of the Legislative Assembly;

(c) all officers and employees of the State, from amongst the public servants defined in sub-clauses (i) and (ii) of clause (c) of section 2 of the Prevention of Corruption Act, 1988 when serving or who has served, in connection with the affairs of the State;

Central Act 49 of 1988.

(d) all officers and employees referred to in clause (c) equivalent in any Body or Board or Corporation or Authority or Company or Society or Trust or Autonomous Body (by whatever name called) established by an Act of the Parliament or the Legislative Assembly of the State or wholly or partly financed by the Government or controlled by it:

Provided that in the case of officers and employees referred to in clauses (c) and (d) but are working in connection with the affairs of the Union or in Body or Board or Corporation or Authority or Company or Society or Trust or Autonomous Body under the control of the Union, the Lokayukta and officers of its Inquiry Wing shall have jurisdiction under this Act in respect of such officers only after obtaining the consent of the Central Government;

(e) any person who is or has been a Director, Manager, Secretary or other officer of every other Society or Association of persons or Trust (whether registered under any law for the time being in force or not) by whatever name called, wholly or partly financed or aided by the Government and the annual income of which exceeds such amount as the Government may, by notification, specify.

(2) Notwithstanding anything contained in sub-section (1), the Lokayukta shall not inquire into any matter involved in, or arising from, or connected with, any such allegation of corruption against any Member of the Legislative Assembly in respect of anything said or a vote given by him in the Legislative Assembly of the State or any committee thereof covered under the provisions contained in clause (2) of Article 194 of the Constitution.

(3) The Lokayukta may inquire into any act or conduct of any person other than those referred to in sub-section (1), if such person is involved in the act of abetting, bribe giving or bribe taking or conspiracy relating to any allegation of corruption under the Prevention of Corruption Act, 1988 against a person referred to in sub-section (1):

Central Act 49 of
1988.

Provided that no action under this section shall be taken in case of a person serving in connection with the affairs of the Union, without the consent of the Central Government.

13. (1) Except as hereinafter provided, the Lokayukta shall not conduct any inquiry under this Act, in the case of a complaint in respect of any action, if such action relates to any matter as follows:—

Matters not
subject to
inquiry.

(a) action taken for the purpose of investigating crime relating to the security of the State;

(b) action taken in the exercise of powers in relation to determining whether a matter shall go to a court or not;

(c) administrative action taken in matters which arise out of the terms of a contract governing purely commercial relations of the administration with customers or suppliers except where the complainant alleges harassment or gross delay in meeting contractual obligation;

(d) action taken in respect of appointment, transfer and postings, removal, pay, discipline, superannuation, actions relating to claims for pension, gratuity, provident fund or to any claims which arises on retirement, removal or termination of service, or other matters relating to conditions of service of public servants;

(e) grant of honours and awards;

(f) any action in respect of which a formal and public inquiry has been ordered with the prior concurrence of the Lokayukta;

(g) any action in respect of a matter which has been referred to inquiry under the Commissions of Inquiry Act, 1952;

Central Act 60 of
1952.

(h) any action relating to a person or Local Body which is under the purview of Ombudsman constituted under section 3 of the Tamil Nadu Local Bodies Ombudsman Act, 2014.

Tamil Nadu Act
27 of 2014.

(2) In the case of any complaint, nothing in this Act shall be construed as empowering the Lokayukta to question any administrative action involving the exercise of a discretion, except where Lokayukta is satisfied that the elements involved in the exercise of the discretion are absent to such an extent that the discretion can prima-facie be regarded as having been improperly exercised.

Explanation.— For the removal of doubts, it is hereby declared that a complaint under this Act shall only relate to a period during which the public servant was holding or serving in that capacity.

Matters pending before any court or committee or authority for inquiry not to be affected.

14. In case any matter or proceeding related to allegation of corruption under the Prevention of Corruption Act, 1988 has been pending before any court or committee of the Legislative Assembly or before any other authority prior to the commencement of this Act or prior to the commencement of any inquiry after the commencement of this Act, such matter or proceeding shall be continued before such Court, Committee or Authority.

Central Act 49 of
1988.

15. (1) Subject to the provisions of this Act,—

Constitution of
Benches of
Lokayukta.

