

Bihar Lokayukta Act, 2011

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Bihar Lokayukta Act, 2011(Bihar Act 22, 2011)Last Updated 26th November, 2019Preamble. - An Act to provide for establishment of Lokayukta institution, its powers and functions and for expeditious investigation and prosecution relating to allegation involving corruption against public servants of all grades.Be it enacted by the Legislature of the State of Bihar in the Sixty-second year of the Republic of India as follows:

Chapter I Preliminary

1. Short title and commencement.

(1)This Act may be called the Bihar Lokayukta Act, 2011.(2)It shall extend to the whole of the State of Bihar.(3)It shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint, which shall not exceed thirty days from the date the Governor has given assent.

2. Definitions.

(1)In this Act, unless the context otherwise requires,.(a)" Allegation" in relation to a public servant means affirmation that such public servant-(i)has abused his position as such to obtain any undue gain or favour to himself or to any other person to cause undue harm or hardship to any other person or loss to the State Government.(ii)was actuated in the discharge of the functions as such public servant by personal interest or improper, corrupt motives, or(iii)is guilty of corruption or lack of integrity in his capacity as such public servant.(iv)has done anything punishable under the Prevention of Corruption Act, 1988.(b)"Bench" means a Bench of the Lokayukta;(c)"Chairperson" means the Chairperson of the Lokayukta;(d)"Competent Authority", in relation to.(i)"Chief Minister" means the Governor;(ii)"a Member of the Council of Ministers" means the Chief

Minister;(iii)"a Member of the State Legislative Council other than a Minister or the Chairman" means the Chairman of the State Legislative Council & "a member of the State Legislative Assembly other than a Minister or the Speaker" means the Speaker of the Bihar Legislative Assembly;And"Chairman of the Legislative Council and the Speaker of the Legislative Assembly" means the Governor;(iv)an officer in the Department of the Government means the appointing authority;(v)a Chairperson or Director - Members of any body, or Board or Corporation or Authority including Local Self Government or Local Authority including Panchayti Raj Institutions and Urban Local Bodies or Company or Autonomous Body (by whatever name called) established or constituted under State Act or Society or Association of Persons or Trust or Non-Governmental Organizations (whether registered under any law for the time being in force or not) wholly or partly financed by the Government or in receipt of any sums under the Foreign Contribution (Regulation) Act, 1976 or any donation from the public or subsidized or being given grant by the State Government or in receipt of payment of more than the prescribed amount or wholly or partly financed by the State Government or controlled by it means the Minister in Charge of the administrative department of such body, or Board or Corporation or Authority or Company or Society or Autonomous Body;(vi)an officer of any Body or Board or Corporation or Authority including Local Self Government or Local Authority including Panchayti Raj Institutions and Urban Local Bodies or Company or Society or Autonomous Body (by whatever name called) established or constituted under State Act or wholly and partly financed by the State Government or controlled by it means the Head of such body or Board or Corporation or Authority or Company or Society or Autonomous Body;(vii)any Director, Manager, Secretary or other officer / employees of every Society or Association of Persons or trust or Non-Governmental Organizations (whether registered under any law for the time being in force or not) wholly or partly financed by the Government or in receipt of any sums under the Foreign Contribution (Regulation) Act, 1976 or any donation from the public or subsidized or being given grant by the State Government or in receipt of payment of more than the prescribed amount, the head of the Society or Institution or Authority or the Head of the Association of the Person or the head of the Trust.(e)"Full Bench" means the bench of the Lokayukta consisting of the Chairperson and all the existing members of the Lokayukta.(f)"grievance" means a claim by a person that he sustained injustice or undue hardship in consequence of maladministration;(g)"inquiry" means every inquiry conducted under this Act by the Lokayukta;(h)"Judicial Member" means a Judicial Member of the Lokayukta appointed as such;(i)"Lokayukta" means the institution established under section 3 of this Act;(j)"Member" means a Member of the Lokayukta;(k)"Minister" means a member of the Council of Ministers (by whatever name called) for the State and includes a State Minister, a Deputy Minister and Parliamentary Secretary;(l)"notification" means notification published in the Official Gazette and the expression "notify" shall be construed accordingly;(m)"Officer" means a person appointed to a public service or post in connection with the affairs of the State;(n)"public authority" means-(i)any establishment or body or institution of the State Government;(ii)any Local Authority, the Local Self Government including Panchayti Raj Institutions and Urban Local Bodies;(iii)any Body/Board/Corporation/Authority/Company/Society/Autonomous Body(by whatever name called) established or constituted under an Act of State Legislature or wholly and partly financed by the State Govt. or controlled by it;(o)"prescribed" means prescribed by rules made under this Act;(p)"Public Servant" means a person referred to in clause of Section 16(1);(q)"Regulations" means regulations made under this Act;(r)"Schedule" means a Schedule to this Act;(s)"Special

Court" means a Special Court established under sub- section (1) of section 3 of the Prevention of Corruption Act, 1988 or Special Courts established under Bihar Special Courts Act, 2009.(t)"Whistleblower" means any person belonging to any public authority, who provides information about corruption in that public authority.(2)Words and expressions used and not defined in this Act shall have the meanings respectively which are assigned to them in the Prevention of Corruption Act, 1988.

