

Chhattisgarh Lok Aayog Adhiniyam, 2002

CHHATTISGARH

India

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Act 30 of 2002

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Chhattisgarh Lok Aayog Adhiniyam, 2002 C.G. Act No. 30 of 2002 Last Updated 2nd November, 2019 Received the assent of the Governor on 31-10-2002; assent first published in Chhattisgarh Rajpatra (Asadharan), dated 2-11-2002. An Act to make provisions for the appointment and functions of certain authorities for the inquiry into specific information of misconduct or complaint against certain public servants and for the matters connected therewith. Be it enacted by the Chhattisgarh Legislative Assembly in the Fifty-third Year of the Republic of India as follows :-

1. Short title, extent and commencement.

(1) This Adhiniyam may be called the Chhattisgarh Lok Aayog Adhiniyam, 2002. (2) It extends to the whole State of Chhattisgarh. (3) It shall come into force from the date of its publication in the Chhattisgarh Gazette.

2. Definitions.

- Unless the context otherwise requires, in this Adhiniyam, - (a) "Action" means any action including administrative action taken by way of decision, recommendation or finding or in any other manner and includes wilful failure or omission to act and all other expressions relating to such action shall be construed accordingly; (b) "competent authority", means, - (i) in the case of a Minister other than the Chief Minister, the Chief Minister of Chhattisgarh; (ii) in the case of the Chief Minister or a Member of the State Legislature, the Governor of Chhattisgarh; (iii) in the case of an officer of the All India Services, the Chief Minister; (iv) in the case of a Government servant, other than a member of the All India Services, the appointing authority of such Government servant; (v) in the case of any other public servant, such authority as may be prescribed by the Government; (c) "corruption" includes anything made punishable under Chapter IX of the Indian Penal Code (Central Act No. 45 of 1860) or under the Prevention of Corruption Act, 1988 (Central Act No 49 of 1988); (d) "Government servant" means a person who is a member of the All India Services allocated under the All India Services Rules to the State of Chhattisgarh or a person who is a member of the

civil services of the State of Chhattisgarh or who holds a civil post or is serving in connection with the affairs of the State of Chhattisgarh, and includes any such person whose services are temporarily placed at the disposal of the Government of India, the Government of another State, a local authority or any person whether incorporated or not, and also any persons in the service of a Local or other Authority in Chhattisgarh;(e)"Local Authority" means and includes a Panchayat at the Village, Janpad or District levels constituted under the Chhattisgarh Panchayat Raj Adhiniyam, 1993 (Act No. 1 of 1994), a Municipal Corporation constituted under the Chhattisgarh Nagar Palik Nigam Adhiniyam, 1956 (Act No. 23 of 1956), a Nagar Panchayat or a Nagar Palika constituted under the Chhattisgarh Nagar Palika Adhiniyam, 1961 (Act No. 37 of 1961), and any other area development authority by whatever name called, constituted under an Act of the Chhattisgarh Legislative Assembly;(f)"Lok Aayog" means the Commission constituted under sub-section (1) of Section 3 of this Adhiniyam;(g)"Minister" means a member of the Council of Ministers for the State of Chhattisgarh, by whatever name called, that is to say the Chief Minister, a Minister, Minister of State, Deputy Minister, Parliamentary Secretary, or any office equated in status to that of a Minister;(h)"misconduct" by a public servant means and includes that such public servant,-(i)has abused his position as such public servant to obtain any gain or favour to himself or to any other person or to cause undue harm or hardship to any other person;(ii)has acted in the discharge of his functions as such public servant by personal interest or improper or corrupt motives;(iii)has indulged in corruption, undue favour, nepotism or lack of integrity in his capacity as such public servant;(iv)is in possession of pecuniary resources or property disproportionate to his known sources of income and such pecuniary resources or property is held by public servant personally or by any member of his family or by any other person on his behalf;(i)"Public servant" shall mean and include a person who is-(i)the Chief Minister;(ii)a Minister;(iii)a Member of the Legislative Assembly of the State of Chhattisgarh;(iv)a Government servant;(v)the Chairperson and the Vice-Chairperson (by whatever name called), or a member of a local authority in the State or a statutory body or Corporation established by or under any law of the State Legislature including a co-operative society, or a Government company within the meaning of Section 617 of the Companies Act, 1956 (Central Act No. 1 of 1956) and such other Corporations or Boards, as the Government may, having regard to its financial interests, in such Corporations or Board by notification, from time to time, specify;(vi)a member of a Committee or Board or Authority or Corporation, statutory or non-statutory, constituted by the Government of Chhattisgarh;(vii)a person in the service or pay of-(aa)a local authority in the State;(bb)a statutory body or a Corporation (not being a local authority) established by or under a State or a Central Act, owned or controlled by the Government of Chhattisgarh and any other Board or Corporation as the Government may, having regard to its financial interest therein, notify from time to time;(cc)a company registered under the Companies Act, 1956 (Central Act No. 1 of 1956) in which not less than fifty-one per cent of the paid up share capital is held by the State Government of Chhattisgarh or any company which is a subsidiary of such company;(dd)a society registered or deemed to have been registered under the relevant Act of the State Legislature and subject to the control of the Government of Chhattisgarh;(ee)a co-operative society;(ff)a University created or deemed to have been created, under the Chhattisgarh Vishwavidyalaya Adhiniyam, 1973 (Act No. 22 of 1973);(j)"Secretary of the Lok Aayog" means a person appointed and so designated to serve as an officer authorised to enter into communication or correspondence on behalf of the Lok Aayog with other persons or bodies.

