

C. Rangaswamaiah & Others vs Karnataka Lokayukta & Others on 21 July, 1998

Equivalent citations: AIR 1998 SUPREME COURT 2496, 1998 AIR SCW 2498, (1998) 4 ALLMR 372 (SC), (1998) 5 JT 64 (SC), 1998 (2) UJ (SC) 380, 1998 (4) ALL MR 372, 1998 (4) SCALE 266, 1998 (6) SCC 66, (1998) 3 SCR 837 (SC), 1998 UJ(SC) 2 380, (1998) 4 LAB LN 60, (1998) 4 SCALE 266, (1998) 2 CURLR 522, (1998) 3 RECCRIR 547, (1998) 6 SUPREME 68, 1998 SCC (L&S) 1448

Author: M. Jagannadha Rao

Bench: K. Venkataswami, M. Jagannadha Rao

PETITIONER:

C. RANGASWAMIAH & OTHERS

Vs.

RESPONDENT:

KARNATAKA LOKAYUKTA & OTHERS

DATE OF JUDGMENT: 21/07/1998

BENCH:

K. VENKATASWAMI, M. JAGANNADHA RAO

ACT:

HEADNOTE:

JUDGMENT:

O R D E R M. JAGANNADHA RAO, J.

On the last day before summer vacation, namely, 14.5.1998, we dismissed these Special Leave Petition at the stage of admission and stated that we shall pass a reasoned order later. We are passing that order now.

These seven special leave petitions have been preferred against the common Judgment of the Karnataka High Court in Writ Petition Nos.24215/97, 32653/97, 33388/97, 27056/97, 33852/97 and 4361/98. The judgment, in fact, disposed of several other writ petitions also and in addition considered the correctness of the judgment dated 12.8.1997 of a learned single Judge of that Court rendered in writ Petition No. 17819 of 1994 against which writ Appeals Nos. 5081/97 and 5071/97 were respectively preferred by the petitioner therein and the State of Karnataka.

The point raised in these SLPs is whether the investigation under section 17 of the Prevention of Corruption Act, 1988 entrusted by the state of Karnataka to the police officers of the State having the requisite rank could still be said to be vitiated because of the fact that the said officers were on deputation to the police wing of the Karnataka State Lok Ayukta at the relevant time?

The facts of the case are as follows: The petitioners before us file writ petitions contending that the police officers on deputation with the Lok Ayukta could not have been entrusted with the investigation under section 17 of the prevention of Corruption Act, 1988. In writ petition 17819/94 filed earlier by another public servant which went before a learned single Judge of that Court, the same questions were raised. A learned single Judge of that Court while however rejecting the contention of the Writ Petitioner in writ petition No. 17819/94 that the police officers sent on deputation to the Lok Ayukta to 'assist' the said authority under section 15(1) of the Karnataka State Lok Ayukta Act, 1984 would cease to be police officers for purposes of section 17 of the prevention of corruption Act, 1988, held that the petition was liable to be partly allowed on the basis of the following reasoning. The learned Judge held that in view of section 15(2) of the Lok Ayukta Act which required the staff of the Lok Ayukta to act without 'fear' in the discharge of their functions and section 15(4) of the said Act- which vested 'administrative and disciplinary control' of the staff in the Lok Ayukta, - the independence of the Lok Ayukta as an autonomous body would be affected if the police officers on deputation with the Lok Ayukta were entrusted with functions of investigation under section 17 of the Prevention of Corruption Act, 1988 and that, therefore, such officers should not have been asked to conduct any such investigation. The learned Single Judge, however, sustained the investigation already made, by invoking the de facto doctrine laid down by the Supreme Court in Gokaraju Ranga Raju vs. State of Andhra Pradesh [1981 (3) SCC 132]. Question arose as to the position of the post of director General of Police in the Lok Ayukta created w.e.f. 21.12.92 which post was however not included in the rules governing the Lok Ayukta and to the effect of another notification dated 22.12.92 issued by the State Government under Section 17 of the prevention of Corruption Act, 1988 designating all the Inspectors of Police, Karnataka Lok Ayukta to be police officers for purposes of the proviso to section 17 of the said Act. The learned judge held that the latter notification in so far as it placed the said officers under the 'general and overall control and supervision' of the Director General, Bureau of Investigation, Lok Ayukta, Bangalore - rather than under the Lok Ayukta - as was the position under an earlier notification dated 2.11.1992 which had vested such control and supervision in the Lok Ayukta - was bad inasmuch as it jeopardised the independence of the Lok Ayukta, particularly when the post of Director General of the Bureau of Investigation, Lok Ayukta was not included among the posts listed in the Karnataka Lok Ayukta (Cadre, Recruitment and conditions of Service of the Officers and the Employees) Rules, 1988. The learned Judge also held that the notification dated 12.12.1992 mentioned above designating the inspectors of Police who were on deputation in the Karnataka Lok Ayukta to be police officers under