Chapter II

Establishment of Lokayukta

3. Establishment of Lokayukta.

(1)As from the commencement of this Act, there shall be established, for the purpose of making inquiries in respect of complaints made under this Act, an institution to be called the "Lokayukta".(2)The Lokayukta shall consist of.(a)a Chairperson; and(b)two Members, provided that out of "Chairperson and two Members" at least two persons shall be Judicial Members.Provided further that the Lokayukta appointed prior to the commencement of this Act shall continue as the first Chairperson till the completion of his term.(3)A person shall be eligible to be appointed,. (a) as the Chairperson or a Member if he is a person of impeccable integrity, outstanding ability and standing having special knowledge of, and professional experience of not less than twenty-five years in, public affairs, administrative law and policy, academics, law, finance or management and not less than fifty years of age.(b)as a Judicial Member if he is or has been Chief Justice or a Judge of a High Court or qualified to be appointed as Judge of a High Court and not less than 50 years of age.(4)The Chairperson or Member shall be a person who is / was not a member of the Parliament or a member of the Legislature of any State or Union territory and shall not hold any office of trust or profit (other than his office as the Chairperson or a Member) or not attached with any political party or carry on any business or practice any profession.(5)The Chairperson and every Member shall, before entering upon his office, make and subscribe before the Governor an oath or affirmation in the form set out in the First Schedule.

4. Appointment of Chairperson and other Members and Selection Committee.

(1)The Chairperson and Members shall be appointed by the Governor after obtaining the recommendations of a Selection Committee consisting of.(a)the Chairman, Bihar Legislative Council & Convener;(b)the Speaker, Bihar Legislative Assembly & Member;(c)two sitting Senior Judges of the Patna High Court to be nominated by the Chief Justice & Member;(d)Immediate surviving outgoing Lokayukta & Member;Provided that while considering selection of Members of the Lokayukta, the existing Chairperson shall also be the Member of the Selection Committee.(2)No appointment of a Chairperson or a Member shall be invalid merely by reason of any vacancy in the Committee.(3)The Selection Committee shall for the purposes of selecting the Chairperson and other Members of the Lokayukta and for preparing a panel of persons to be considered for appointment as such, constitute a Search Committee.(4)The term of the search committee referred to in sub-section (3) and fee and another allowances payable to member of search committee shall

be such as may be prescribed under rules.(5)The selection committee shall regulate its own procedure for selection of the Chairperson and Members of the Lokayukta which shall be transparent.(6)The search committee shall consist of five persons of impeccable integrity and eminence in public life. They will be selected from amongst the retired Chief Justices of India, the Retired Judges of Supreme Court, the Retired Chief Justices of High Courts, the Retired Judges of High Courts, the Retired Chief Election Commissioners of India, the retired Chief of Central / State Information Commissions, the retired Chairperson of Union Public Service Commission / Bihar Public Service Commission, the retired Cabinet Secretaries / Chief Secretaries / Secretaries to Govt. of India and the retired Comptroller and Auditor Generals of India with reputation of impeccable integrity, who have not joined any political party after retirement and who are not holding any office under any government.Provided that at least two members of the Search Committee should be retired judges of the Supreme Court or retired Chief Justices or Judges of High Court.(7)The Search Committee shall adopt the following procedure for preparation of panel of persons for the recommendations:- (a)The Search Committee shall invite nominations from individuals or organizations through website and at least two widely circulated newspapers.(b)The Search Committee shall also endeavour to collect information about the achievements and full details of background of such persons nominated by individuals or organizations.(c)The Search Committee shall invite suggestions and information from the public in respect of nominations so received by placing the same on Website and / or from any other sources as may be deemed fit and proper by the Search Committee.(d)The Search Committee after taking into consideration informations and suggestions so received with respect to nominations received, shall prepare a panel of persons which shall be three times the number of persons to be appointed .Provided that if two members of the Search Committee have any objection in respect of any nomination that shall not be included in the panel prepared by the Search Committee.Provided further that names of any such person / persons whose name has / have not been received pursuant to the invitation for nomination as provided under sub-section (7)(a) shall not be considered by the Search Committee.(e)The Search Committee before making recommendations of the panel of names for the post of Chairperson and / or Member or both shall obtain the consent of nominees for the appointment to the post against which his name is under consideration.(f)The Search Committee shall complete the above procedure and send the shortlist within three months of initiation of procedure under sub-section (7)(a).(8)The Selection Committee shall finalize the recommendations within a month of receiving recommendation from the Search Committee.

5. Term of office of Chairperson and Members.

- The Chairperson and every other Member shall, on the recommendations of the Selection Committee, be appointed by the Governor by warrant under his hand and seal and hold office as such for a term not exceeding 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;(b)be removed from his office in the manner provided in section 7.

6. Salary, allowances and other conditions of service of the Chairperson and members.

- The salary, allowances and other conditions of service of the Chairperson shall be the same as those of the Chief Justice of Patna High Court and other Members shall be the same as those of a Judge of the High Court: Provided that if the Chairperson or a Member is, at the time of his appointment, in receipt of pension (other than disability pension) in respect of any previous service as the Chief Justice or the Judge of the High Court, as the case may be or under the Government of India or under the Government of a State, his salary in respect of service as the Chairperson or, as the case may be, as a Member, 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: Provided further that the salary, allowances and pension payable to, and other conditions of service of, the Chairperson or a Member shall not be varied to his disadvantage after his appointment.

