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News: Inquiry Wing of Lokpal

- Recently, the Lokpal has constituted an inquiry wing to conduct a preliminary probe into graft-related offences committed by public servants.

Inquiry Wing of Lokpal

- Inquiry Wing of Lokpal is constituted by the Lokpal under the section 11 of Lokpal and Lokayuktas, Act of 2013.
- This wing is responsible for conducting preliminary inquiries into offences under the Prevention of Corruption Act, 1988, allegedly committed by specified public servants and functionaries.
- **Organisational Structure:** There will be a Director of Inquiry under the Lokpal chairperson. The director will be assisted by three Superintendents of Police (SPs) SP (general), SP (economic and banking) and SP (cyber).
- Each SP will be further assisted by inquiry officers and other staff.
- **Preliminary Inquiry Timeline and Reporting:** The Inquiry Wing must finalize its preliminary inquiry and submit a report to the Lokpal within 60 days.

- This report should include feedback from both the public servant and the designated competent authority for each category of public servant.

Lokpal and Lokayukta

- Lokpal and Lokayukta Act, 2013 provided for the establishment of Lokpal for Union and Lokayukta for States.
- First administrative commission recommended the setup of Lokpal.
- Lokpal is a multi-member body that consists of one chairperson and a maximum of 8 members.
- Chairperson must be either a Chief Justice of India, or a former Judge of Supreme Court, or an eminent person with impeccable integrity and outstanding ability, having special knowledge and expertise of minimum 25 years in the matters relating to anti-corruption policy, public administration, vigilance, and finance.
- Out of 8 members, half will be judicial members and rest will be from All India Services.
- Minimum 50% of Members shall be from SC/ST/OBC/Minorities and Women.
- Judicial members of Lokpal should be either a former Judge of SC or former Chief Justice of any High Court.

- The non-judicial member should be an eminent person with impeccable integrity and outstanding, having special knowledge and expertise of minimum 25 years in the matters relating to anti-corruption policy, public administration, vigilance, and finance.
- The members are **appointed by President** on the recommendation of a Selection Committee, headed by **Prime Minister as Chairperson**, Lok Sabha Speaker, Leader of Opposition in Lok Sabha, CJI or a SC Judge nominated by CJI, and one eminent jurist as members.
- The Chairperson or any Member can be removed from his office by order of the President on grounds of misbehaviour after the Supreme Court, on a reference being made to it by the **President on a petition signed by at least one hundred Members of Parliament has, on an inquiry, reported that the Chairperson or such Member ought to be removed on such ground.**
- The term of office for Lokpal Chairman and Members is **5 years or till the age of 70 years.**
- **Salaries, allowances, and service conditions of the Lokpal chairperson will be the same as those for the Chief Justice of India; those for other members will be the same as those for a judge of the Supreme Court.**
- The administrative expenses of the Lokpal, including all salaries, allowances and pensions of the Chairperson, Members or Secretary or other officers or staff

of the Lokpal, will be charged upon the Consolidated Fund of India and any fees or other money taken by the Lokpal shall form part of that Fund.

- Jurisdiction of Lokpal includes Prime Minister, Ministers, members of Parliament, Groups A, B, C and D officers and officials of Central government.
- Lokpal will not inquire the PM if the allegation of corruption is related to international relations, external and internal security, public order, atomic energy, and space, unless a full Bench of the Lokpal, consisting of its chair and all members, considers the initiation of a probe and at least 2/3rd of the members approve it.
- Any such inquiry shall be held on 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.
- Also covered are chairpersons, members, officers and directors of any board, corporation, society, trust, or autonomous body either established by an Act of Parliament or wholly or partly funded by the Union or State government.
- The jurisdiction of Lokpal also expands to any society or trust or body that receives foreign contribution above 10 lakhs.
- The Lokpal is vested with the power of search and seizure and powers under the Civil Procedure Code for the purpose of conducting preliminary inquiry &

investigation and power of attachment of assets and taking other steps for eradication of corruption.

- It has powers to superintendent over CBI and CVC and give directions.
- If a case is referred to CBI by Lokpal, the investigation officer cannot be transferred without the approval of Lokpal.
- A **Bench of at least three members considers the investigation report and may grant sanction to the Prosecution Wing to proceed against the public servant based on the agency's chargesheet.** It may also ask the competent authority to take departmental action or direct the closure of the report.
- Recently, Lokpal adopted its **motto "मा गृधः कस्यस्विद्धनम्"** i.e. **ककसी केधन का लोभ मत कर**" means "**Do not be greedy for anyone's wealth**".
- The motto is taken from **Ishavasya Upanishad.**

Nature of complaint

- A complaint under the Lokpal Act **should be in the prescribed form** and must **pertain to an offence under the Prevention of Corruption Act, 1988** against a public servant.
- There is **no restriction on who can make such a complaint.**

- When a complaint is received, the Lokpal may order a preliminary inquiry by its Inquiry Wing or any other agency, or refer it for investigation by any agency, including the CBI, if there is a prima facie case.
- Before ordering an investigation by an agency, the Lokpal shall call for an explanation from the public servant to determine whether a prima facie case exists.
- This provision, the Act says, will not interfere with any search and seizure that may be undertaken by the investigating agency.
- The Lokpal, with respect to Central government servants, shall refer the complaints to the Central Vigilance Commission (CVC).

Lokayukta

- Some States like Rajasthan, Karnataka, Andhra Pradesh and Maharashtra have created the lokayukta as well as Upalokayukta, while some others like Bihar, Uttar Pradesh and Himachal Pradesh have created only the lokayukta. There are still other states like Punjab and Orissa that have designated officials as Lokpal. This pattern was not suggested by the ARC in the states.
- The Lokayukta is appointed by the Governor of the State, through nomination by its Chief Minister (in consensus with Chief justice of the State High Court,

Leaders of the Opposition in the Legislative Assembly and Legislative Council, Speaker of the Legislative Assembly and Chairman of the Legislative Council).

- While appointing, the governor in most of the states consults the chief justice of the state high court, and the leader of Opposition in the state legislative assembly. But this is a fluctuating provision in many states.

Drawbacks

- Lokpal **cannot suo moto proceed against any public servant.**
- Emphasis on the form of complaint rather than substance.
- Heavy punishment for false and frivolous complaints against public servants may deter complaints from being filed to Lokpal.
- **Anonymous complaints not allowed.**
- Legal assistance to public servants against whom the complaint is filed.
- Very **non-transparent procedure for dealing with complaints against the PM.**