section 17 of the prevention of Corruption Act, 1988 and that the notification dated 26.5.1998 issued under Section 2(s) of the Criminal procedure Code, 1973 whereby Offices of the Lok Ayukta throughout the state were declared as Police stations respect of jurisdiction mentioned against each of them - could not be of any help to the state inasmuch as those police officers on deputation in the police wing of the Lok Ayukta could not have been asked to under take any functions other than those of 'assisting' the Lok Ayukta as specified in section 15(1) of the Lok Ayukta Act, 1984. In the result, the learned single Judge directed that, from the stage at which the investigation stood under the prevention of Corruption Act, 1988, as on the date of the Judgement, the Police wing/Bureau of investigation of the Lok Ayukta 'shall cease' all investigations but that this would not, however, prevent the said agency from transferring the cases for further investigation and appropriate action to any other agency competent to investigate the same. So far as the investigation which was already made by the police officers of the Bureau was concerned, - though it was sustained under de facto doctrine, - it was still observed that the same would be subject to the right of the concerned public servants to prove that prejudice was caused to them on account of the entrustment of the investigation to such officers who were on deputation. the writ petition No. 17819 of 1994 was allowed to the extent stated above.

The said writ petition having been partly allowed as stated above - both the petitioner therein and the State filed Writ Appeals as stated earlier. Other officers like the petitioners in these SLPs who filed fresh writ petitions

- had their writ petitions clubbed with the said Writ Appeals.

The Division Bench dismissed the writ petitions filed by the petitioners as also the writ Appeal of the writ petitioner in writ petition 17819 of 1994 and allowed the Writ Appeal filed by the State. It held that even after deputation, there could be a "dual" role on the part of the police officers in their functions, namely, functions under the Lok Ayukta and functions in discharge of the duties entrusted to them by the State of Karnataka, under the Prevention of Corruption Act, 1988. It, however, held reversing the view of the learned Single Judge that the notification dated 22.12.1992 issued under section 17 of the prevention of Corruption Act, 1988 designating all Inspectors on deputation in the Lok Ayukta as officers competent for purpose of Section 17 of the Act and the notification dated 26.5.1986 issued under section 2(s) of the Code of Criminal Procedure designating all offices of the Lok Ayukta in the State as Police Stations - indicated that these police officer's though on deputation, were entrusted with these powers of investigation, by virtue of statutory power. The Division Bench further held that though the Director general of Police newly attached w.e.f. 21.11.92 to the Bureau of Investigation of Lok Ayukta by way of an administrative order of the Government was to be in control and supervision of the police staff in the Lok Ayukta and though the said post of Director General of Police was not - by appropriate amendment of the recruitment rule of the Lok Ayukta Staff - included in the cadre of posts in the police wing of the Lok ayukta - still it had to be taken that the said Director General of Police was under the administrative and disciplinary control of the Lok Ayukta and therefore the above notification dated 22.12.1992 could not be treated as invalid or as jeopardising the independence of the Lok ayukta. It also held that the appointment of the said Director General and the notification placing the police officers of the Lok Ayukta under his control did not amount to divesting the powers of the Lok ayukta in