7. Removal of Chairperson and other Member of Lokayukta.

(1) The Chairperson or Members may be removed from his office by the Governor on the ground of misbehaviour or incapacity and on no other ground. Provided that inquiry required to be held before such removal shall be held by a sitting High Court Judge to be nominated by the Chief Justice of Patna High Court. (2) A person appointed under the proviso to sub-section (1) shall submit the report within three months to the Governor who shall, as soon as may be, cause it to be laid before each House of the State Legislature. (3) Notwithstanding anything contained in sub-section (1) the Governor shall not remove the Chairperson or Members except by an order passed after an address by each house of the State Legislature supported by a majority of the total membership of that House and majority of not less than two thirds of the Members of that House present and voting has been presented to the Governor in the same session for such removal. (4) The State Legislature may regulate the procedure for presentation of an address and conclusion of the proceeding as mentioned in sub-section (3) above. (5) Notwithstanding any other definition of misbehaviour in any other law in force for the time being, "Misbehaviour" amongst others means, If the Chairperson or any other Member is or becomes in any way associated 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 a Member and in common with the other Members of an Corporate Company or has abused his position in any way so as to obtain any gain or favour to himself or to any other person to cause undue harm or hardship to any other person or was actuated in the discharge of the functions by any personal interest or for improper gain, corrupt practices. (6) Notwithstanding any other definition of incapacity in any other law in force for time being, "Incapacity" amongst others means if the Chairperson or any other members is declared or adjudged an insolvent by a court of competent jurisdiction or is unfit to continue in office by reason of infirmity of mind or body.

8. Restriction on employment by Chairperson and Members after ceasing to hold office.

(1) On ceasing to hold office, the Chairperson and every other Member shall be ineligible for-(i) re-appointment as the Chairperson or a Member of the Lokayukta; (ii) further employment to any other office of profit under the Government of India or the Government of a State; (iii) Appointment to any such Society or Association of Persons or Trust (whether registered under any law for the time being in force or not) wholly or partly financed by the Government or in receipt of any sums under the Foreign Contribution (Regulation) Act, 1976 or any donation from the public, which is partially or wholly funded by the Government. (2) Notwithstanding anything contained in sub-section (1), a Member shall be eligible to be appointed as a Chairperson, if his total tenure as Member and Chairperson does not exceed five years.

9. Member to act as Chairperson or to discharge his functions in certain circumstances.

(1) In the event of the occurrence of any vacancy in the office of Chairperson by reason of his death, resignation or otherwise, the Governor may, by notification, authorize the senior-most Member to act as the Chairperson until the appointment of a new Chairperson to fill such vacancy. (2) When the Chairperson is unable to discharge his functions owing to absence on leave or otherwise, the seniors most Member available, as the Governor may, by notification, authorize in this behalf, shall discharge the functions of the Chairperson until the date on which the Chairperson resumes his duties.

10. Secretary, other Officers and Staff of Lokayukta.

(1) The Secretary to Lokayukta shall be appointed on the recommendation of the Lokayukta. The Secretary shall be drawn from the Indian Administrative Service permanently allotted to the State Cadre, drawing pay in the super time scale of the service, or the State Superior Judicial Service in the super time scale, and shall receive the pay which he would have drawn but for his appointment as Secretary. The Secretary shall hold office for a period as may be decided by the Government in consultation with the Chairperson. (2) The other Gazetted Officers, the Ministerial Officers and the Group 'D' staff in the establishment shall be appointed by the Chairperson in accordance with the State Government's existing reservation policy and established procedure of such recruitment, including deputation and on the same terms and conditions as applicable to the same rank of employees of the State Government: Provided that the Chairperson may, by general or special order, delegate to the Secretary the power to make appointment to a post or a class of posts in class of posts in Group 'C' or Group 'D' specified in such order. (3) Subject to the provisions of any law made by State Legislature, the conditions of service of Secretary and other officers including officers of the Investigation Wing 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 shall, so far as they relate to creation of posts, salaries, allowances, leave or pensions and working conditions, require the approval of the State Government.

Chapter III

Investigation Wing

11. Investigation Wing.

- Notwithstanding anything contained in any law for the time being in force, the Lokayukta shall constitute in accordance with the State Government's existing reservation policy and established procedure of such recruitment, including deputation and on the same terms and conditions as applicable to the same rank of employees of the State Government for the purpose of conducting investigation of any offence alleged to have been committed by a public servant punishable under the Prevention of Corruption Act, 1988: Provided that till such time the Investigation Wing is constituted by the Lokayukta, the State Government shall make available such number of Investigation Officers and other staff from such of its Departments, as may be required by the Lokayukta, for carrying out investigation under this Act.

12. Investigation officer to have powers of police.

(1) No investigation shall be made by an Investigation Officer of the Investigation Wing below the rank of a Deputy Superintendent of Police or by any other officer of equivalent rank. (2) The Investigation Officers of the Investigation Wing shall have in relation to the investigation of such offences, all the powers, duties, privileges and liabilities which police officers have in connection with the investigation of such offences.

13. Investigation officer to inquire on direction of Lokayukta.

(1) The Lokayukta may, before holding any inquiry under this Act, by an order, require the Investigation Officer of its Investigation Wing to make, or cause to be made, a preliminary investigation in such manner as it may direct and submit a report to the Lokayukta, within such time as may be specified by the Lokayukta, to enable it to satisfy itself as to whether or not the matter requires to be inquired into by the Lokayukta. (2) The Investigation Officer on receipt of an order under sub-section (1) shall complete the investigation and submit his report within the time specified under that sub-section.

Chapter IV

Prosecution Wing

14. Appointment of Prosecution Director.

(1) The Lokayukta may, by notification, constitute a prosecution wing and appoint a Prosecution Director and such other officers and employees in accordance with the State Government's existing reservation policy and established procedure of such recruitment, including deputation and on the same terms and conditions as applicable to the same rank of employees of the State Government to

assist the Prosecution Director for the purpose of prosecution of public servants in relation to any complaint by the Lokayukta under this Act.(2)The Prosecution Director shall, after having been so directed by the Lokayukta, after due inquiry file a complaint before the Special Court, and take all necessary steps in respect of the prosecution of public servants in relation to any offence punishable under the Prevention of Corruption Act, 1988 and Bihar Special Courts Act, 2009.

