

Karnataka Lokayukta (Amendment) Act, 2015**35 OF 2015**

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An Act further to amend the Karnataka Lokayukta Act, 1984. Whereas, it is expedient further to amend the Karnataka Lokayukta Act, 1984 (Karnataka Act 4 of 1985) for the purposes hereinafter appearing;

Be it enacted by Karnataka State Legislature in the Sixty-sixth Year of the Republic of India as follows:-

1. Short title and commencement :-

- (1) This Act may be called the Karnataka Lokayukta (Amendment) Act, 2015.
- (2) It shall come into force on such date as the State Government may, by notification, appoint.

2. Amendment of section 3 :-

In the Karnataka Lokayukta Act, 1984 (Karnataka Act 4 of 1985) (hereinafter referred to as the Principal Act), in section 3,-

(1) in sub-section (2),-

- (i) in clause (a), after the words "or that of the Chief Justice of a High Court", the words "or a person who has held the office of a Judge of a High Court for not less than ten years" shall be inserted;
- (ii) in clause (b), after the words "who has held the office of a Judge of a High Court", the words "for not less than five years" shall be inserted.

3. Amendment of section 6 :-

For section 6 of the principal Act, the following shall be substituted, namely:-

"6. Removal of Lokayukta or Upalokayukta.-

(1) The Lokayukta or an Upalokayukta shall not be removed from his office except by an order of the Governor passed after an address by each House of the State Legislature supported by a majority of the total membership of the House and by a majority of not less than two-thirds of the members of that House present and voting has been presented to the Governor in the same Session for such removal on the ground of proved misbehaviour or incapacity.

(2) A notice of motion for removal of Lokayukta or an Upalokayukta may be given in writing to;

(a) the Speaker of the Karnataka State Legislative Assembly duly signed by not less than one-third of the total membership of that House; or

(b) the Chairman of the Karnataka State Legislative Council duly signed by not less than one-third of the total membership of that House.

(3) Soon after the receipt of notice of motion referred in sub-section (2), the Speaker or Chairman, as the case may be, after consulting such persons, if any, as he thinks fit and after considering such materials, if any, as may be available to him and after satisfying himself as to the prima facie case regarding incapacity or misbehaviour of the Lokayukta or Upalokayukta, as the case may be, either admit the motion or refuse to admit the same.

(4) Where a notice of a motion referred to in sub-section (2) is admitted, the Speaker or the Chairman, as the case may be, shall keep the motion pending and refer the matter to the Chief Justice of the High Court of Karnataka for the purpose of making an investigation into the grounds on which the removal of Lokayukta or an Upalokayukta is prayed for.

Provided that where notices of a motion referred to in sub-section (2) are given on the same day in both the Houses of the Legislature, no reference to the Chief Justice of the High Court of Karnataka shall be made unless the motion has been admitted in both the Houses and where such a motion is admitted in both Houses, the matter shall be referred to the Chief Justice of the High Court of Karnataka jointly by the Speaker and the Chairman.

Provided further that where notices of a motion as aforesaid are given in the Houses of Legislature on different dates, the notice

which is given later shall stand rejected.

(5) When the motion is referred to the Chief Justice of the High Court of Karnataka, the Chief Justice of Karnataka or as the case may be, by such other Judge of the High Court nominated by him shall frame definite charges against the Lokayukta or an Upalokayukta, as the case may be, on the basis of which the investigation is proposed to be held. Such charges together with a Statement of the grounds on which each such Charge is based shall be communicated to the Lokayukta or Upalokayukta and he shall be given a reasonable opportunity of presenting a written Statement of defence within such time as may be specified in this behalf by the Chief Justice of the High Court of Karnataka or the other Judge of High Court so nominated.

(6) The State Government may, if required by the Speaker or the Chairman, or by both, as the case may be, appoint an Advocate to conduct the case against the Lokayukta or Upalokayukta, as the case may be.

(7) The Chief Justice of the High Court of Karnataka or the Judge of the High Court nominated by him shall have power to regulate his own procedure in making the investigation and shall give a reasonable opportunity to the Lokayukta or the Upalokayukta, as the case may be, for presenting a written statement of defence, for cross-examining witnesses, adducing evidence and of being heard in his defence by himself or through his Advocate.

(8) For the purpose of making any investigation under this Act, the Chief Justice of the High Court of Karnataka or the Judge of the High Court nominated by him shall have the powers of the civil court, while trying a suit, under the Code of Civil Procedure, 1908, in respect of the following matters, viz.,:

- (a) summoning and enforcing the attendance of any person and examining him on oath;
- (b) requiring the discovery and production of documents;
- (c) receiving evidence on oath;
- (d) issuing commissions for the examination of witnesses or documents.

(9) The Chief Justice of the High Court of Karnataka or the Judge of the High Court nominated by him after investigating into the matter referred to him shall prepare a report and submit the same to the Speaker or to the Chairman as the case may be, and to the Speaker and the Chairman in case the matter is referred by both, within ninety days from the date of such reference.

(10) If the report of the Chief Justice of the High Court of

Karnataka or the Judge of the High Court nominated by him contains a finding that the Lokayukta or Upalokayukta against whom charges were framed is not guilty of any misbehaviour or does not suffer from any incapacity, then no further steps shall be taken in either House of the State Legislature in relation to the report and no further proceeding is necessary in respect of pending motion.

(11) If the report of the Chief Justice of the High Court of Karnataka or the Judge of the High Court contains a finding that the Lokayukta or Upalokayukta against whom charges were framed is guilty of any misbehaviour or suffers from any incapacity, then the motion referred to in sub-section (2) shall, together with the report of the Chief Justice of the High Court of Karnataka or the Judge of the High Court, as the case may be, taken up for consideration by the House or the Houses of the State Legislature in which the motion is pending.

(12) If the motion referred to in sub-section (2) is adopted by each House of the State Legislature in accordance with the provisions of sub-section (1), then the misbehaviour or incapacity of Lokayukta or Upalokayukta, as the case may be, shall be deemed to have been proved and an address praying for removal of Lokayukta or Upalokayukta shall be presented to the Governor of the State duly signed by the Speaker and the Chairman.

(13) Once the Governor gives assent to the address made under sub-section (12), the Lokayukta or Upalokayukta shall be deemed to have been removed from office in accordance with law.

(14) The Lokayukta or Upalokayukta, as the case may be, against whom a motion is moved before the House or the Houses of the State Legislature for his removal, is precluded from discharge of his duties during the pendency of motion for his removal before the House or the Houses of the State Legislature."

4. Amendment of section 12 :-

In section 12 of the principal Act, for sub-section (6), the following shall be substituted, namely:-

"(6) The Lokayukta shall present on or before 31st October of every year, a consolidated report on the performance of his functions and that of the Upalokayukta under this Act to the Governor."