(a) the jurisdiction of the Lokayukta may be exercised by Benches thereof;

(b) a Bench may be constituted by the Chairperson with two or more Members as the Chairperson may deem fit;

(c) every Bench shall ordinarily consist of at least one Judicial Member and the senior member of that bench shall preside over the bench;

(d) where a Bench consists of the Chairperson, such Bench shall be presided over by the Chairperson.

(2) The Lokayukta shall notify the areas in relation to which each Bench of the Lokayukta may exercise jurisdiction.

(3) Notwithstanding anything contained in sub-section (2), the Chairperson shall have the power to constitute or reconstitute Benches, from time to time.

(4) If at any stage of the hearing of any case or matter, it appears to the Chairperson or a Member that the case or matter is of such nature that it ought to be heard by a Bench consisting of three or more Members, the case or matter may be transferred by the Chairperson or, as the case may be, referred to him for transfer, to such Bench as the Chairperson may deem fit.

16. Where Benches are constituted, the Chairperson may, from time to time, by notification, make provisions as to the distribution of the business of the Lokayukta amongst the benches and also provide for the matters which may be dealt with by each Bench.

Distribution
of business
amongst
Benches.

17. On an application for transfer made by the complainant or the public servant, the Chairperson, after giving an opportunity of being heard to the complainant or the public servant, as the case may be, may transfer any case pending before one bench for disposal to any other Bench.

Power of
Chairperson to
transfer cases.

18. If the Members of a Bench consisting of an even number of Members differ in opinion on any point, they shall state the point or points on which they differ, and make a reference to the Chairperson who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other Members of the Lokayukta and such point or points shall be decided according to the opinion of the majority of the Members of the Lokayukta who have heard the case, including those who first heard it.

Decision to be by
majority.

CHAPTER - VI.

PROCEDURE IN RESPECT OF PRELIMINARY INQUIRY AND
DETAILED INQUIRY.

Provisions
relating to
complaints and
preliminary
inquiry and
detailed inquiry.

19. (1) The Lokayukta shall, on receipt of a complaint, first decide whether to proceed in the matter or close the same and if the Lokayukta decides to proceed further, it shall,—

(a) order for a preliminary inquiry against any public servant referred to in clauses (a), (b) and (e) of sub-section (1) of section 12 by its Inquiry Wing or any agency of the Government to ascertain whether there exists a prima-facie case for proceeding in the matter;

(b) forward the complaint to the Vigilance Commission for conducting a preliminary inquiry in respect of public servants belonging to Group A, Group B, Group C and Group D in clauses (c) and (d) of sub-section (1) of section 12 to ascertain whether there exists a prima-facie case for proceeding in the matter:

Provided that the Vigilance Commission in respect of complaints referred to it under this clause, after making preliminary inquiry in respect of public servants belonging to Group A and Group B, shall submit its report to the Lokayukta in accordance with the provisions contained in sub-section (2) and in case of public servants belonging to Group C and Group D, the Commission shall proceed in accordance with the instructions and orders in force.

(2) The Inquiry Wing or any agency of the Government or the Vigilance Commission, as the case may be, shall conduct the preliminary inquiry referred to in sub-section (1), on the basis of material, information and documents collected, seek the comments on the allegations made in the complaint from the public servant and competent authority and after obtaining the comments of the concerned public servant and competent authority, submit, within sixty days from the date of receipt of the reference, a report to the Lokayukta.

(3) The Vigilance Commission may, for the purpose of conducting preliminary inquiry, utilise the service of the appropriate agency in accordance with the instructions and orders in force.

(4) A Bench consisting of not less than three Members of the Lokayukta shall consider every report received under sub-section (2) from the Inquiry Wing or any agency of the Government or Vigilance Commission and after giving an opportunity of being heard to the public servant, decide as to whether there exists a prima-facie case, and proceed with the following actions, namely:—

(a) order for a detailed inquiry in respect of public servants referred to in sub-section (1) of section 12 (other than the public servants belonging to Group C and Group D) by its Inquiry Wing or any agency of the Government;

(b) recommend for departmental action in respect of public servants belonging to Group A and Group B;

(c) closure of the proceedings against the public servant and take action to proceed against the complainant under section 35.

(5) In case the Lokayukta decides to proceed with a detailed inquiry into the complaint, it shall direct the Inquiry Wing or any agency of the Government to carry out the inquiry as expeditiously as possible and complete the inquiry within a period of six months from the date of its order:

Provided that the Lokayukta may extend the said period by a further period not exceeding six months at a time for the reasons to be recorded in writing.