Chapter V

Expenses of Institution of Lokayukta to be Charged on Consolidated Fund of State

15. Expenses of Lokayukta to be charged on Consolidated Fund of State.

- The expenses of the Lokayukta, including all salaries, allowances and pensions payable to or in respect of the Chairperson, Members or Secretary or other officers or staff of the Lokayukta, shall be charged on 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

16. Jurisdiction of Lokayukta.

(1)Subject to other provisions of this Act, Lokayukta shall inquire into any matter involved in, or arising from, or connected with any allegation or grievance against any public servant made in the complaint in respect of the following, namely:(a)any person who is or has been a Chief Minister of the State,(b)any person who is or has been a Minister of the State,(c)any person who is or has been a Member of either house of the State Legislature,(d)every officer referred to in clause (m) of Section 2,(e)every officer referred to in clause (m) of section 2 who on deputation or on transfer to foreign service is in the service or pay of -(i)any Local Authority , Local Self Government including the Panchayti Raj Institutions and the Urban Local Bodies;(ii)any Corporation (not being the local authority) established by or under the State Act and owned or controlled by the State Government;(iii)any Government Company within the meaning of section 617 of the Companies Act, 1956 (Act I of 1956) in which not less than fifty-one percent of the paid up share capital is held by the State Government of any Company which is a subsidiary of a company capital is held by the State Government;(iv)any Society registered under the Societies Registration Act, 1860 (Act 21 of 1860) which is subject to the control of the State Government and which is notified by the State Government in this behalf in the Official Gazette;(f)every Head or his Deputy by whatever designation he may be known and other employees of Local Authority, the Local Self Government including the Panchayti Raj Institutions and the Urban Local Bodies, the Corporation, the Government company or a Society or Association of Persons or Trust or Non-Governmental Organizations (whether registered under any law for the time being in force or not) having received a donation of more than Rs. five lakhs from any other source including foreign sources. or any other

institution or organization or authority, subsidized or being given grant by the State Government or receiving payment of more than the prescribed amount from the Government.(g)any Chairperson or Member or Officer {referred to in clause (e) of sub-section (1)} or equivalent / above in any body / Board / Corporation / Authority / Company / Society / Autonomous Body (by whatever name called) established or constituted under an Act of State Legislature or wholly and partly financed by the State Government or controlled by it, Provided that no investigation or prosecution shall be initiated without obtaining permission from a full bench of Lokayukta against; persons named in clause (a), (b) & (C) of sub-section(1) of Section 16 of the Act.(2)The Lokayukta may inquire into any act or conduct of any person other than those referred to in sub-section(1) of section 16, if such person is associated with the allegation of corruption under the Prevention of Corruption Act, 1988.

17. Matters pending before any Court or Committee or authority before inquiry before Lokayukta.

- In case any matter or proceeding related to allegation of corruption under the Prevention of Corruption Act, 1988 has been pending before any Court or Committee of either house of State Legislature or before any 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 of either house of State Legislature/any other authority except for such matters as are protected under clause 2 of Article 194 of the Constitution of India or are pending before a Court, shall not affect the power of Lokayukta to inquire into such matter under this Act.

18. Constitution of benches of Lokayukta.

(1)Subject to the provisions of this Act-(a)The jurisdiction, powers and authority of the Lokayukta may be exercised by Benches thereof,(b)a Bench shall be constituted by the Chairperson with one or more Members as the Chairperson may deem fit,(c)every Bench shall ordinarily consist of at least one Judicial Member,(d)Where a Bench consists of Chairperson, such bench shall be presided over by the Chairperson,(e)Where a Bench consists of a Judicial and a non Judicial Member not being the Chairperson, such Bench shall be presided over by the Judicial Member,(f)The Benches of the Lokayukta shall ordinarily sit at Patna and at such other places as the Lokayukta may, by regulation specify.(2)The Lokayukta shall notify the areas in relation to which each Bench of Lokayukta may exercise jurisdiction,(3)Notwithstanding anything in sub section (2), the Chairperson shall have the power to constitute and reconstitute the benches from time to time.(4)If at any stage of the hearing of a case or a matter, it appears to the Chairperson or a Member, that the case or matter is of such nature that it ought to be heard by a full bench, the case or the 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.(5)Chairperson may for the purpose of securing that any case or cases which, having regard to the nature of questions involving, requires or require, in his opinion to be decided by a Bench comprised of more than two members under rules framed by the State Government in this regard issue such a general or special order as he may deem fit.(6)Notwithstanding anything contained in the foregoing provisions of this section, it shall be competent for the chairperson or any other Member authorised by the chairperson in this behalf to function as a Bench consisting of a

single Member and exercise the jurisdiction, power and authority of the Lokayukta in respect of such classes of cases or such matters pertaining to such classes of cases as the Chairperson may by general or special order specify. Provided that if at any stage of the hearing of any such case or matter it appears to the Chairperson or such Member that the case or matter is of such a nature than it ought to be heard by a Bench consisting of two members the case or matter may be transferred by the Chairperson or, as the case may be, referred to him for transfer to, such Bench as the chairperson may deem fit.