relation to these police offences nor to vesting the said powers only in the Director General of police. It observed that dual functions could be performed by these officers in relation to the two Acts, namely the Prevention of Corruption Act and the Lok Ayukta Act and such a situation of dual control could not be said to be alien to criminal jurisprudence concerning investigation of crimes. In other words. These officers who were of the requisite rank as per section 17 of the Prevention of Corruption Act, 1988 could not be said to be incompetent to investigate into offences assigned to them under that Act by the competent authority by virtue of statutory powers under Section 17 thereof or to the extent not excluded by the Lok Ayukta. The Division Bench, therefore, held that the further investigation against the petitioners could be continued through the police officers on deputation with the Lok Ayukta.

We have also to also to refer to an office Memorandum dated 2.9.1997 issued by the Lok Ayukta after the judgment of the learned Single Judge. The Lok ayukta issued office memorandum dated 2.9.1997 to the effect that in view of the judgment in the writ petition, all police officers in charge of police stations of the Lok ayukta, could take cognizance and investigate offences punishable under the Prevention of corruption Act, 1988 and the IPC but that keeping in view section 17 of the Prevention of Corruption Act, 1988, they were to obtain necessary orders from the respective Superintendents of Police, attached to the Lok ayukta - who in their turn would report to the Lok Ayukta a or Upa Lok Ayukta, as the case may be - with reference to their respective jurisdictions through the Inspector General of Police (except in trap cases). The memorandum stated that the report of the police officers should be submitted to the Lok- Ayukta or Upa Lok Ayukta, as the case may be through the IGP immediately after such action was taken in the proceedings. It further stated that the IGP would place the FIR, the evidence collected and the final investigation report before the Lok Ayukta and that before filing charge sheet for prosecution or filing closure reports, orders of the Lok Ayukta or Upa Lok Ayukta - as the case may be - would have to be obtained. The validity of this Memorandum, therefore, fell for consideration before the Division Bench in the light of the other findings given by the Division Bench reversing the opinion of the learned single Judge.

In regard to the above Memorandum of the Lok Ayukta dated 2.9.97, the Division Bench held that it was issued by the Lok Ayukta only in view of the Judgment of the learned Single Judge and Govt. notification dated 20.8.97, to overcome the difficulties faced by the police officers in the Lok ayukta. The office Memorandum purported to have been issued under section 15(4) of the karnataka Lok Ayukta Act. The Bench held that the Lok ayukta had no authority statutorily delegated to it to issue such an office Memorandum. The Bench held that, in the light of the views expressed in the judgment of the Division Bench that the Director General attached to the Lok Ayukta was to be treated as under the administrative control of the Lok Ayukta, the memorandum had become 'redundant' and 'unworkable.' Even otherwise the Court would have no hesitation to set aside the same on ground of want of jurisdiction or as being in excess of jurisdiction of the Lok ayukta. The Division Bench, however, clarified that the setting aside of the said Memorandum did not mean that the Lok Ayukta had no administrative and disciplinary control over the police officers on deputation. It held that in case the Lok ayukta directed a police officer 'not to proceed in relation to a case', such a police officer could not venture to initiate investigation. A direction not to go ahead with entire duties entrusted to him by the Government under the Prevention of Corruption Act, 1988 could be given by the Lok ayukta only under specified and exceptional circumstances such as -

when there was "excess loaded of work" in the Lok Ayukta which might not consequently leave adequate time for investigation of offences being investigated by the Lok Ayukta. These exceptions, the Bench held, were not exhaustive and there could well be other situations where the Lok Ayukta could direct its officers not to take up the extra work entrusted to them by the State under the Prevention of Corruption Act, 1988. The Division Bench thus allowed the Writ Appeal filed by the State and dismissed the Writ Appeal of the petitioner in W.P. 17819 of 1994 and dismissed the writ petitions filed by the petitioners before us.