(6) The Inquiry Wing or the agency of the Government so directed shall, in respect of cases referred to it by the Lokayukta, submit a detailed inquiry report to the Lokayukta.

(7) A Bench consisting of not less than three Members of the Lokayukta shall consider every report received by it under sub-section (6) from the Inquiry Wing or the agency so directed and may,—

(a) send a report to the competent authority in respect of the public servants referred to in sub-section (1) of section 12 (other than the public servants belonging to Group C and Group D) for appropriate action;

(b) order for closure of complaint.

(8) The Lokayukta may, during the preliminary inquiry or the detailed inquiry, as the case may be, pass appropriate orders for the safe custody of the documents relevant to the preliminary inquiry or, as the case may be, detailed inquiry, as it deems fit.

(9) The website of the Lokayukta shall, from time to time and in such manner as may be specified by regulations, display to the public, the status of number of complaints pending before it or disposed of by it.

(10) The Lokayukta may retain or cause to retain the original records and evidences, which are likely to be required in the process of preliminary inquiry or detailed inquiry.

(11) Save as otherwise provided, the manner and procedure of conducting a preliminary inquiry or detailed inquiry (including such material and documents to be made available to the public servant) under this Act, shall be such as may be specified.

Persons likely to be prejudicially affected to be heard.

20. If, at any stage of the proceeding, the Lokayukta,—

(a) considers it necessary to inquire into the conduct of any person other than the person against whom a complaint is filed; or

(b) is of opinion that the reputation of any person other than the person against whom a complaint is filed is likely to be prejudicially affected by the inquiry, the Lokayukta shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence, consistent with the principles of natural justice.

Lokayukta may require any public servant or any other person to furnish information, etc.,

21. Subject to the provisions of this Act, for the purpose of any preliminary inquiry or detailed inquiry, the Lokayukta or the Director of inquiry, as the case may be, may require any public servant or any other person who, in its opinion, is able to furnish information or produce documents relevant to such preliminary inquiry or detailed inquiry, to furnish any such information or produce any such document.

Previous sanction not necessary for inquiry.

22. No sanction or approval of any authority shall be required by the Lokayukta for the purpose of making preliminary inquiry or detailed inquiry by the Inquiry Wing or Vigilance Commission or any agency of the Government on any complaint filed before it against any public servant.

CHAPTER – VII.

POWERS OF LOKAYUKTA.

Supervisory powers of Lokayukta.

23. The Lokayukta shall, notwithstanding anything contained in any other law for the time being in force, have the powers of superintendence and direction over the Director of inquiry in respect of the matters in so far as they relate to the inquiry under this Act.

Lokayukta to have powers of civil court in certain cases.

24. (1) Subject to the provisions of this section, for the purpose of any inquiry, the Inquiry Wing of the Lokayukta shall have all the powers of a civil court, under the Code of Civil Procedure, 1908, while trying a suit in respect of the following matters, namely:—

(a) summoning and enforcing the attendance of any person and examining him on oath;

(b) requiring the discovery and production of any document;

(c) receiving evidence on affidavits;

Central Act V of 1908.

(d) requisitioning any public record or copy thereof from any court or office;

(e) issuing commissions for the examination of witnesses or documents:

Provided that such commission, in case of a witness, shall be issued only where the witness, in the opinion of the Lokayukta, is not in a position to attend the proceeding before the Lokayukta; and

(f) such other matters as may be prescribed.

(2) Any proceeding before the Lokayukta shall be deemed to be a judicial proceeding within the meaning of section 193 of the Indian Penal Code.

Central Act XLV
of 1860.

25. (1) The Lokayukta may, for the purpose of conducting any preliminary inquiry or detailed inquiry, utilize the services of any officer or agency of the Government with the approval of the Government.

Power of
Lokayukta to
utilise services
of officers of
Government.

(2) For the purpose of preliminary inquiry or detailed inquiry, any officer or agency whose services are utilized under sub-section (1) may, subject to the direction and control of the Lokayukta,—

(a) summon and enforce the attendance of any person and examine him;

(b) require the discovery and production of any document;
and

(c) request any public record or copy thereof from any officer.

(3) The officer or agency whose services are utilised under sub-section (1) shall inquire into any matter pertaining to the preliminary inquiry or detailed inquiry and submit a report thereon to the Lokayukta within such period as may be specified by it in this behalf.