19. Distribution of business amongst Benches.

- Where the benches are constituted, the Chairperson may, from time to time, by notification, make provisions as to distribution of the business of the Lokayukta amongst the benches and also provide for the matter which may be dealt with by each bench.

20. Power of chairperson to transfer cases.

- 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, may transfer any case pending before any bench for disposal to any other bench.

21. Decision to be by majority.

- When in any matter heard by a Bench of two members, a difference of opinion arises between them on a point or points either member desire that the matter be referred it shall be referred to and heard by full Bench. Explanation. - In case the post of one member is vacant, the view of the Chairperson shall prevail.

22. Validation of act or proceeding.

- No act or proceeding of the Lokayukta shall be invalid merely by reason of-(a)any vacancy in, or any defect in constitution of Lokayukta.(b)any defect in the appointment of the person acting as member of Lokayukta or(c)any irregularity not affecting the merits of the case.

Chapter VII

Procedure in Respect of Inquiry and Investigation

23. Provision relating to inquiry and investigation.

(1)The Lokayukta, on receipt of a complaint, may cause preliminary inquiry or investigation to ascertain whether there exists a prima facie case for proceeding in the matter.(2)Every preliminary inquiry or preliminary investigation referred to in sub section (1)shall ordinarily be completed within a period of thirty days and for reasons to be recorded to writing, within a period of three

months from the date of receipt of complaint.(3)Upon completion of the preliminary investigation, the investigating authority shall submit its report to the Chairperson.

24. Persons likely to be prejudicially affected to be heard.

- If, at any stage of proceeding, the Lokayukta-(a)considers it necessary to inquire into the conduct of any person other than the prospective accused; or(b)is of opinion that the reputation of any person other than a accused is likely to be pre-judicially affected by the inquiry,The Lokayukta shall give to that person a reasonable opportunity of being heard in the inquiry and to produce evidence in his defence, consistent with the principle of natural justice.

25. Lokayukta may require any public servant and any other person to furnish information etc.

- (I) Subject to the provisions of this section for the purpose of any investigation (including the preliminary inquiry, if any, before such investigation) under this Act, the Lokayukta may require any public servant or any other person who in his opinion is able to furnish information or produce documents relevant to the investigation, to furnish any such information, or produce any such documents.(2)For the purpose of any such investigation (including the preliminary inquiry), the Lokayukta shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908 (Act 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 commissions for the examination of witnesses or documents;(f)such other matters as may be prescribed.(3)Any proceeding before the Lokayukta shall be deemed to be judicial proceeding within the meaning of section 193 of the Indian Penal Code (Act no. 45 of 1860).(4)No person shall be compelled for the purpose of investigation under this Act to give any evidence or produce any document which he could not be compelled to give or produce in proceeding before Court.

26. Procedure for sanction of prosecution.

(1)Notwithstanding anything contained in this section so far sanction under section 197 code of Criminal Procedure and section 19 of Prevention of Corruption Act is concerned, the competent authority shall pass an appropriate order on the recommendation of Lokayukta within forty days from the receipt of recommendation for sanction or permission.Provided in case of sanction under 19 of Prevention of Corruption Act, 1988 for any public servant who is not removable from his office save by or with sanction of the Central Government, the State Government shall send its recommendation to the Central Government within fifteen days.(2)The provisions contained in sub-sections(1) shall be without prejudice to the generality of the provisions contained in article 311 and sub-clause (c) of clause (3) of article 320 of the Constitution.

27. Action on inquiry in relation to Public Servants not being Chief Minister or Ministers or Members of the State Legislature.

(1)Where after the conclusion of the inquiry or investigation, the findings of the Lokayukta disclose the commission of an offence under the Prevention of Corruption Act, 1988 by a public servant referred to in clause (d), (e), (f) or (g) of sub-section (1) of section 16, any officer authorized by Lokayukta shall-(a)file a case in the Special Court and send a copy of the report together with its findings to the competent authority; and(b)recommend to the competent authority for initiation of disciplinary proceedings under the rules of disciplinary proceedings applicable to such public servant;(c)provide a copy of the report to the public servant or his representative;(2)The competent authority shall, having regard to the recommendations of the Lokayukta within a period of thirty days of the receipt of recommendation under clause (b) of sub-section (1), initiate disciplinary proceedings against the delinquent public servant accused of committing offence under the Prevention of Corruption Act, 1988 and forward its comments on the report, including the action taken or proposed to be taken thereon, to the Chairperson ordinarily within six months of initiation of such disciplinary proceedings.

28. Action on inquiry against Public Servants being Chief Minister or Ministers or members of the State Legislature.

(1)Where the matter relates to public servant refers in clause (a), (b) & (c) of sub-section (1) of section 16 of this act the Lokayukta finding a prima facie case after following the procedure laid down in section 16(1) proviso, direct for inquiry or investigation.(2)Where after the conclusion of the inquiry or investigation, the findings of the Lokayukta disclose the commission of an offence under the Prevention of Corruption Act, 1988 by a public servant referred to in clause (a), (b) & (c) of sub-section (1) of section 16, the Lokayukta may file a case in the Special Court and shall send a copy of the report together with its findings to the competent authority and also to the public servant.