3. Constitution of Lok Aayog.

(1) There shall be a Lok Aayog for the purpose of conducting inquiries in accordance with the provisions of this Adhiniyam. (2) The Lok Aayog shall consist of two members, one to be known as the Pramukh Lokayukt, and the other as the Lokayukt. (3) The Pramukh Lokayukt shall be a person who has been a Judge of a High Court or has held a judicial office higher than that of a Judge of a High Court. (4) The Lokayukt shall be a person with experience in administrative and quasi-judicial matters, and shall have functioned at the level of a Secretary to the Government of India or the Chief Secretary to any State Government of India : Provided that the Pramukh Lokayukt, shall have administrative control over the Lok Aayog. (5) Governor shall by warrant under his hand and seal, appoint the Pramukh Lokayukt and the Lokayukt, on the advice of the Chief Minister who shall consult the Chief Justice of the High Court of Chhattisgarh and the Speaker of the Chhattisgarh Legislative Assembly. (6) Every person appointed as a Pramukh Lokayukt or a Lokayukt shall, before entering upon his office, take and subscribe before the Governor or some person appointed in that behalf by him, an oath of affirmation in the form set out for the purpose in the First Schedule. (7) The Pramukh Lokayukt or the Lokayukt shall not hold any other office of trust or profit or be connected with any political party or carry on any business or practice any profession or hold any post in any society, including any co-operative society, trust, or any local authority, or membership of the Legislative Assembly of any State or of the Parliament.

4. Term of office of members and other conditions of service.

(1) Every person appointed as a member of Lok Aayog shall hold office for a term of five years from the date in which he enters upon his office and shall not be eligible for re-appointment thereafter : [Provided that the Pramukh Lokayukt shall, notwithstanding the expiration of his term, continue to hold office until his successor enters upon his office. Provided further that - (a) he may, by writing under his hand addressed to the Governor, resign his office and such resignation shall take effect as soon as it is tendered; (b) he may be removed from office in the manner specified in Section 5 of this Adhiniyam.] (2) No proceedings of the Lok Aayog shall be invalid only on account of any vacancy in the office of the Pramukh Lokayukt or of a Lokayukt. (3) A vacancy occurring in the office of the Pramukh Lokayukt shall be filled in as soon as possible but not later than [one year] [Substituted 'six months' by C.G. Act No. 7 of 2007, dated 2.8.2007.] from the date of occurrence of such vacancy. (4) On ceasing to hold office, the Pramukh Lokayukt and Lokayukt shall be ineligible for further employment under the Government of Chhattisgarh or for any employment under or in any co-operative society, Government company, or Corporation or local authority in the State of Chhattisgarh. (5) There shall be paid to the Pramukh Lokayukt and Lokayukt such salaries as are specified in the Second Schedule. (6) The allowances and pension payable to, and other conditions of service of Pramukh Lokayukt and the Lokayukt shall be such as may be prescribed : Provided that - (a) in prescribing the allowances and pension payable to and other conditions of Service of the Pramukh Lokayukt or the Lokayukt, regard shall be had to the allowances and pensions payable to and other conditions of service enjoyed by him in the last office held prior to appointment as Pramukh Lokayukt or Lokayukt as the case may be; (b) the allowances and pension payable to and other conditions of service of the Pramukh Lokayukt or the Lokayukt shall not be varied to his disadvantage after appointment under this Adhiniyam.