26. (1) Where the Lokayukta, while making a preliminary inquiry into allegations of corruption, is prima facie satisfied, on the basis of evidence available, that,—

Power of
Lokayukta to
recommend
transfer or
suspension of
public servant
connected with
allegation of
corruption.

(a) the continuance of the public servant referred to in clause (c) or clause (d) of sub-section (1) of section 12 in his post while conducting the preliminary inquiry is likely to affect such preliminary inquiry adversely;
or

(b) the public servant referred to in clause (a) is likely to destroy or in any way tamper with the evidence or influence witnesses,
then, the Lokayukta may recommend to the Government for transfer or suspension of such public servant from the post held by him till such period as may be specified in the order.

(2) The Government shall ordinarily accept the recommendation of the Lokayukta made under sub-section (1), except for the reasons to be recorded in writing in a case where it is not feasible to do so for administrative reasons.

Power of Lokayukta to give directions to prevent destruction of records during preliminary inquiry.

27. The Lokayukta may, in discharge of its functions under this Act, issue appropriate directions to a public servant entrusted with the preparation or custody of any document or record—

(a) to protect such document or record from destruction or damage; or

(b) to prevent the public servant from altering or secreting such document or record; or

(c) to prevent the public servant from transferring or alienating any assets allegedly acquired by him through corrupt means.

Power to delegate.

28. The Lokayukta may, by general or special order in writing, and subject to such conditions and limitations as may be specified therein, direct that any administrative or financial power conferred on it may also be exercised or discharged by such of its members or officers or employees as may be specified in the order.

CHAPTER – VIII.

COMPLAINTS AGAINST CHAIRPERSON, MEMBERS AND OFFICIALS OF LOKAYUKTA.

Removal and suspension of Chairperson and Members of Lokayukta.

29. (1) The Lokayukta shall not inquire into any complaint made against the Chairperson or any Member.

(2) Subject to the provisions of sub-section (4), the Chairperson or any Member shall be removed from his office by order of the Governor on grounds of misbehavior, after the High Court, on a reference being made to it by the Governor on a petition signed by at least forty-five Members of the Legislative Assembly, has, on an inquiry held by the High Court in that behalf, reported that the Chairperson or such Member, as the case may be, ought to be removed on such ground.

(3) The Governor may suspend from office, the Chairperson or any Member in respect of whom a reference has been made to the High Court under sub-section (2), on receipt of the recommendation or interim order made by the High Court in this regard until the Governor has passed orders on receipt of the final report of the High Court on such reference.

(4) Notwithstanding anything contained in sub-section (2), the Governor may, by order, remove from the office, the Chairperson or any Member, if the Chairperson or such Member, as the case may be,—

(a) is adjudged an insolvent; or

(b) engages himself during his term of office, in any paid employment outside the duties of his office; or

(c) is, in the opinion of the Governor, unfit to continue in office by reason of infirmity of mind or body.

(5) If the Chairperson or any Member is, or becomes, in any way concerned or interested in any contract or agreement made by or on behalf of the Government of India or the Government of Tamil Nadu or participates in any way in the profit thereof or in any benefit or emolument arising therefrom otherwise than as a member and in common with the other members of an incorporated company, he shall, for the purposes of sub-section (2), be deemed to be guilty of misbehaviour.

Central Act
49 of 1988.

30. (1) Every complaint of allegation or wrong doing made against any officer or employee or agency under or associated with the Lokayukta for an offence punishable under the Prevention of Corruption Act, 1988 shall be dealt with in accordance with the provisions of this section.

Complaints
against
officials of
Lokayukta.

(2) The Lokayukta shall complete the inquiry into the complaint or allegation made within a period of thirty days from the date of its receipt.

(3) While making an inquiry into the complaint against any officer or employee of the Lokayukta or agency engaged or associated with the Lokayukta, if it is prima facie satisfied on the basis of evidence available, that,—

(a) continuance of such officer or employee of the Lokayukta or agency engaged or associated in his post while conducting the inquiry is likely to affect such inquiry adversely; or

(b) an officer or employee of the Lokayukta or agency engaged or associated is likely to destroy or in any way tamper with the evidence or influence witnesses,

then, the Lokayukta may, by order, suspend such officer or employee of the Lokayukta or divest such agency engaged or associated with the Lokayukta of all powers and responsibilities hereto before exercised by it .