Chapter VIII

Powers of Lokayukta

29. Provisions relating to complaints.

(1)The Lokayukta on receipt of a complaint or suo moto may initiate an appropriate action. For the purpose of this section "Complaint" means an allegation, grievance or request by whistleblower for protection.(2)every complaint under this act shall be made, as far as possible, in the forms prescribed and shall contain the following particulars:-(a)Every complaint shall bear the heading title "before the Lokayukta of Bihar."(b)Name or names of the complainant with their full addresses.(c)Name or names of persons complained against with full address (es)(3)All complaints made before the Lokayukta shall be duly signed by the complaint or, if he is illiterate, shall bear his left thumb impression duly attested by a literate person, clearly disclosing the name and full address

of the attesting persons.(4)Every complaint shall be supported by an affidavit as prescribed.(5)The Lokayukta shall not investigate any complaint -(a)involving a grievance, if the complaint is made after the expiry of twelve months from the date on which the action complained against becomes known to the complaint;(b)involving an allegation, if the complaint 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 the Lokayukta may entertain a complaint referred to in clause (a) if the complainant satisfies him that he had sufficient cause for not making complaint within the period specified in that clause.(6)Notwithstanding anything contained in any other enactment, any letter written to the Lokayukta by a person, in Police custody or in a jail or in any asylum or other place for insane person, shall be forwarded to the addressee un-opened and without delay by the Police Officer or other person in charge of such jail, asylum or other place and the Lokayukta may, if satisfied that it is necessary to do so treat such letter as a complaint made in accordance with the provisions of sub-section (2).

30. Investigation.

(1)Investigating Officers of Lokayukta authorized to investigate offences under the Prevention of Corruption Act, 1988 shall have all the powers which are vested in a police officer while investigating offences under the Code of Criminal Procedure.(2)All Investigating Officers of Lokayukta superior in rank to an Investigating Officer may exercise the same powers as may be exercised by Investigating Officer.

31. Search and seizure.

(1)Where in consequence of information in his possession, the Lokayukta or the Officer authorized by it-(a)has reason to believe that any person to whom a summon or notice under this Act, has, been or might be issued will not or would not produce or cause to be produced any property, document or thing which will be necessary or useful for or relevant to any enquiry or other proceeding to be conducted by him may issue a search warrant, and authorize any officer not below the rank of Inspector of Police to conduct a search or carry out an inspection in accordance therewith and in particular to, enter and search any building or place where he has reason to suspect that such property, or document, is kept.(2)A warrant issued under sub-section(1) shall for all purposes, be deemed to be warrant issued by a Court under section 93 of Code of Criminal Procedure, 1973.(3)If the Lokayukta is satisfied that any document seized under sub-section(1) would be evidence for the purpose of investigation or enquiry under this act and it would be necessary to retain the documents in its custody or in custody of search officers as may be authorized it may so return or direct such officer authorized to retain such document till the completion of such investigation or enquiry.Provided that where any document is required to be returned the Lokayukta or the authorized officer may return the same after retaining copies of such document duly authenticated.(4)The provisions of the Code of Criminal Procedure, 1973 relating to searches shall, so far as may be, apply to searches under this section.

32. Governance of Investigations.

- All the investigations under The Bihar Lokayukta Act, 2011 shall be governed by Chapter IV of the Prevention of Corruption Act, 1988. Explanation. - Notwithstanding the provision of the Act, the provisions of the Chapter XII of the Criminal Procedure Code 1973 relating to investigations, which is not inconsistent with this Act shall also apply.

33. Provisional attachment of assets.

(1) Where the Lokayukta or any Investigation Officer authorized by it in this behalf, has reason to believe, the reason for such belief to be recorded in writing, on the basis of material in his possession, that-(a) any person is in possession of any proceeds of corruption; (b) such person is accused of having committed an offence relating to corruption; and (c) such proceeds of offence are likely to be concealed, transferred or dealt with in any manner which may result in frustrating any proceeding relating to confiscation of such proceeds of offence, he may, by order in writing, provisionally attach such property for a period not exceeding ninety days from the date of the order, in the manner prescribed. (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).

34. Confirmation of attachment of assets.

(1) The Lokayukta, when it provisionally attaches any property under sub-section (1) of section 33 shall, within a period of thirty days of such attachment, direct its prosecution wing to file an application stating the facts of such attachment before the Special Court and make a prayer for confirmation of attachment of the property till completion of the proceedings against the public servant in the Special Court. (2) The Special Court may, if it is of the opinion that the property provisionally attached had been acquired through corrupt means, make an order for confirmation of attachment of such property till the completion of the proceedings against the public servant in the Special Court. (3) If the public servant is subsequently acquitted of the charges framed against him, the property, subject to the orders of the Special Court, shall be restored to the concerned public servant along with benefits from such property as might have accrued during the period of attachment.

35. Power of Lokayukta to recommend transfer or suspension of Public Servant connected with allegation of corruption.

(1) Where the Lokayukta, while making an inquiry into allegation of corruption, is prima facie satisfied, on the basis of evidence available, that the continuance of the public servant referred to in

clause(d), (e), (f) & (g) of subsection ((1) of section 16 in his post while conducting the inquiry is likely to affect such inquiry adversely; then the Lokayukta may recommend the State 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.(2)The State Government shall ordinarily accept the recommendation of the Lokayukta.

36. Power of Lokayukta to give directions to prevent destruction of records during inquiry.

- The Lokayukta may, in discharge of its functions under this Act, issue appropriate direction 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.

37. Power to delegate.

- The Lokayukta may, by general or special order in writing, and subject to such condition and limitation as may be specified therein, direct that any administrative or financial power conferred on it may also be exercised or discharged by such of its Members or officers or employees as may be specified in the order.

