

THE ARUNACHAL PRADESH LOKAYUKTA ACT, 2014 (Act no. 7 of 2014)

(Received the assent of the Governor on 16th May, 2014 and notified in AP Gazette no 83 Vol XXI dtd 24th May 2014 and last amended in 2019 (Act no 9 of 2019) and received the assent of Governor on 23rd October 2019 and notified in AP Gazette No 3403 Vol XXVI Dtd 24th October 2019)

An Act to provide for establishment of body of Lokayukta for the State of Arunachal Pradesh to inquire into allegations of corruptions against certain public functionaries and matters connected therewith and incidental thereto :

BE it enacted by the Legislature of the State of Arunachal Pradesh in the Sixty-fifth Year of the Republic of India, as follows :

CHAPTER - I

PRELIMINARY

1. (1) This Act may be called the Arunachal Pradesh Lokayukta Act, 2014.

(2) It extends to the whole of the State of Arunachal Pradesh.

¹[(3).....(deleted)]

¹[deleted by s.2 of 2019 Act.]

(4) It shall come into force on such date as the Government may, by notification, appoint.

2. Definitions.

(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', in relation to

(i) the Chief Minister, means the Legislative Assembly of the State;

(ii) the member of the Council of Ministers, means the Chief Minister;

(iii) the member of State Legislative Assembly other than a Minister, means the Speaker of the Legislative Assembly;

²[(iv) an officer in any Department of the Government, means the Chief Minister];

²[deleted by s.3 of 2019 Act.]

(v) a Chairperson or member of any Body or Board or corporation or Local authority or company or society or autonomous Body (by whatever name called) established or constituted under any Act of the Legislature of the State or wholly or partly financed by the Government or controlled by it, means the Minister-in-charge of the Department of such Body or Board or corporation or authority or company or society or autonomous body.

Provided that if such Chairperson or member is also the member of the State Legislative Assembly, then the competent authority shall be the Speaker of the Legislative Assembly;

(vi) an officer of any Body or Board or corporation or Local authority or company or society or autonomous body (by whatever name called) established or constituted under any Act of the Legislature of the State or wholly or partly financed by the Government or controlled by it, means the head of such Body or Board or corporation or authority or company or society or autonomous body ; and

(vii) any other case not falling under sub clauses (i) to (vi) above, means such Department or authority as the Government may, by notification, specify ;

(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 of Act, 1988;

(e) 'Government' means the Government of Arunachal Pradesh;

³[(f)...deleted]

³[(g) ..deleted]

³[deleted by s.4 of 2019 Act.]

(h) "Lokayukta" means the body established under section 3; (i) "Member" means the member of the Lokayukta;

(j) 'Minister' means Minister of the Government but does not include the Chief Minister;

(k) "notification" means notification published in the Official Gazette and the expression notify shall be construed accordingly

(l) "preliminary inquiry" means an inquiry conducted under this Act;

(m) 'prescribed' means prescribed by rules;

(n) "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, the Air Force Act, 1950, the Navy Act, 1957 and the Coast Guard Act, 1978 or the procedure is applicable to such public servant under those Acts;

(o) 'regulations' means regulations made under this Act;

(p) "rules" means rules made under this Act and

(q) 'Special Court' means the court of a Special Judge appointed under sub-section (1) of section 3 of the Prevention of Corruption Act, 1988.

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

CHAPTER. II

ESTABLISHMENT OF LOKAYUKTA

3. (1) After the commencement of this Act, the Government shall, by notification, establish, for the purpose of this Act, a body called the Lokayukta for the State of Arunachal Pradesh.

- (2) The Lokayukta shall consist of:

(a) a Chairperson, who is or has been a Judge of the Supreme Court or who is or has been Chief Justice or judge of High Court and of impeccable integrity and outstanding ability or an eminent person who fulfils the eligibility specified in clause (b) of sub-section (3) ; and

^{4a}[(b) *One non-judicial APST member preferably woman.*]

^{4a}[].substituted by s.5(i) of 2019 Act

^{4b}[(c) ...deleted]

^{4c}[(d)...deleted:]

^{4b,4c}[].deleted by s.5(ii) of 2019 Act

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

^{4d}[(a)...deleted;]

^{4d}[].deleted by s.5(2) of 2019 Act.

