

# **RMM LAW COLLEGE SAHARSA**

## **ADMINISTRATIVE LAW**

### **IIIrd Part**

### **Paper -VII**

#### **TOPIC- Lokpal and Lokayukta**

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#### **Lokpal Jurisdiction and Powers**

- Jurisdiction of Lokpal **includes Prime Minister, Ministers, members of Parliament, Groups A, B, C and D officers and officials of Central Government.**
- Jurisdiction of the Lokpal included the Prime Minister except on allegations of corruption relating to international relations, security, the public order, atomic energy and space.
- The Lokpal does not have jurisdiction over Ministers and MPs in the matter of anything said in Parliament or a vote given there.
- Its jurisdiction also includes any person who is or has been in charge (director/ manager/ secretary) of anybody/ society set up by central act or any other body financed/ controlled by central government and any other person involved in act of abetting, bribe giving or bribe taking.
- The Lokpal Act mandates that all public officials should furnish the assets and liabilities of themselves as well as their respective dependents.
- **It has the powers to superintendence over, and to give direction to CBI.**
  - If Lokpal has referred a case to CBI, the investigating officer in such case cannot be transferred without the approval of Lokpal.

- The Inquiry Wing of the Lokpal has been **vested with the powers of a civil court.**
- Lokpal has **powers of confiscation of assets, proceeds, receipts and benefits arisen or procured by means of corruption** in special circumstances.
- Lokpal has the **power to recommend transfer or suspension of public servant** connected with allegation of corruption.
- Lokpal has the **power to give directions to prevent the destruction of records** during the preliminary inquiry.

## Limitations

- 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.
- Five years have passed since the Lokpal and Lokayuktas Act 2013 was passed by parliament, but not a single Lokpal has been appointed till date indicating the **lack of political will.**
  - 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.

## Suggestions

- 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.