38. Other power and function.

- Lokayukta shall have also following functions and powers:-

1. (a) If the Lokayukta prima facie is satisfied on the basis of preliminary inquiry of investigation that a lease, license, permission, contract or agreement was obtained by corrupt means including misfeasance, misrepresentation, fraud and coercion, it shall recommend cancellation or modification of the lease, license, permission, contract or agreement and it may also recommend blacklisting of firm, company, contractor or any other person involved in act of corruption. The above said recommendations shall be complied by the public authority or be rejected by him within a month of receipt of recommendation.

(b)If the Lokayukta in course of any investigation is satisfied that any preventive action is necessary in public interest to prevent the ongoing incident of corruption it may make recommendation to the public authority concerned either to stay the implementation /enforcement of any decision or take any such action as is recommended by the Lokayukta. The aforesaid recommendation shall be complied by public authority or be rejected by him within fifteen days of receipt of recommendation.(c)to monitor the investigation of offences under Prevention of Corruption Act,

1988 involving any act of corruption, for the cases initiated on behalf of the Lokayukta.(d)to initiate prosecution before a Special Court established under the Prevention of Corruption Act, 1988 and the Bihar Special Courts Act, 2009, for the cases initiated on behalf of the Lokayukta.(e)to appoint prosecutors and Senior Counsels under Prevention of Corruption Act, 1988 or under the Bihar Special Court Act, 2009 or under this Act, for the cases initiated on behalf of Lokayukta.(f)to get the Investigating Officer trained in modern methods of scientific investigation.(g)to enquire modern equipments necessary for proper investigation.(h)to receive complaints against any officer or staff of Lokayukta.(i)to ensure the integrity of its functionaries and impose punishments of dismissal, removal and reduction in rank.

Chapter IX

Special Courts

39. Special Courts to be notified by State Government.

(1)The Lokayukta may recommend for establishment for more Special Courts for the cases arising out of Prevention of Corruption Act, 1988 or under Bihar Special Courts Act, 2009 or under this Act and the State Government shall consider the proposal for establishment of more courts.(2)The Special Courts constituted under sub-section (1) shall ensure completion of each trial within a period of one year from the date of filing of the case in the Court.Provided that in case the trial cannot be completed within a period of one year, the Special Court shall record reasons therefore and complete the trial within a further period of not more than three months or such further periods not exceeding three months each, for reasons to be recorded in writing, before the end of each such three months period but not exceeding a total period of two years.

40. Letter of request to another State in certain cases.

(1)Notwithstanding anything contained in this Act or the Code of Criminal Procedure, 1973 if, in the course of an inquiry or investigation into an offence or other proceedings under this Act, an application is made to a Special Court by the Investigation Officer of the Lokayukta that any evidence is required in connection with the inquiry or investigation into an offence or proceeding under this Act and he is of the opinion that such evidence may be available in any place in another State, and the Special Court, on being satisfied that such evidence required in connection with the inquiry or investigation into an offence or proceeding under this Act may issue a letter of request to a court or an authority in the another State competent to deal with such request to -(i)examining the facts and circumstances of the case;(ii)take such steps as the Special Court may specify in such letter of request; and(iii)forward all the evidence so taken or collected to the Special Court issuing such letters of request.(2)The letter of request shall be transmitted in such manner as the State Government may prescribe in this behalf.(3)Every statement recorded or document or thing received under sub-section(1) shall be deemed to be evidence collected during the course of the inquiry or investigation.

Chapter X

Complaints Against Lokayukta and its officials

41. Complaints against Chairperson and Members not to be inquired by Lokayukta.

(1)The Lokayukta shall not inquire into any complaint made against the Chairperson or any Member of the Lokayukta.(2)Any complaint against the Chairperson or any member shall be made by an application by the party aggrieved to the Governor.(3)(a)The Governor if is satisfied that a prima facie case appears to have been made out in the complaint, shall refer the complaint for inquiry under the provision of section 7 of the Act within a period of three months.(b)The Governor, however, if, is not satisfied of prima facie case having been made out in the complaint shall pass an appropriate order within the period prescribed in clause (a) of sub section 3.

42. Complaints against Officers of Lokayukta.

(1)Every complaint of allegation of wrong doing made against any officers or employee or investigating agency under or associated with the Lokayukta for offence punishable under the Prevention of Corruption Act, 1988 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 sixty days from the date of its receipt.(3)While making an inquiry into the complaint against any officers or employee of the Lokayukta or the agency engaged or associated with the Lokayukta, if it is prima facie satisfied on the basis of evidence available that-(a)continuance of such officer or employee of the Lokayukta or agency engaged or associated in the post while conducting the inquiry is likely to affect such inquiry adversely; or(b)an officer or employee of the Lokayukta or agency engaged or associated 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 here to before exercised by it.(4)On the 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 or of any wrong doing it shall within a period of forty days of the completion of such inquiry order to prosecute such officer or employee of the Lokayukta or such officer disciplinary proceedings against the official concerned-Provided that no such order shall be passed without giving such officers or employee of the Lokayukta or person, agency engaged or associated, a reasonable opportunity of being heard.

Chapter XI

Finance, Accounts and Audit

43. Budget.

- 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 State Government for information.

44. Grants by State Government.

- The State Government may, after due appropriation made by the State Legislature by law in this behalf, make to the Lokayukta fund or such sums of money as are required to be paid for the salaries and allowances payable to the Chairperson and other Members and the administrative expenses, including the salaries and allowances and pension payable to or of officers and other employees of the Lokayukta.