5. Removal of Pramukh Lokayukt and Lokayukt.

(1)The Pramukh Lokayukt or the Lokayukt shall not be removed from his office except by an order of the Governor passed after an address by the Chhattisgarh Legislative Assembly supported by a majority of the total membership of the Legislative Assembly and by a majority of not less than two-thirds of the members thereof present and voting, has been presented to the Governor in the same session for such removal on the ground of proven misbehaviour or incapacity.(2)The procedure for the presentation of an address and for the inquiry and proof, of the misbehaviour or incapacity of the Pramukh Lokayukt and Lokayukt under sub-section (1) shall be as provided in the Judges (Inquiry) Act, 1968 (Act No. 51 of 1968), in relation to the removal of a Judge and accordingly, the provisions of this Adhiniyam shall, subject to necessary modifications apply in relation to the removal of Pramukh Lokayukt and Lokayukt as they apply in relation to the removal of a Judge.

6. Matters that may be enquired into by Lok Aayog.

- Subject to the provisions of this Adhiniyam, upon receiving specific information of misconduct or a complaint against the Chief Minister, a Minister or any other public servant, the Lok Aayog may proceed to inquire into the matter contained therein.

7. Matters not subject to inquiry.

(1)Except hereinafter provided, Lok Aayog shall not conduct any inquiry under this Adhiniyam in the case of complaint in respect of any action if such action relates to any matter specified in the Third Schedule.(2)Lok Aayog shall not inquire into any action,-(a)in respect of which a formal and public inquiry has been ordered under the Public Servants (Inquiries) Act, 1950 (Act No. 37 of 1950); or(b)in respect of a matter which has been referred for enquiry under the Commissions of Inquiry Act, 1952 (Act No. 60 of 1952).(3)Lok Aayog shall not inquire into any complaint,-(a)if it is made after the expiry of twelve months from the date on which the action complained against becomes known to the complainant;(b)if it is made after the expiry of five years from the date on which the action complained against is alleged to have taken place :Provided that Lok Aayog may entertain a complaint referred to in clause (a), if the complainant satisfies it that he had sufficient cause for not making the complaint within the period specified in that clause.(4)Nothing in this Adhiniyam shall be construed as empowering the Lok Aayog to question any administrative action involving the exercise of a discretion, except where it is satisfied that the elements involved in the exercise of the discretion are absent to such an extent that the discretion cannot be regarded as having been properly exercised.

8. Provisions relating to complaints.

(1)Every complaint involving a misconduct shall be made in such form as may be prescribed and shall be accompanied by a deposit of two hundred and fifty rupees, and the complainant shall swear in affidavit in such form as may be prescribed before a member or any officer authorised by the Lok

Aayog in this behalf.(2)Notwithstanding anything contained in this Adhiniyam, every person who wilfully or maliciously makes any false complaint under this Adhiniyam may be, on conviction, shall be punished with rigorous imprisonment which may extend to two years or with fine which may extend to ten thousand rupees or with both and the Court may order that out of the amount of fine, such sum as it may deem fit, be paid by way of compensation to the person against whom such complaint was made :Provided that no Court shall take cognizance of an offence punishable under this section except on a complaint made by or under the authority of the Lok Aayog :Provided further that the complaint made under the signature of the Secretary and seal of the Lok Aayog shall be sufficient as the authority of the Lok Aayog, and the evidence of members of the Lok Aayog shall not be necessary for the purpose.

9. Procedure in respect of inquiries.

- The Lok Aayog shall in cases to be conducted before it decide the procedure to be followed for making the inquiry, and in so doing ensure that the principles of natural justice are satisfied.