(b) as ⁶{*the*} Member ⁵{..deleted,} if he is a person of impeccable integrity and outstanding ability having special knowledge and expertise of not less than twenty years in the matters relating to public administration, finance including insurance and banking, law anti-corruption policy or management.

- (4) The Chairperson or ⁶{*the*} Member shall not be-

(a) the member of Parliament or the member of the Legislature of any State or Union Territory;

- (b) a person convicted of any offence involving moral turpitude ;
- (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) the member of any Panchayat or Municipality;
- (e) a person who has been removed or dismissed from service of the Union or a State; or

⁵[].deleted by s.5(3) of 2019 Act.

⁶[].substituted by s.6 of 2019 Act

(f) a person holding any office of trust or profit (other than his office as the Chairperson or the member) or person connected with any political party or carry on any business or practise any profession, and accordingly, before he enters upon his office, as the Chairperson or the member, as the case may be, shall, if

- (i) he holds any office of trust or profit, resign from such office; or
- (ii) he is carrying on any business, sever his connection with the conduct and management of such business ; or
- (iii) he is practicing any profession, cease to practice such profession.

Appointment of Chairperson and member on recommendations of Selection Committee :

4. (1) The Chairperson and member shall be appointed by the Governor by warrant under his hand and seal after obtaining the recommendations of a Selection Committee consisting of
 - (a) the Chief Minister--Chairperson;
 - (b) the Leader of Opposition in the Legislative Assembly- Member;
 - (c) the Chief Justice of the Gauhati High Court or a Judge of the said High Court nominated by the Chief Justice- Member;
 - (d) Chief Secretary to the Government-Member.
- (2) No appointment of a Chairperson or {the} Member shall be invalid merely by reason of any vacancy in the Selection Committee.
- (3) The Selection Committee shall, for the purposes of selecting the Chairperson and member of the Lokayukta and for preparing a panel of persons to be considered for appointment as such, constitute a Search Committee consisting of at least five persons of standing and having special knowledge and expertise in the matters relating to public administration, finance including insurance and banking, law, anti-corruption policy, management, or in any other matter which, in the opinion of the Selection Committee, may be useful in making selection of the Chairperson and member of the Lokayukta: Provided that the Selection Committee may also consider any person other than the persons recommended by the Search Committee.
- (4) The Selection Committee shall regulate its own procedure in a transparent manner for selecting the Chairperson and member of the Lokayukta.
- (5) The term of the Search Committee referred to in sub-section (3), the fees and allowances payable to its member and the manner of selection of panel of names shall be such as may be prescribed.
5. (1) The Chairperson and the member shall, 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 section 37.

(2) The Chairperson and the member shall, before entering upon his office, make, and subscribe before the Governor an oath or affirmation in the form set out in Schedule.

6. The Governor shall take or cause to be taken all necessary steps for the appointment of a new Chairperson and member at least three months before the expiry of the term of such Chairperson or Member, as the case may be, in accordance with the procedure laid down in this Act.

7. 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 of Gauhati;

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

Provided that if the Chairperson or the member is, at the time of his appointment, in receipt of or has become entitled to receive pension (other than disability pension) in respect of any service or previous service under the Government of India or under the Government of a State or as Chief Justice or as a Judge of a High Court, his salary in respect of service as the Chairperson or, as the case may be, as the 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 the member shall not be varied to his disadvantage after his appointment.

8. (1) On ceasing to hold office, the Chairperson and the member shall be ineligible for:

(i) reappointment as the Chairperson or the member of the Lokayukta;

(ii) any diplomatic assignment, appointment as administrator of a Union territory and such other assignment or appointment which is required by law to be made by the Governor by warrant under his hand and seal;

(iii) further employment to any other office of profit under the Government of India or the Government or corporation, company, society, local authority or autonomous body as referred to in sub clauses (v) and (vi) of clause (c) of sub-section (1) of section 2;

(iv) contesting any election of President or Vice-President of India or Member of either House of Parliament or Member of either House of a State Legislature or of Municipality or Panchayat within a period of five years from the date of relinquishing the post.