It was contended in these special leave petitions before us by the learned senior counsel for the petitioners Sri Gopal Subramanyam that the Division Bench erred in dismissing the writ petitions filed by the petitioners, that the entire investigation under the Prevention of corruption Act so far conducted by the police officers of the Lok Ayukta must be treated as illegal and that the entrustment of the remaining investigation to these officers could not be permitted. In other words, it was contended that the entire proceedings must be quashed.

Before giving our reasons for dismissal of these special leave petitions we may state that we are here conscious of the fact that writ petitioner in writ petition No. 17819/1994 out of which the two writ appeals arose before the High Court is not before us. But inasmuch as the fresh writ petitions filed by the petitioners who are now before us have been disposed of by a common judgment alongwith writ appeals, it has not become possible to avoid consideration of the reasons given by the learned Single Judge in writ petition No. 17819/1994.

The following points arise for consideration:

(1) Was it permissible for the State Government to create the post of Director General of Police, Lok ayukta by way of an administrative order of 21.12.1992 though the said post was not included in the relevant rules of recruitment of the staff of the Lok Ayukta? If permissible, can it be said that the said officer was independent and outside the administrative and disciplinary control of the Lok Ayukta? (2) Is the entrustment of functions under the Prevention of Corruption Act, 1988 by the Government to the police officers on deputation with the Lok Ayukta without jurisdiction?

(3) In what manner can the provisions of section 17 of the Prevention of Corruption Act, 1988 and section 15 of the Karnataka Lok ayukta Act, 1984 be harmonised? (4) Is further investigation in the present cases to be continued by the police officers on disputation to the Lok Ayukta?

Point 1:-

At the outset, it is necessary to refer briefly to the provisions of the Prevention of Corruption Act, 1988, and of the Karnataka State Lok ayukta Act, 1984 in so far as they are relevant and to certain notifications adverted to by the parties before the High Court.

Section 17 of the Prevention of Corruption Act, 1988 states that notwithstanding anything contained in the Code of Criminal Procedure 1973 (Act 2 of 1974), no police officer below the rank (a) in the case of the Delhi Special Police Establishment, of an Inspector of Police, (b) in the metropolitan area of Bombay, Calcutta, Madras and Ahmedabad and in any other metropolitan areas notified as such under sub-section (1) of Section 8 of the Code of Criminal Procedure, 1973 (Act 2 of 1924), of an Assistant Commissioner of Police or a police officer of equivalent rank, shall, investigate any offence punishable under that Act without the order of a metropolitan Magistrate or a Magistrate of the first class, as the case may be, or make any arrest without a warrant. The first proviso to Section 17 states that when a police officer of a rank below the rank of an Inspector of police can take similar action. The second proviso states that if the offence is one under clause (e) of sub-section (1) of section 13 namely, dealing with possession of assets disproportionate to the known sources of income of the public servant, then such an offence shall not be investigated without the orders of a police officer not below the rank of Superintendent of Police.

We shall next refer to Section 15 of the State Lok Ayukta Act, 1984, which deals with the mode of recruitment of staff of the Lok Ayukta. Section 15 of the Act reads as follows:

"Section 15: Staff of Lok Ayukta.

etc.: (1) There shall be such officers and employees as may be prescribed to assist the Lok Ayukta and the Upa Lok Ayukta or the Upa Lok Ayukta in the discharge of their functions under this Act.

(2) The categories recruitment and conditions of service of the officers and employees referred to in sub-section (1) including special conditions as may be necessary for enabling them to act without fear in the discharge of their functions, shall be such as may be prescribed in consultation with the Lok Ayukta.

(3) Without prejudice to the provisions of sub-section (1), the Lok Ayukta or an Upa Lok Ayukta may, for the purpose of conducting investigations under this Act utilise the services of

(a) any officer or investigating agency of the State Government; or (aa) any officer or investigating agency of the Central Government with the prior concurrence of the Central Government; or

(b) any other agency.

(4) The officers and other employees referred to in sub-

section (1) shall be under the administrative and disciplinary control of the Lok Ayukta:

provided that when Lok Ayukta is unable to discharge his functions owing to absence, illness or any other cause, the Upa Lok Ayukta or if there are more than one upa Lok Ayukta or if there are more than one Upa Lok Ayukta, the senior among them may discharge the functions of the Lok Ayukta under this sub-section".