10. Evidence.

(1)Subject to the provisions of this section, for the purpose of any inquiry under this Adhiniyam, including a preliminary inquiry, if any, the Lok Aayog may require any public servant or any other person who in its opinion is able to furnish information or produce documents relevant to the inquiry, to furnish any such information, or to produce any such document.(2)For the purpose of any such inquiry including a preliminary inquiry, if any, before such inquiry, the Lok Aayog shall have all the powers of a Civil Court while trying a suit under the Code of Civil Procedure, 1908 (Act No. 5 of 1908), in respect of the following matters, namely,-(a)summoning and enforcing the attendance of any person and examining him on oath;(b)requiring the discovery and production of any document;(c)receiving evidence on affidavits;(d)requisitioning any public record or copy thereof from any Court or office;(e)issuing commission for the examination of witnesses and documents;(f)such other matters, as may be prescribed.(3)Any proceeding before the Lok Aayog shall be deemed to be a judicial proceeding within the meaning of Section 193 and Section 228 of the Indian Penal Code, 1860 (Act No. 45 of 1860).(4)Subject to the provisions of sub-section (5), no public servant shall be entitled, in relation to any inquiry under this Adhiniyam, to any privilege in respect of the production of documents or the giving of evidence before the Lok Aayog.(5)No person shall be required or authorised by virtue of this Adhiniyam, to furnish any such information or to answer any such question or to produce so much of any documents :-(a)as might prejudice the security of the State; or(b)as might involve the disclosure of proceedings of the Council of Ministers of the State Government.Explanation. - For the purposes of this sub-section, a certificate issued by a Secretary to the State Government slating that any information, answer or portion of a document is of the nature specified in clause (a) or clause (b) shall be binding and conclusive.(6)Subject to the provisions,of sub-section (4), no person shall be compelled for the purpose of inquiry under this Adhiniyam to give any evidence or produce any document, which he could not be compelled to give or produce in proceedings before a Court.

11. Reports of Lok Aayog.

(1) If after inquiry of any action in respect of which a complaint has been received, the Lok Aayog is of the opinion that the complaint is established, it shall by a report, in writing, communicate its findings and recommendations along with the relevant documents and other evidence to the competent authority. Explanation. - Opinion of Lok Aayog in relation to any complaint, including a decision, report, finding or conclusion thereon, means the opinion of the majority of its members. (2) The competent authority shall examine the report forwarded to it under sub-section (1) and intimate to the Lok Aayog within three months of the date of receipt of the report, the action taken or proposed to be taken thereon. (3) If the Lok Aayog is satisfied with the action taken or proposed to be taken on its recommendations, it shall close the case under information to the complainant, the public servant and the competent authority, and it in any case the Lok Aayog is of the opinion that the case so deserves, it may make a special report upon the case to the Governor and also inform the complainant. (4) The Lok Aayog shall present to the Governor, annually, a consolidated report on the performance of its functions under this Adhiniyam. (5) If in any special report under sub-section (3) or the annual report under sub-section (4), any adverse comment is made against any public servant, such report shall also contain the substance of the defence adduced by such public servant and the comment made thereon by or on behalf of the State Government or the relevant competent authority, as the case may be. (6) On receipt of a special report under sub-section (3) or the annual report under sub-section (4), the Governor shall cause a copy thereof together with an explanatory memorandum to be laid before the State Legislative Assembly. (7) Subject to the provisions of Section 9 of this Adhiniyam, the Lok Aayog may at its discretion make available from time to time and in such manner and to such persons as it may deem appropriate, the substance of cases closed or otherwise disposed of by it which may in its opinion be of general public, academic or professional interest.

12. Reports in respect of the Chief Minister.

(1) The Lok Aayog shall send its report in respect of a complaint against the Chief Minister with its recommendations to the Governor, who shall take such action thereupon, as he may deem fit or expedient. (2) The report of the Lok Aayog shall, along with the order passed by the Governor under sub-section (1), be laid before the State Legislative Assembly.