Notwithstanding anything contained in sub-section (1), {the} 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.

9. (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 is made 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.

10. (1) There shall be a Secretary or more than one Secretary to the Lokayukta, who is or has been, in the rank of Secretary to the Government in the State and who shall be appointed by the Chairperson from a panel of names sent by the Government. There shall be a Director of inquiry and a Director of Prosecution not below the rank of the Additional Secretary to the Government equivalent, who shall be appointed by the Chairperson from a panel of names sent by the Government. The appointment of officers and staff of the Lokayukta shall be made by the Chairperson or the Member or officer of Lokayukta as the Chairperson may direct:

Provided that the Governor may, by rule, require that the appointment in respect of any post or posts as may be specified in the rule shall be made after consultation with the State Public Service Commission.

(4). Subject to the provisions of any law made by the Legislature of the State the conditions of service of Secretary and other officers and staff of the Lokayukta shall be such as may be specified by regulations made by the Lokayukta for the purpose:

Provided that the regulations made under this sub-section shall, so far as they relate to salaries, allowances leave or pensions, require the approval of the Governor.

CHAPTER. III INQUIRY WING

11. (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 preliminary inquiry into any offence alleged to have been committed by a public servant punishable under the Prevention of Corruption Act, 1988 and or under Chapter 9 of the Indian Penal Code 1860.

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 by the Lokayukta, for conducting preliminary inquiry under this Act.

(2) For the purposes of assisting the Lokayukta in conducting a preliminary inquiry under this Act, the officers of the inquiry Wing not below the rank of Under Secretary to the Government, shall have the same powers as are conferred upon the Lokayukta under section 28.

CHAPTER. IV PROSECUTION WING

⁷[12. (1).[DELETED].....
(2).....
(3).....]

⁷[].deleted by s.7 of 2019 Act.

EXPENSES OF LOKAYUKTA TO BE CHARGED ON THE CONSOLIDATED FUND OF THE STATE

13. The administrative expenses of the Lokayukta, including all salaries, allowances and pensions payable to or in respect of the Chairperson, member 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 - VI

JURISDICTION IN RESPECT OF INQUIRY

- ⁸[14] (i) *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 Chief Minister;*
 - (b) *any other person who is or has been a Minister of the State;*
 - (c) *any person who is or has been the member of the Arunachal Pradesh Legislative Assembly;*
 - (d) *any person who is Chairperson or the member by whatever name called, of a Panchayat or a Municipality as respectively provided in articles 243-B and 243-Q of the Constitution of India;*
 - (e) *all officers or employees whose appointing authority is the State Government of the State, referred to 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;*
 - (f) *all officers or employees referred to in clause (e) equivalent in any Body or Corporation or Authority or Company or Society or Trust or Autonomous Body (by whatever name called) established by any Act of Parliament or of a State Legislature which is wholly or partly financed by the Government or controlled by it;*
- Provided that in the case of officers and employees referred to in clauses (e) and (f) 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 ;*
- (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 or aided by the Government and the annual income of which exceeds such amount as the 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 the public and the annual income of which exceeds such amount as the Government may, by notification, specify or from any foreign source under the Foreign Contribution (Regulation) Act, 2010 in excess of ten lakh rupees in a year or such higher amount as the Central Government may, by notification, specify;*
- 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 and or under section 21 of the Indian Penal Code, 1860 and the provisions of that Act shall apply accordingly.*

(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).

⁸[].deleted by s.8 of 2019 Act.

[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".

"(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 :-

(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;

(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].

⁸[].deleted by s.8 of 2019 Act.

15. In case any matter or proceeding related to allegation of corruption under the Prevention of Corruption Act, 1988 and or Chapter 9 of the Indian Penal Code 1860 has been pending before any Court or Committee of the Legislative Assembly of the State or before any other authority prior to commencement of this Act or prior to commencement of any inquiry after the commencement of this Act, such matter or proceeding shall be continued before such court, committee or authority.

