

**Lokpal of India
Plot No.6, Vasant Kunj Institutional Area – Phase-II
New Delhi – 110070**

Complaint No. : 255/2024

Date : 03.01.2025

**Coram : Shri Justice A.M. Khanwilkar
Chairperson**

**Shri Justice L. Narayana Swamy
Member**

**Shri Justice Sanjay Yadav
Member**

**Shri Sushil Chandra
Member**

**Shri Pankaj Kumar
Member**

**Shri Ajay Tirkey
Member**

ORDER

1. This complaint had been filed on 18.10.2024, against the sitting Chief Justice of India as on that date, for alleged abuse of office, amounting to corruption and malicious exercise of power to favour and protect a certain politician and political party.

2. The central issue, which needs to be answered at the threshold is - whether a sitting Chief Justice of India or a Judge of the Supreme Court of India is amenable to the jurisdiction of the Lokpal in terms of Section 14 of the Lokpal and Lokayuktas Act, 2013 (for short, the Act of 2013). Section 14 of the Act of 2013 reads thus:

"Section 14 Jurisdiction of Lokpal to include Prime Minister, Ministers, members of Parliament, Groups A, B, C and D officers and officials of Central Government.- (1) Subject to the other provisions of this Act, the Lokpal shall inquire or cause an inquiry to be conducted into any matter involved in, or arising from, or connected with, any allegation of corruption made in a complaint in respect of the following, namely:—

(a) any person who is or has been a Prime Minister:

Provided that the Lokpal shall not inquire into any matter involved in, or arising from, or connected with, any such allegation of corruption against the Prime Minister,—

(i) in so far as it relates to international relations, external and internal security, public order, atomic energy and space;

(ii) unless a full bench of the Lokpal consisting of its Chairperson and all Members considers the initiation of inquiry and at least two-thirds of its Members approves of such inquiry:

Provided further that any such inquiry shall be held in camera and if the Lokpal comes to the conclusion that the complaint deserves to be dismissed, the records of the inquiry shall not be published or made available to anyone;

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

- (c) any person who is or has been a member of either House of Parliament;
- (d) any Group 'A' or Group 'B' officer or equivalent or above, 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 (49 of 1988) when serving or who has served, in connection with the affairs of the Union;
- (e) any Group 'C' or Group 'D' official or equivalent, 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 (49 of 1988) when serving or who has served in connection with the affairs of the Union subject to the provision of sub-section (1) of section 20;
- (f) any person who is or has been a chairperson or member or officer or employee 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 Parliament or wholly or partly financed by the Central Government or controlled by it:**

Provided that in respect of such officers referred to in clause (d) who have served in connection with the affairs of the Union or in any body or Board or corporation or authority or company or society or trust or autonomous body referred to in clause (e) but are working in connection with the affairs of the State or 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 State Legislature or wholly or partly financed by the State Government or controlled by it, the Lokpal and the officers of its Inquiry Wing or Prosecution Wing shall have jurisdiction under this Act in respect of such officers only after obtaining the consent of the concerned State Government;

- (g) 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 by the Government and the annual income of which exceeds such amount as the Central Government may, by notification, specify;
- (h) 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) in receipt of any donation from any foreign source under the Foreign Contribution (Regulation) Act, 2010 (42 of 2010) in excess of ten lakh rupees in a year or such higher amount as the Central Government may, by notification, specify.

Explanation.—For the purpose of clauses (f) and (g), it is hereby clarified that any entity or institution, by whatever name called, corporate, society, trust, association of persons, partnership, sole proprietorship, limited liability partnership (whether registered under any law for the time being in force or not), shall be the entities covered in those clauses:

Provided that any person referred to in this clause shall be deemed to be a public servant under clause (c) of section 2 of the Prevention of Corruption Act, 1988 (49 of 1988) and the provisions of that Act shall apply accordingly.

(2) Notwithstanding anything contained in sub-section (1), the Lokpal shall not inquire into any matter involved in, or arising from, or connected with, any such allegation of corruption against any member of either House of Parliament in respect of anything said or a vote given by him in Parliament or any committee thereof covered under the provisions contained in clause (2) of article 105 of the Constitution.

(3) The Lokpal 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 (49 of 1988) against a person referred to in sub-section (1):

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

(4) No matter in respect of which a complaint has been made to the Lokpal under this Act, shall be referred for inquiry under the Commissions of Inquiry Act, 1952 (60 of 1952).



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.”