13. Staff of Lok Aayog.

(1) There shall be a Secretary of the Lok Aayog, who shall assist the Lok Aayog in the discharge of its functions under this Adhiniyam. (2) There shall be such other officers and employees under the Secretary of the Lok Aayog as may be provided in the rules framed under this Adhiniyam. (3) Pramukh Lokayukt shall have such administrative powers as shall be prescribed in consultation with him, for the purpose of enabling him to exercise administrative control over all officers and other employees who may be appointed under the Lok Aayog. (4) The salaries, allowances and other conditions of service of the Secretary of the Lok Aayog and other officers and employees who may be appointed under sub-section (2) shall be such as may be prescribed in consultation with the Pramukh Lokayukt. (5) Without prejudice to the provisions of sub-section (1),

the Lok Aayog may, for the purpose of conducting inquiries under this Adhiniyam, utilize the services of :-(a)an investigating agency appointed by the State Government for the Lok Aayog; or(b)any officer or investigating agency of the State or Central Government with the concurrence of that Government; or(c)any other person or agency.

14. Secrecy of Information.

(1)Any information obtained in the course of an inquiry by the Lok Aayog, members of its stall or a person or agency whose services are utilized by the Lok Aayog for conducting inquiries in respect of any complaint, and any evidence recorded or collected in connection with such information shall be treated as confidential.(2)Nothing in sub-section (1) shall apply to the disclosure of information or particulars :-(a)for purpose of the enquiry or in any report to be made thereon or for any action or proceedings to be taken on such report; or(b)for purposes of any proceeding for an offence under the Official Secrets Act, 1923 (Act No. 19 of 1923), or any offence of giving or fabricating false evidence under the Indian Penal Code or for the purpose of any proceedings under Section 15 of this Adhiniyam; or(c)for such other purposes as may be prescribed.(3)An officer or other authority prescribed in this behalf may give notice in writing to the Lok Aayog with respect to any document or information specified in the notice or any class of documents so specified, that in the opinion of the State Government the disclosure of the documents or information of documents, or information of that class so specified, would be contrary to public interest; and where such notice is given, nothing in this Adhiniyam shall be construed as authorising or requiring the Pramukh Lokayukt or a Lokayukt or any member of the stall of Lok Aayog to communicate to any person any document or information specified in the notice or any document or information of a class so specified.

15. Protection.

- No suit, prosecution or other legal proceedings shall lie against the Lok Aayog, the Pramukh Lokayukt, the Lokayukt or against any officer, employee, agency or person referred to in Section 13 in respect of anything which is in good faith done or intended to be done under this Adhiniyam.

16. Lok Aayog to make suggestions.

- The Lok Aayog, in the discharge of its functions under this Adhiniyam, notices a practice or procedure which in its opinion affords an opportunity for corruption or mal-administration, it may bring to the notice of the Government and may suggest such improvement in the said practice or procedure as it may deem fit.

17. Power to make rules.

(1)The State Government may, by notification, make rules for the purpose of carrying into effect the provision of this Adhiniyam.(2)All rules made under this section shall be laid on the table of the Legislative Assembly.

18. Removal of doubts.

- For the removal of doubts it is hereby declared that nothing in this Adhiniyam shall be construed to authorise the Lok Aayog to enquire into a complaint against,-(a)any member of the judicial service who is under the administrative control of the High Court of Chhattisgarh under Article 235 of the Constitution of India;(b)the Chairman or a member of the State Public Service Commission;(c)the Chief Electoral Officer of Chhattisgarh;(d)any member of the Secretariat staff of the Chhattisgarh Legislative Assembly;(e)any member of the staff of the Governor's Secretariat.

19. Saving.

- The provisions of this Adhiniyam shall be in addition to the provisions of any other enactment or any rule of law under which any remedy by way of appeal, revision, review or in any other manner is available to a person making a complaint under this Adhiniyam, in respect of any action, and nothing in this Adhiniyam shall limit or affect the right of such person to avail of such remedy.

20. Repeal of Act No. 37 of 1981 and prohibition to entertain complaints disposed of prior to the commencement of this Adhiniyam.