16. (1) Subject to the provisions of this Act,
 (a) the jurisdiction of the Lokayukta may be exercised by bench thereof;
⁹*[(b) a bench may be constituted by the Chairperson with the member as the Chairperson may deem fit;*
⁹[].substituted by s.9 (1)(i) of 2019 Act.
¹⁰*[(c) deleted]*
 (d) where a bench consists of the Chairperson, such bench shall be presided over by the Chairperson;
¹⁰*[(e) deleted.]*
¹⁰[].deleted by s.9(1) (ii) of 2019 Act.
 (f) the bench of the Lokayukta shall ordinarily sit at Itanagar and at such other places as the Lokayukta may, by regulations, specify.
¹¹*[(2) The Lokayukta shall notify the areas in relation to which the bench of the Lokayukta may exercise jurisdiction.]*
¹¹[].substituted by s.9(2) of 2019 Act.
 (3) Notwithstanding anything contained in sub-section (2), the Chairperson shall have the power to constitute or reconstitute ¹²*[bench]* from time to time.
 (4) If at any stage of the hearing of any case or matter, it appears to the Chairperson or the member that the case or matter is of such nature that it ought to be ¹³*[heard by a bench of the member, the case or matter may be transferred by the Chairperson or, as the case may be, referred to him for transfer, to full bench as the Chairperson may deem fit].*
¹²[].substituted by s.9(3) of 2019 Act.
¹³[].deleted by s.9(4) of 2019 Act.
17. ¹⁴*[Where bench is constituted, the Chairperson may, from time to time, by notification, make provisions as to the distribution of the business of the Lokayukta and also provide for the matters which may be dealt with by each bench.]*
 [].deleted by s.10 of 2019 Act.
18. 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, ¹⁵*[may transfer any case pending before a bench for disposal to Chairperson bench].*
¹⁵[].substituted by s.11 of 2019 Act.
- 19.....¹⁶[deleted).]
¹⁶[].deleted by s.12 of 2019 Act.

CHAPTER. VII

PROCEDURE IN RESPECT OF ¹⁷[*deleted] INQUIRY ¹⁷[*deleted]

¹⁷[].deleted by s.13 of 2019 Act.

20. ¹⁸*[(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), (c), (d), (g) and (h) of sub-section (1) of section 14 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 Department for conducting a preliminary inquiry in respect of public servants belonging to Group A, Group B, Group and C and in clauses (e) and (f) of sub-section (1) of section*

14 to ascertain whether there exists a prima-facie case for proceeding in the matter:

Provided that the Vigilance Department 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, the Department shall proceed in accordance with the instructions and orders in force.

(2) The Inquiry Wing or any agency of the Government or the Chief Vigilance Officer of Arunachal Pradesh Government, 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 Chief Vigilance Officer 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) Full Bench consisting of Lokayukta and member shall consider every report received under sub-section (2) from the Inquiry Wing or any agency of the Government or Chief Vigilance Officer 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 subsection (1) of section 14 (other than the public servants belonging to Group C 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) Full Bench consisting of Lokayukta and member 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 14 (other than the public servants belonging to Group C) 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.]*

¹⁸[].substituted by s.14 of 2019 Act.

21. If, at any stage of the proceeding, the Lokayukta

(a) considers it necessary to inquire into the conduct of any person other than the accused; or

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

22. Subject to the provisions of this Act, for the purpose of any preliminary inquiry or ¹⁹[* deleted], the Lokayukta or the investigating authority, 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 investigation, to furnish any such information or produce any such document.

¹⁹[].deleted by s.28 of 2019 Act.

23. ²⁰[*deleted]

²⁰[].deleted by s.15 of 2019 Act.

24. ²¹[*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 Chief Vigilance Officer or any agency of the Government on any complaint filed before it against any public servant*].

²¹[].substituted by s.16 of 2019 Act.

CHAPTER - VIII POWERS OF THE LOKAYUKTA

25. ²²[*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 agency conducting the agency or any inquiring authority in respect of the matters in so far as they relate to the inquiry under this Act.*]

²²[].substituted by s.17 of 2019 Act.