45. Annual Statement of accounts.

(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 by the State Government in consultation with the Accountant General of Bihar.(2)The accounts of the Lokayukta shall be audited by the Accountant General of Bihar at such intervals as may be specified by him.(3)The Accountant General of Bihar 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 t h e Accountant General of Bihar 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 of Bihar or any other person appointed by him in this behalf, together with the audit report thereon, shall be forwarded annually to the State Government and the State Government shall cause the same to be laid before each House of the State Legislature.(5)Appropriate Joint Committee of Bihar Legislative Assembly and Bihar Legislative Council may decide to do an annual appraisal of the functioning of Lokayukta. The Lokayukta shall submit a compliance report, mentioning detailed reasons where it does not accept the recommendations of the committee, to the Governor. It shall be placed on the table of the two Houses of the Bihar State Legislature.

Chapter XII

Offences and Penalties

46. Offences and Penalties.

- Notwithstanding anything in this Act, the provisions of the Indian Penal Code 1860 as well as the Prevention of Corruption Act, 1988 and the Bihar Special Courts, 2009 shall apply so far as offences and penalties are concerned.

Chapter XIII

Assessment of Loss and Recovery Thereof by Special Court

47. Assessment of loss and recovery thereof by Special Court.

- If any public servant is convicted of an offence under the Prevention of Corruption Act, 1988 by the Special Court, notwithstanding anything contained in 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, may also be recovered from such beneficiary or beneficiaries proportionately.

Chapter XIV

Whistle Blowers

48. Whistleblowers.

(1) Any public official or any member of the public in possession of or having knowledge / information of any public authority indulging in corrupt practices shall be encouraged to send the said knowledge / information in his possession in confidence to the Lokayukta and it shall be incumbent upon the Lokayukta, if satisfied to order an inquiry into such information or knowledge by himself or by his agency or order for investigation under provision of Prevention of Corruption Act, 1988. (2) It shall be incumbent upon the Lokayukta to keep the identity of the whistleblower confidential, where the Whistleblower so desires and / or also provide full protection to whistleblower from any physical harm or any administrative harassment. (3) Where protection in any form is to be given to the Whistleblower, the Lokayukta shall be competent to give appropriate direction to any security agency / agencies or any other authority or authorities as the Lokayukta may deem fit and proper. The above direction of the Lokayukta shall be binding on such agency / agencies or authority / authorities. (4) (a) In any case the Lokayukta shall pass the order under this section expeditiously and within a month of receipt of complaint. (b) The Lokayukta on satisfaction on physical victimization of Whistleblower threatened or anticipated shall be at liberty to take immediate appropriate action as may be deemed fit and proper. (5) The investigations in complaints by Whistleblowers facing physical or professional victimization shall be disposed of expeditiously preferably within three months or receipt of the same.

Chapter XV

Miscellaneous

49. Protection of action taken in good faith.

- 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.

50. Members, officers and employees of the Lokayukta to be public servants.

- The Chairperson, Members, 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.

51. Bar of Jurisdiction.

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

52. Act of have overriding effect.

- 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 by virtue of any enactment other than this Act.

53. Provision of this Act to be in addition of other laws.

- The provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.

54. Furnishing of returns, etc., to State Government.

(1)The Lokayukta shall prepare, once every year, in such form and at such time as may be prescribed, an annual report, giving a summary of its activities during the previous year and copies of the report shall be forwarded to the State Government.(2)A copy of the report received under sub-section (1) shall be laid by the State Government, as soon as may be after it is received, before each House of the State Legislature.

55. Power to make rules.

(1)The State Government may, by notification in the Official Gazette, make rules to carry out the provisions of this Act.(2)In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :-(a)fee an allowances may be payable to the members of the search committee.(b)the manner of provisional attachment under sub-section 1(c) of section 33.(c)the manner of sending the order of attachment along with the material to the Special Court under sub-section (2) of section 33 and 34;(d)the manner of transmitting the letter of request under sub-section (2) of section 40;(e)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 43 ;(f)the form for maintaining the accounts and other relevant records and the form of annual statement of accounts under sub-section (1) of section 45 ;(g)the form and manner and the time for preparing the returns and statements along with particulars under sub-section (1) of section 45 ;(h)the form and the time for preparing an annual report giving a summary of its activities during the previous year under sub-section (1) of section 54;(i)any other matter which is to be or may be prescribed.

56. Power of Lokayukta to make regulations.

(1)Subject to the provisions of this Act and the rules made thereunder, the Lokayukta may, after approval of the State Government by notification in the Official Gazette, 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 State Government under subsection (2) of section 10;(b)the place of sitting of benches of the Lokayukta under clause (f) of sub-section (1) of 18;(c)the manner and procedure of conducting an inquiry or investigation;(d)any other matter which is required to be or may be specified under this Act.

57. Laying of rules and regulations.

- Every rule and regulation made under this Act shall be laid, as soon as may be after it is made, before both House of legislature, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation, or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

58. Power to remove difficulties.

(1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act, as may appear to be necessary for removing the difficulty: Provided that no such order shall be made under this section after the expiry of a period of six months from the commencement of this Act. (2) Every order made under this section shall be laid, as soon as may be after it is made, before each House of the State Legislature.

59. Repeal and savings.

(1) The Bihar Lokayukta Act, 1973 and the amendments made in it from time to time is hereby repealed. (2) Notwithstanding such repeal anything done or any action taken in exercise of the powers conferred by or under the said Bihar Lokayukta Act, 1973 shall be deemed to have been done or taken in the exercise of powers conferred by or under this Act as if this Act were in force on the day on which such thing was done or action taken. The First Schedule [See Section 3(5)] I, having been appointed Chairperson / Member* of the Lokayukta do swear in the name of God / solemnly affirm that I will bear true 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. [*As the case may be)]