It will be noticed from the above provisions that the staff of the Lok Ayukta is to "assist" the Lok ayukta and Upa Lok Ayukta in the discharge of their functions as stated in section 15(1) and that the staff is to function without "any fear" in the discharge of their duties as stated in section 15(2). The staff is to be under the administrative and disciplinary jurisdiction of the Lok Ayukta as stated in section 15(4).

Under the rule making power conferred on it by section

23 of the Lok Ayukta Act, 1984, the State of Karnataka has framed rules for recruitment of the staff in the Lok Aukta called the Karnataka Lok Ayukta (Cadres, Recruitment and conditions of Service of the Officers and Employees) Rules, 1988. Rule 3 thereof provides for the strength and composition of the staff of the Lok Ayukta and states that the staff shall be recruited as detailed in the First Schedule of the Rules. Rule 4 of the Rules prescribes the method of recruitment and the minimum qualifications therefor. The first Schedule divides the staff into three wings" (i) Administrative and Enquiry Wing (ii) Police Wing and (iii) General Wing. The number of posts in each wing is also specified. So far as the Police Wing is concerned, it is to comprise of one IGP, one Dy. IG, three Superintendents of Police, three non-IPS Superintendents of Police, eleven Dy. Superintendents of Police, apart from 24 Inspectors of police and an equal number of Sub-Inspectors of police besides Head Constables and Drivers, etc. The Second Schedule to the Rules provides for the method of recruitment, according to which so far as staff in the Police Wing of the Lok Ayukta is concerned, it has to be appointed by deputation from the karnataka State Police Service. The only condition is that the Inspector General of Police, Deputy Inspector General of Police (except the Superintendents of Police) have to be IPS Officers.

We shall next refer to the relevant notifications which were referred to in the High Court. We have a notification dated 22.12.92 issued by the State Government under Section 17 of the Prevention of Corruption Act, 1988 (issued in modification of an earlier notification dated 2.11.1992) designating all Inspectors of Police on deputation with the Karnataka Lok Ayukta to be police officers for the purposes of section 17 of the Prevention of Corruption Act, 1988 but subject to the "general and overall control and supervision"

of the Director General, Bureau of Investigation, Lok ayukta, Bangalore. Under the previous notification dated 2.11.1992. the said control and supervision of the police officers was vested with the Lok Ayukta. On 21.12.1992, the Government of karnataka created a post of Director General, Bureau of Investigation, Lok Ayukta, in the rank of an Additional Director General of Police and then issued the notification dated 22.12.1992 above referred to vesting the control of the police staff in the Lok Ayukta with the General of Police. There is also a notification dated 26.5.1986 issued under

section 2(s) of the code of Criminal Procedure, 1973 declaring offices of the Lok Ayukta as police stations and authorising Inspectors of Police therein to conduct investigations under the Prevention of Corruption Act, 1988.

The above are the relevant provisions of the Central and State Acts, the rules and notifications.

We may first deal with the crucial question as to whether the Director General of Police in the Office of the Lok Ayukta who is to supervise the work of the police officers on deputation in the Lok Ayukta is independent of the Lok Ayukta and is outside the administrative and disciplinary control of the Lok Ayukta. We agree with the Division Bench when it took the view, - differing from the learned Single Judge, - that though the newly created post of Director General of Police in the Office of the Lok Ayukta was created on 21.12.1992 by an administrative order and the relevant recruitment rules of the staff of the Lok Ayukta were not amended to bring the said post into the cadre under the Lok Ayukta, still the said post created in the Lok Ayukta, still the said post created in the Lok Ayukta police Wing was intended to be and must be treated as part of the staff of Lok Ayukta in the police wing. It is well-settled that administrative orders even created posts can be issued so long as they are not inconsistent with rules, that is to say, as long as there is no prohibition in the statutory rules for creation of such posts. The learned single Judge's view that the independence of the Lok Ayukta was under threat was mainly based upon his decision that the post of the Director General created on 21.12.1992 was outside the control of the Lok Ayukta. This view, in our opinion, is not correct for the reasons mentioned above.