26. (i) ²³[*deleted]

²³[].deleted by s.18(i) of 2019 Act

(2) If the Lokayukta is satisfied that any document seized under ²⁴[*deleted] may be used as evidence for the purpose of any preliminary inquiry ²⁴[* deleted] under this Act and that it shall be necessary to retain the document in its custody or in the custody of such officer as may be authorised, it may so retain or direct such authorised officer to retain such document till the completion of such preliminary inquiry or investigation as the case may be: Provided that where any document is required to be returned, the Lokayukta or the authorised officer may return the same after retaining copies of such document duly authenticated in the manner as may be prescribed.

²⁴[].deleted by s.18(ii) of 2019 Act

27 (1) Subject to the provisions of this section, for the purpose of any preliminary inquiry, the inquiry Wing of the [Lokayukta shall have all the power of a civil court, under the code of Civil Procedure, 1908, while trying a suit in respect of the following matters, namely:

- (i) summoning and enforcing the attendance of any person and examining him on oath;
- (ii) requiring the discovery and production of any document;
- (iii) receiving evidence on affidavits;
- (iv) requisitioning any public record or Copy thereof from any court or office;
- (v) 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

- (vi) 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, 1860.

28. ²⁵[(1) *The Lokayukta may, for the purpose of conducting any preliminary inquiry or investigation, utilise the services of any officer or organisation or investigation agency of the Government.*

(2) For the purpose of preliminary inquiry or investigating into any matter pertaining to such inquiry or investigation, any officer or organisation or agency whose services are utilised under sub-section (1) may, subject to the superintendence and direction 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) requisition any public record or copy thereof from any office. The officer or organization or agency whose services are utilized under sub-section (2) shall inquire or, as the case may be, investigate into any matter pertaining to the preliminary inquiry or investigation and submit a report thereon to the Lokayukta within such period as may be specified by it in this behalf.*

(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.]

²⁵[].substituted by s.19 of 2019 Act

29. ²⁶[(i) *Where the Lokayukta, while making a preliminary inquiry into allegations of corruption, is prima facie satisfied, on the basis of evidence available, that-*
(a) the continuance of the public servant referred to in clauses (e), (f), (g) and (h) of sub-section (1) of section 14 in his post while conducting the preliminary inquiry is likely to affect such preliminary inquiry adversely; or
(b) the public servant referred to in clauses (e), (f), (g) and (h) of sub-section (1) of section 14 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.

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

²⁶[].substituted by s.20 of 2019 Act

(2) The Lokayukta shall, immediately after attachment under sub-section (1), forward a copy of the order, along with the material in his possession, referred to in that sub-section, to the Special Court, in a sealed envelope, in the manner as may be prescribed and such Court may extend the order of attachment and keep such material for such period as the Court may deem fit.

(3) Every order of attachment made under sub-section (1) shall cease to have effect after the expiry of the period specified in that sub-section or after the expiry of the period as directed by the Special Court under sub-section (2).

(4) Nothing in this section shall prevent the person interested in the enjoyment of the immovable property attached under sub-section (1) or sub-section (2), from such enjoyment.

Explanation.-For the purposes of this sub-section, 'person interested', in relation to any immovable property, includes all persons claiming or entitled to claim any interest in the property.

30. ²⁷[deleted]

31. ²⁷[deleted]

32. ²⁷[deleted]

²⁷[].deleted by s.21 of 2019 Act

Power of the Lokayukta to give directions to prevent destruction of records during preliminary Inquiry

33. 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.

34. 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 ²⁸[*its Member*] or officers or employees as may be specified in the order.

²⁸[].substituted by s.22 of 2019 Act

CHAPTER. IX

²⁹[PROVISIONS RELATING TO FRIVOLOUS OR VEXATIOUS COMPLAINT UNDER THIS ACT].

²⁹[].substituted by s.23 of 2019 Act

35. ³⁰[(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.*

(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.

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].