(Emphasis supplied)

3. The textual and even contextual interpretation of this provision would lead us to the conclusion that - only the persons referred to with their designation/description in this provision, have been made amenable to the jurisdiction of the Lokpal, as being a public servant against whom the Lokpal is bestowed with the duty to inquire or cause an inquiry to be conducted into any matter involved in, or arising from, or connected with, any allegation of corruption within the meaning of provisions of the Prevention of Corruption Act, 1988 (for short, PC Act 1988), made by way of a complaint to the Lokpal.
4. Indubitably, a sitting Judge or Chief Justice of the Supreme Court of India would not come within the ambit of clauses (a) to (e), (g) and (h), reproduced above. The only expansive clause that may come into play is clause (f), which, however, predicates that any person who is or has been a chairperson or member or officer or employee 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 Parliament" or wholly or partly financed by the Central Government or controlled by it. At the first impression, there can be no debate about the fact that the Supreme Court of India is a Body of a group of judges associated for common purpose or object. The judges generally including that of the Supreme Court of India also come within the ambit of expression public servant within the meaning of Section 2(c) of the PC Act 1988. The expression, public servant has been independently defined in Section 2(1)(o) the Act of 2013, in the following words:

"Section 2(1)(o):

public servant" means a person referred to in clauses (a) to (h) of sub-section (1) of section 14 but does not include a public servant in respect of whom the jurisdiction is exercisable by any court or other authority under the Army Act, 1950 (45 of 1950), the Air Force Act, 1950 (46 of 1950), the Navy Act, 1957 (62 of 1957) and the Coast Guard Act, 1978 (30 of 1978) or the procedure is applicable to such public servant under those Acts;"

(emphasis supplied)

5. Indeed, the Judge of a Court would not come within the excepted category of public servant in respect of whom jurisdiction is exercisable by any court or other authority under the specified Acts. In that sense, the Judge of any Court would be a public servant and also can be proceeded with for having committed an offence of corruption including under the P C Act, 1988, as ordained by the Constitution Bench of

the Supreme Court, in K. Veeraswami vs. Union of India & Ors. as reported in (1991) 3 SCC 655.

6. The moot question is: whether the Supreme Court of India is a Body established by an "**Act of Parliament**". This expression used in Section 14 of the Act is very definite and does not leave any room for interpretation. We need to remind ourselves of the cardinal principle of interpretation of statutes that while interpreting any penal statute, strict interpretation must be preferred.
7. In other words, it will have to be first explored whether it is open to take the view that the Supreme Court of India has been **established by an "Act of Parliament"**. To this, the answer is an emphatic "**NO**". For, the Supreme Court of India has been established by virtue of Article 124 of the Constitution of India. Further, it is not possible to equate the Constitution adopted by the Constituent Assembly, for and on behalf of the "We the people of India", as being an "Act of Parliament" as such. This view is reinforced from the definition of Constitution given in the General Clauses Act, 1897 in Section 3(15), which is a dictionary clause of expression "Constitution" - to mean the

Constitution of India. It cannot be termed as a law made by the Parliament of India or for that matter, an Act of Parliament. The expression "law" has been defined in Article 13 of the Constitution to include an Ordinance, order, bye-law, rule, regulation, notification, custom or usage having in the territory of India the force of law.

8. Suffice it to observe that the Supreme Court of India even though, a body of Judges, does not come within the ambit of expression "body" employed in Section 14(1)(f) of the Act of 2013, as it is not established by an "Act of Parliament" as such. Further, the Supreme Court of India is neither wholly or partly financed by the Central Government or controlled by it as such. In as much as, the expenditure of the Supreme Court of India has a charge on the Consolidated Fund of India and is not dependent on being financed by the Central Government nor Controlled by it in any manner, including in respect of its administrative functions. The same logic must apply to the Judges of the Supreme Court or Chief Justice of India, namely, as not being wholly or partly financed by the Central Government or controlled by it as such.
9. As a concomitant to this view, it must follow that the sitting Judge of the Supreme Court of India or the Chief Justice of the Supreme Court will not be amenable to the constricted jurisdiction of the Lokpal of India

in terms of Section 14 of the Act of 2013. In that, a person coming within the ambit of expression public servant enunciated in Section 2(c) of the P C Act of 1988, need not be a public servant for the purposes of the Act of 2013 (unless he qualifies the designation/description provided in Section 14 of the Act of 2013). But the *vice-versa* may be so. Meaning thereby, that a person covered by the trapings of Section 14 of the Act of 2013 is necessarily a public servant within the sweep of Section 2(c) of the P C Act, 1988. We need to clarify that the view propounded hitherto is only to consider the status of the Judges and Chief Justice of the Supreme Court of India, having been established by virtue of Article 124 of the Constitution of India. This view may not squarely apply to the Judges of the other Courts, including High Courts established under the Act. Having said this, we must eschew from dilating upon the diverse allegations contained in this complaint running into 382 pages. We say no more.

10. In light of the above, we dispose of this complaint as being barred by jurisdiction.

11. We, however, make it clear that the complainant is free to pursue such other remedies, as may be permissible in law. We may not be understood to have expressed any opinion on the merits of the

allegations, one way or the other including about the maintainability of the legal remedies to be resorted to by the complainant.

**Sd/-
(Justice A.M. Khanwilkar)
Chairperson**

**Sd/-
(Justice L. Narayana Swamy)
Member**

**Sd/-
(Justice Sanjay Yadav)
Member**

**Sd/-
(Sushil Chandra)
Member**

**Sd/-
(Pankaj Kumar)
Member**

**Sd/-
(Ajay Tirkey)
Member**


(Court Master)

/SN/