(4) On completion of the inquiry, if the Lokayukta is satisfied that there is prima facie evidence of the commission of an offence under the Prevention of Corruption Act, 1988, or of any wrong doing, it shall, within a period of fifteen days of the completion of such inquiry, sent its report to the Vigilance Commission of the State for appropriate action on such officer or employee of the Lokayukta or such officer, employee, agency engaged or associated with the Lokayukta and initiate disciplinary proceedings against the official concerned:

Central Act
49 of 1988.

Provided that no such order shall be passed without giving such officer or employee of the Lokayukta, or agency so engaged or associated, a reasonable opportunity of being heard.

CHAPTER - IX.

FINANCE, ACCOUNTS AND AUDIT.

Budget.

31. The Lokayukta shall prepare, in such form and at such time in each financial year as may be prescribed, its budget for the next financial year, showing the estimated receipts and expenditure of the Lokayukta and forward the same to the Government.

Grants by
Government.

32. The Government may, after due appropriation made by the Legislative Assembly of the State by law in this behalf, make to the Lokayukta grants of such sums of money as are required to be paid for the salaries and allowances payable to the Chairperson and Members and the administrative expenses, including the salaries and allowances and pension payable to or in respect of officers and other employees of the Lokayukta.

Annual statement
of accounts.

33. (1) The Lokayukta shall maintain proper accounts and other relevant records and prepare an annual statement of accounts in such form as may be prescribed in consultation with the Accountant General of Tamil Nadu.

(2) The accounts of the Lokayukta shall be audited by the Accountant General of Tamil Nadu at such intervals as may be specified by him.

(3) The Accountant General of Tamil Nadu or any person appointed by him in connection with the audit of the accounts of the Lokayukta under this Act shall have the same rights, privileges and authority in connection with such audit, as the Accountant General of Tamil Nadu generally has, in connection with the audit of the Government accounts and, in particular, shall have the right to demand the production of books, accounts, connected vouchers and other documents and papers and to inspect any of the offices of the Lokayukta.

(4) The accounts of the Lokayukta, as certified by the Accountant General of Tamil Nadu or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the Government and the Government shall cause the same to be laid before the Legislative Assembly of the State.

34. The Lokayukta shall furnish to the Government, at such time and in such form and manner as may be prescribed or as the Government may request, such returns and statements and such particulars in regard to any matter under the jurisdiction of the Lokayukta, as the Government may, from time to time, require.

Furnishing of returns etc., to Government.

CHAPTER - X.

ACTION ON FALSE COMPLAINTS.

35. (1) Notwithstanding anything contained in this Act, whoever makes any false and frivolous or vexatious complaint under this Act shall, on conviction, be punished with imprisonment for a term which may extend to one year and with fine which may extend to one lakh rupees.

Prosecution for false complaint and payment of compensation, etc., to public servant.

(2) No Court shall take cognizance of an offence under sub-section (1) except on a complaint made by a person against whom the false, frivolous or vexatious complaint was made or by an officer authorised by the Lokayukta.

(3) The prosecution in relation to an offence under sub-section (1) shall be conducted by the public prosecutor and all expenses connected with such prosecution shall be borne by the Government.

(4) In case of conviction of a person being an individual or Society or Association of persons or Trust (whether registered or not) for having made a false complaint under this Act, such person shall be liable to pay compensation to the public servant against whom he made the false complaint in addition to the legal expenses for contesting the case by such public servant, as the Court may determine.

(5) Nothing contained in this section shall apply in case of complaints made in good faith.

Explanation.— For the purpose of this sub-section, the expression “good faith” means any act believed or done by a person in good faith with due care, caution and sense of responsibility or by mistake of fact believing himself justified by law under section 79 of the Indian Penal Code, 1860.

False
complaint
made by
society or
association
of persons
or trust.

36. (1) Where any offence under sub-section (1) of section 35 has been committed by any Society or Association of persons or Trust (whether registered or not), every person who, at the time the offence was committed, was directly in charge of, and was responsible to, the Society or Association of persons or Trust, for the conduct of the business or affairs or activities of the society or Association of persons or Trust as well as such Society or Association of persons or Trust shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Society or Association of persons or Trust (whether registered or not) and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any Director, Manager, Secretary or other officer of such Society or Association of persons or Trust, such Director, Manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

CHAPTER - XI.