³⁰[].substituted by s.24 of 2019 Act

CHAPTER . X

COMPLAINTS AGAINST CHAIRPERSON, MEMBER AND OFFICIALS OF THE LOKAYUKTA

37. (1) The Lokayukta shall not inquire into any complainant 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 the grounds of misbehaviour after the High Court of Gauhati, on a reference being made to it by the Governor on a petition signed by at least twenty member of the Legislative Assembly, has, on an inquiry held in accordance with the procedure prescribed 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 the 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 an Member, if the Chairperson

- (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 anyway concerned or interested in any contract or agreement made by or on behalf of the Government of India or the Government of a State or participates in any way in the profit thereof or in any benefit or emolument arising there from otherwise than as the member and in common with the other member of an incorporated company, he shall, for the purposes of sub-section (2), be deemed to be guilty of misbehaviour.

Complaints against officials of Lokayukta :

38. (1) Every complaint or allegation 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. and or under Chapter 9 of the Indian Penal Code, 1860 shall be dealt with in accordance with the provisions of this section.
- (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 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 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, and or under Chapter I of the Indian Penal Code, 1860 it shall, within a period of fifteen days of the completion of such inquiry order to prosecute 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:

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 . XI

ASSESSMENT OF LOSS AND RECOVERY THEREOF BY SPECIAL COURT

39. If any public servant is convicted of an offence under the Prevention of Corruption Act, 1988 by the Special Court, without prejudice to any law for the time being in force, it may make an assessment of loss, if any, caused to the public exchequer on account of the actions or decisions of such public servant not taken in good faith and for which he stands convicted, and may, order recovery of such loss, if possible or quantifiable, from such public servant so convicted:

Provided that if the Special Court, for reasons to be recorded in writing, comes to the conclusion that the loss caused was pursuant to a conspiracy with the beneficiary or beneficiaries of actions or decisions of the public servant so convicted, then such loss may, if assessed and quantifiable under this section, also be recovered from such beneficiary or beneficiaries proportionately.

CHAPTER-XII

FINANCE, ACCOUNTS AND AUDIT

40. 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 for information.
41. The Government may, after due appropriation made by the Legislative Assembly 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 member 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 accounting. Furnishing of returns etc, to Government :

42. (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, Arunachal Pradesh.
 (2) The accounts of the Lokayukta shall be audited by the Accountant General, Arunachal Pradesh at such intervals as may be specified by him.
 (3) The Accountant General, Arunachal Pradesh 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, Arunachal Pradesh 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, Arunachal Pradesh 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 Arunachal Pradesh Legislative Assembly.
43. 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.

CHAPTER. XIII DECLARATION OF ASSETS

Declaration of assets :

44. (1) Every public servant shall make a declaration of his assets and liabilities in the manner as provided by or under this Act.
³¹***(2) A public servant shall, within a period of thirty days from the date on which he makes and subscribes an oath or affirmation to enter upon his office, furnish to the competent authority the information relating to***
(a) the assets of which he, and his dependent children are, jointly or severally, owners or beneficiaries:

(b) his liabilities and his dependent children.]

³¹[].substituted by s.25 of 2019 Act

(3) A public servant holding his office as such, at the time of the commencement of this Act, shall furnish information relating to such assets and liabilities, as referred to in sub-section (2), to the competent authority within ninety days of the coming into force of this Act.

(4) Every public servant shall file with the competent authority, on or before the thirty-first July of every year, an annual return of such assets and liabilities, as referred to in sub-section (2), as on the thirty-first March of that year.

(5) The information under sub-section (2) or sub-section (3) and annual return under subsection (4) shall be furnished to the competent authority in such form and in such manner as may be prescribed.

(6) The competent authority in respect of each Department shall ensure that all such statements are published on the website of such Department by thirty-first August of that year.

Explanation.-For the purposes of this section, 'dependent children" means sons and daughters who have no separate means of earning and are wholly dependent on the public servant for their livelihood.