Therefore, while it is true that as per the notification dated 21.11.1992 issued by the Government, the police wing in the Lok Ayukta is to be under the general and overall control of the said Director General of police, still, in our opinion, the said staff and, for that matter, the Director General himself are under the administrative and disciplinary control of the Lok Ayukta. This result even if it is not achieved by the express language of section 15(4) is achieved by the very fact that the Director General's post is created in the office of the Lok ayukta. By creating the said post of Director General of Police in the Office of the Lok Ayukta and keeping the police wing therein under control and supervision of the said Director General, the State of Karnataka, in our opinion, did not intend to remove the police wing or the said Director General from the administrative and disciplinary jurisdiction of the Lok Ayukta nor did the State intend to interfere with the independent functioning of the Lok Ayukta and its police staff. The modification of the earlier notification dated 2.11.1992 was, in our opinion, necessitated on account of the creation of the post of the Director General in the office of the Lok Ayukta. Nor was the notification intended to divest the Lok Ayukta of his powers and to vest the said powers only in the Director General. For the aforesaid reasons, the Memorandum dated 2.9.1997 issued by the Lok Ayukta after the judgment of the learned Single Judge has become

redundant as held by the Division Bench. Thus the main argument relating to the threat to the independence of the Lok Ayukta which appealed to the learned Single Judge stands rejected. Point 2:

The next question is whether when the State Government had sent the police officers on deputation to the Lok Ayukta, it was permissible for the Government to entrust them with additional duties under the Prevention of Corruption Act, 1988?

The learned Single Judge as well as the Division Bench are one, as already stated, in accepting that the police officers of the State on deputation continue to remain as public servants in the service of the State Government, as long as they are not absorbed in the Lok Ayukta. This legal position is absolutely unassailable because the State of Karnataka has merely lent the services of these officers to the Lok Ayukta and the officers continue to be employees of the State. In spite of the deputation of officers with the Lok Ayukta the relationship of master and servant between the State of Karnataka and these officers does not stand terminated (State of Punjab vs. Inder Singh 1997 (6) SCC

372).

There is no dispute that though these officers are on deputation they are otherwise of the requisite rank as contemplated by section 17 of the Prevention of Corruption Act, 1988 and that other formalities under that Act are satisfied for entrustment of duties under the Prevention of corruption Act, 1988. Question is whether these police officers of the State can be invested with powers of investigation under section 17 of the Prevention of Corruption Act, 1988 by the State under its statutory powers traceable to the same section?

It is true that normally, in respect of officers sent on deputation by the State to another authority, the lending authority should not, after deputation of its officers, entrust extra duties concerning the said lending authority to such officers without the consent of the borrowing authority. If, however, such action is taken by the lending authority by virtue of statutory powers and such a course is not objected to by the borrowing authority, can it be said that the entrustment is without jurisdiction? In our opinion, from a jurisdictional angle, the entrustment being under statutory powers of the State traceable to section 17 of the Prevention of Corruption Act, 1988 the same can not be said to be outside the jurisdiction of the State Government. May be, if it is done without consulting the Lok Ayukta and obtaining its consent, it can only be treated as an issue between the State and the Lok Ayukta and is none of the concern of those public servants against whom these police officers on deputation are conducting the investigation. Such entrustment of duties has statutory backing and obviously also the tacit approval of the Lok Ayukta. Once there is such tacit approval of the Lok Ayukta, the writ petitioners can not have any grievance that the Lok Ayukta ought not to have permitted such a course. Point 3 and 4:

As stated by the Division Bench, situations might arise where the Government might like to entrust such duties to the police officers on deputation but the Lok Ayukta

might feel that such entrustment would affect the independent working of the Lok Ayukta or add unreasonably to the workload of the officers on deputation in the office of the Lok Ayukta. The question is as to how to harmonise the powers of the Government under the Central Act and of the Lok Ayukta under the State Act. Points 3 and 4 deal with the balancing of the respective powers of the State Government and the Lok Ayukta.