MISCELLANEOUS.

Protection of
action taken
in good faith
by any public
servant.

37. No suit, prosecution or other legal proceedings under this Act shall lie against any public servant, in respect of anything which is done in good faith or intended to be done in the discharge of his official functions or in exercise of his powers.

Protection of
action taken in
good faith by
others.

38. No suit, prosecution or other legal proceedings shall lie against the Lokayukta or against any officer, employee, agency or any person, in respect of anything which is done in good faith or intended to be done under this Act or the rules or the regulations made thereunder.

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| Central Act XLV of 1860. | <p>39. The Chairperson, Members, officers and other employees of the Lokayukta shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code, 1860.</p> | <p>Members, officers and employees of Lokayukta to be public servants.</p> |
| | <p>40. The Lokayukta shall not inquire into any complaint, if the complaint is not made within a period of four years from the date on which the offence mentioned in such complaint is alleged to have been committed.</p> | <p>Limitation to apply.</p> |
| | <p>41. No Civil Court shall have jurisdiction in respect of any matter which the Lokayukta is empowered by or under this Act to determine.</p> | <p>Bar of Jurisdiction.</p> |
| | <p>42. The Lokayukta shall provide to every person against whom a complaint has been made, before it, under this Act, legal assistance to defend his case before the Lokayukta, if such assistance is requested for.</p> | <p>Legal assistance.</p> |
| | <p>43. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law made by the legislature of the State for the time being in force.</p> | <p>Act to have overriding effect.</p> |
| <p>44. (1) The Government may, by notification, make rules to carry out the provisions of this Act.</p> | <p>Power to make rules.</p> | |
| <p>(2) In particular, and without prejudice to the generality of the foregoing powers, such rules may provide for all or any of the following matters, namely:—</p> | | |
| <p>(a) the form of complaint referred to in clause (d) of sub-section (1) of section 2;</p> | | |
| <p>(b) term of Search Committee, fees and allowances payable to its Members and the manner of selection of panel of names under sub-section (5) of section 4;</p> | | |
| <p>(c) appointment in respect of any post or posts under the proviso to sub-section (3) of section 9;</p> | | |
| <p>(d) conditions of service of Secretary and other officers and staff of the Lokayukta under sub-section (4) of section 9;</p> | | |
| <p>(e) other matters for which the Lokayukta shall have the powers of a Civil Court under clause (f) of sub-section (1) of section 24;</p> | | |

(f) the form and the time for preparing in each financial year the budget for the next financial year, showing the estimated receipts and expenditure of the Lokayukta under section 31;

(g) the form for maintaining the accounts and other relevant records and the form of annual statement of accounts under sub-section (1) of section 33;

(h) the form and manner and the time for preparing the returns and statements along with particulars under section 34;

(i) any other matter which is to be or may be prescribed.

(3) All rules made and notification issued under this Act shall be published in the Tamil Nadu Government Gazette and unless they are expressed to come into force on a particular day shall come into force on the day on which they are so published.

(4) Every rule, notification or order made or issued under this Act shall, as soon as possible, after it is made or issued, be placed on the table of the Legislative Assembly, and if, before the expiry of the session in which it is so placed or in the next session, the Legislative Assembly makes any modification in any such rule, notification or order or the Legislative Assembly decides that the rule, notification or order should not be made or issued, the rule, notification or order shall, thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule, notification or order.

Power
to make
regulations.

45. (1) Subject to the provisions of this Act and the rules made thereunder, the Lokayukta may, by notification, make regulations to carry out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, such regulations may provide for all or any of the following matters, namely:—

(a) the manner for displaying on the website of the Lokayukta, the status of all complaints pending or disposed of along with records and evidence with reference thereto under sub-section (9) of section 19; and

(b) any other matter which is required to be, or may be, specified under this Act.

46. (1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by an order published in the *Tamil Nadu Government Gazette*, make such provisions not inconsistent with the provisions of this Act as appear to them to be necessary or expedient for removing such difficulty:

Power to
remove
difficulties.

Provided that no such order shall be made after the expiry of three years from the date of commencement of this Act.

(2) Every order made under this section shall be laid, as soon as may be, after it is made, before the Legislative Assembly.

(By order of the Governor)

S.S. POOVALINGAM,
Secretary to Government,
Law Department.