Presumption as to acquisition of assets by corrupt means in certain cases :

45. If any public servant wilfully or for reasons which are not justifiable, fails to declare his asset or gives misleading information in respect of such assets and is found to be in possession of assets not disclosed or in respect of which misleading information was furnished, then, such assets shall, unless otherwise proved, be presumed to belong to the public servant and shall be presumed to be assets acquired by corrupt means:

Provided that the competent authority may condone or exempt the public servant from furnishing information in respect of assets not exceeding such minimum value as may be prescribed'

³²[CHAPTER XIV] OFFENCES AND PENALTIES]

46 ³²[.....deleted]

47 ³²[.....deleted]

³²[].deleted by s.26 of 2019 Act

CHAPTER - XV

MISCELLANEOUS

48. It shall be the duty of the Lokayukta to present annually to the Governor a report on the work done by the Lokayukta and on receipt of such report the Governor shall cause a copy thereof together with a memorandum explaining, in respect of the cases, if any, where the advice of the Lokayukta was not accepted, the reason for such non-acceptance to be, laid before the Arunachal Pradesh Legislative Assembly.
49. 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.

50. 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 there under
51. The Chairperson, member, 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.
52. The Lokayukta shall not inquire or investigate into any complaint, if the complaint is made after the expiry of a Period of seven years from the date on which the offence mentioned in such complaint is alleged to have been committed.

Jurisdiction:

53. No civil court shall have jurisdiction in respect of any matter which the Lokayukta is empowered by or under this Act to determine.

Legal assistance:

54. 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.

Act to have overriding effect' provisions of this Act to be in addition to other laws :

54. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or in any instrument having effect of any enactment other than this act
56. The provisions of this Act shall be in addition to, and not in derogation of any other laws for the time being in force.

Power to make rules :

57. (1) The Government may, by notification, make rules to carry out the provisions of this Act.

(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:

- (a) the form of complaint referred to in clause (d) of sub-section (1) of section 2;
- (b) the term of the Search Committee, the fee and allowances payable to its member and the manner of selection of panel of names under sub-section (5) of section 4;
- (c) the post or posts in respect of which the appointment shall be made after consultation with the Arunachal Pradesh Public Service Commission under the proviso to sub section (3) of section 10;
- (d) other matters for which the Lokayukta shall have the powers of a civil court under clause (vi) of sub-section (1) of section 27;
- (e) the manner of sending the order of attachment along with the material to the Special Court under sub-section (2) of section 29;

(f) ³³ [deleted]

(g) ³³ [deleted]

³³ [].deleted by s.27 of 2019 Act

- (h) 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 39;

(i) the form for maintaining the accounts and other relevant records and the form of annual statement of accounts under sub-section (1) of section 41; →
 (j) the form and manner and the time for preparing the returns and statements along with particulars under section 42;

(k) the form and the time for preparing an annual return giving a summary of its activities during the previous year under sub-section (5) of section 43;

(l) the form of annual return to be filed by a public servant under sub-section (5, of section 43;

(m) the minimum value for which the competent authority may condone or exempt a public servant from furnishing information in respect of assets under the proviso to section 44; and

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

58. (1) Subject to the provisions of this Act and the rules made there under, the Lokayukta may, by notification¹ make regulations to carry out the provisions of this Act.

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

(a) the conditions of service of the secretary and other officers and staff of the Lokayukta and the matters which in so far as they relate to salaries, allowances, leave or pensions, require the approval of the Governor under sub-section (4) of section 10;

(b) the place of sittings of bench of the Lokayukta under sub clause (f) of sub-section(1)of section 17;

(c) the manner for displaying on the website of the Lokayukta, the status of all complaints pending or disposed of along with the records and evidence with reference thereto under sub-section (10) of section 21 :

(d) the manner and procedure of conducting any preliminary inquiry or [investigation] under Sub-section (11) of section 20;

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

59. ³⁴*[(1) If any difficulty arises in giving effect to the provisions of this Act, the Government may, by order published in the Official Gazette , make such provisions not inconsistent with the provisions of this Act, as appear to be necessary for removing the difficulty:*

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Act.]

³⁴[].substituted by s.34 of 2019 Act

Note:

Vide s.35, the Arunachal Pradesh Lokayukta(Amendment) Ordinance as published in AP Gazette No 105 Vol XXVI dtd march 9,2019 is repealed wef October 24,2019 (No 403 Vol No XXVI)