(1)The Chhattisgarh Lokayukta Evam Up-Lokayukta Adhiniyam, 1981 (Act No. 37 of 1981, adopted vide Notification No. F-8-1/2001/1/6, dated 8th October, 2001) is hereby repealed ;Provided that all actions taken under the provisions of the Chhattisgarh Lok Aayog Adhyadesh, 2002 shall be deemed to have been taken under this Adhiniyam.(2)All complaints relating to the affairs of the State of Chhattisgarh pending before the Lokayukta or Up-Lokayukta under Act No. 37 of 1981 referred to in sub-section (1) immediately before the commencement of this Adhiniyam shall, on commencement, stand transferred to the Lok Aayog, and shall thereupon be disposed of by the Lok Aayog as if the same were complaints entertained by it under this Adhiniyam.(3)No complaint disposed by the Lokayukta or the Up-Lokayukta under Act No. 37 of 1981 referred to in sub-section (1), prior to the commencement of this Adhiniyam, shall be entertained by the Lok Aayog under this Adhiniyam :Provided that the Lok Aayog may, if it considers it necessary to do so to meet the ends of justice, enquire into any complaint relating to the affairs of the State of Chhattisgarh finally disposed off under Act No. 37 of 1981 referred to in sub-section (1) within a period of two years prior to the commencement of this Adhiniyam.The First Schedule[See Section 3 (6)]I, having been appointed Pramukh Lokayukt/Lokayukt do swear in the name of God/solemnly affirm that I will bear faith and allegiance to the Constitution of India as by law established, and I will duly and faithfully and to the best of my ability, knowledge and judgement perform the duties of my office without fear or favour, affection or ill-will.The Second Schedule[See Section 4 (5)]

1. After appointment, there shall be paid to the Pramukh Lokayukt, in respect of time spent on actual service, salary plus such perquisites and allowances as are payable to :-

(i)A Judge of the Supreme Court of India, in case the Pramukh Lokayukt is appointed from among persons who have held the office of a Judge of the Supreme Court,(ii)A Chief Justice of a High Court, in case the Pramukh Lokayukt is appointed from amongst persons who have held the office of a Chief Justice of a High Court,(iii)A Judge of a High Court, in case the Pramukh Lokayukt is appointed from amongst persons who have held the office of a Judge of a High Court :Provided that his salary in respect of service as the Pramukh Lokayukt shall be reduced-(a)by the amount of pension (other than a disability pension) in respect of any previous service being drawn by him; and(b)if he has before appointment as the Pramukh Lokayukt received in lieu of a portion of the pension due to him the commuted value thereof, by the amount of that portion of pension; and(c)if he has, before such appointment, received a retirement gratuity in respect of such previous service, by the pension equivalent of that gratuity.

2. After appointment, there shall be paid to a Lokayukt, in respect of time spent on actual service, salary plus such perquisites and allowances as are payable to-

(i)A Secretary to the Government of India in case the Lokayukt is appointed from amongst the Secretaries to the Government of India,(ii)A person who has held any post under the Central or State Government in India carrying a scale of pay which is not less than that of a Secretary to Government of India in case the Lokayukt is appointed from amongst persons holding such posts :Provided that, if a Lokayukt at the time of his appointment is in receipt of a pension (other than a disability pension) in respect of any previous service under the Government of India or under the Government of a State in India, his salary' in respect of service as the Lokayukt, shall be reduced-(a)by the amount of that pension; and(b)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; and(c)if he has, before such appointment, received a retirement gratuity in respect of such previous service, by the pension equivalent of that gratuity.The Third Schedule[See Section 7(1)](a)Action taken under the Extradition Act, 1962 (Act No. 34 of 1962) or the Foreigners Act, 1946 (Act No. 31 of 1946).(b)Action taken for the purpose of investigating crime or protecting the security of the State including action taken with respect to passports and travel documents.(c)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 complaint relates to corruption, harassment or gross delay in meeting contract obligations.(d)Action taken in the exercise of powers in relation to determining whether a matter shall go to a Court or not.(e)Action taken in respect of removals, pay, discipline, superannuation r other matters relating to conditions of service of public servants but not including action relating to claims for pension, gratuity, provident fund or to any claim which arise on retirement, removal or termination of service.(f)Action involving complaints of corruption in respect of appointments of those mentioned in Section 18.(g)Grant of honours and awards.[Substituted by C.G. Act No. 7 of 2007, dated 2.8.2007.]