In our view, if the State Government wants to entrust such extra work to the officers on deputation with the Lok Ayukta, it can certainly inform the Lok Ayukta of its desire to do so. If the Lok Ayukta agrees to such entrustment, there will be no problem. But if for good reasons the Lok Ayukta thinks that such entrustment of work by the State Government is likely to affect its functioning or is likely to affect its independence, it can certainly inform the State Government accordingly. In case the State Government does not accept the view point of the Lok Ayukta, then it will be open to the Lok Ayukta, - having regard to the need to preserve its independence and effective functioning to take action under section 15(4) {read with section 15(2)} and direct that these officers on deputation in its police wing will not take up any such work entrusted to them by the State Government. Of course, it is expected that the State Government and the Lok Ayukta will avoid any such unpleasant situations but will act reasonably in their respective spheres.

But once the Lok Ayukta has, as in the present case, not objected, - at the threshold - to such entrustment of work by the State Government to the officers on deputation, then it will not normally be reasonable for the Lok Ayukta to object to said entrustment when these officers are half- way through the extra work. Such withdrawal by the Lok Ayukta at a latter stage might create various administrative problems and will only help the public servants against whom investigation is being done to raise unnecessary legal issues. Of course, in the present case, it is not the Lok Ayukta which has raised any objection but it is the public servants - against whom the investigation is going on - who have raised objections. As already stated, they cannot raise objections if the Lok Ayukta has not raised any objections at the threshold. The above, in our view, will take care of the independence and effective working of the Lok Ayukta and at the same time will enable the State of Karnataka if need be, to exercise its statutory powers under section 17 of the Prevention of Corruption Act, 1988.

In the matters before us, as already stated, there has been no objection by the Lok Ayukta at the initial stage of the entrustment of work under section 17 of the Central Act to these police officers on deputation. It is therefore not possible to interdict the further investigation by these officers at this stage at the instance of the public servants. As stated above, if no objection has come from the Lok Ayukta at the time of initial entrustment, it is certainly not permissible for the public servants against whom the investigation is being done, to raise objection. The Division Bench was right in holding that the Memorandum dated 2.9.1997 issued by the Lok Ayukta is, in

fact, purely consequential to the judgment of the learned Single Judge and in declaring the same to be invalid and also redundant.

We may, however, add that if instead of deputation of police officers from the Government, any other solution can be found, that is a matter to be decided amicably between the State Government and the Lok Ayukta, - keeping in view the independence of the Lok Ayukta and its effective functioning as matters of utmost importance.

Before parting with the case, we may reiterate what this Court state recently in connection with the independence of the Lok Ayukta in a case arising under the corresponding statute from Andhra Pradesh, in *Institute of A.P. Lok Ayukta etc. vs. t. P asubba Reddy* [1997 (9) SCC 42 (at page 42):

"The legislative intent behind the enactment is to see that the public servants covered by the sweep of the Act should be answerable for their actions as such to the Lokayukta who is to be a Judge or a retired Chief Justice of the High court and in appropriate cases to the Upa-Lokayukta who is a District Judge of Grade I as recommended by the Chief Justice of the High Court, so that these statutory authorities can work as real ombudsmen for ensuring that people's faith in the working of these public servants is not shaken. The statutory authorities are meant to cater to the need of the public at large with a view to seeing that public confidence in the working of public bodies remains intact. When such authorities consist of high judicial dignitaries it would be obvious that such authorities should be a med with appropriate powers and sanctions so that their orders and opinions do not become mere paper directions. The decisions of Lokayukta and Upa- Lokayukta, therefore, must be capable of being fully implemented. These authorities should not be reduced to mere paper tigers but must be armed with proper teeth and claws so that the efforts put in by them are not wasted and their reports are not shelved by the disciplinary authorities concerned."

For the aforesaid reasons, the special leave petitions are dismissed.