

The Goa Lokayukta (Amendment)

Bill 2021

(Bill No. 5 of 2021)

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BILL

further to amend the Goa Lokayukta Act, 2011(Goa Act 3 of 2012).

BE it enacted by the Legislative Assembly of Goa in the seventy-second year of the Republic of India as follows:-

1. Short title and commencement- (1) This Act may be called the Goa Lokayukta (Amendment) Act, 2021.

(2) It shall come into force at once.

2. Amendment of section 2- In section 2 of the Goa Lokayukta Act, 2011 (Goa Act 3 of 2012) (hereinafter referred to as the (“principal Act”))-

(i) in clause (b)-

(a) in item (i), the expression “nepotism or lack of integrity” shall be omitted.

(b) in item (ii), the words “or improper or corrupt motive” shall be omitted.

(c) for item (iii), the following item shall be substituted, namely :-

“ has abused or misused his position to obtain any gain or favour to himself or to any other person or to his family members, namely, spouse, children, parents and siblings, mother-in-law, father-in-law, brother-in-law, sister-in-law and their respective spouses”.

(ii) in clause (i), for the word “mal-administration” the words “a corrupt act” shall be substituted;

(iii) clause (l) shall be omitted.

3. Amendment of Section 3- In section 3 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:-

“(2) A person to be appointed as the Lokayukta shall be a person who has held the office of a Judge of the Supreme Court, or of a Judge of the High Court. A person to be appointed as the Upa-Lokayukta shall be a person of eminence in public life with impeccable integrity and outstanding ability having special knowledge and expertise of not less than twenty years in the matters relating to anti-corruption policy or public administration, finance, including insurance and banking or law or management”.

4. Amendment of Section 9- In section 9 of the principal Act for sub-section (2) the following sub-section shall be substituted, namely:-

“(2) Notwithstanding anything contained in sub- section (i) or any other provisions of this Act, where any allegation of corruption against any public functionary comes to the knowledge or is brought to the notice of the Government, it may, if satisfied that it is necessary in public interest so to do, by order in writing refer such allegations of corruption to the Lokayukta for investigation and the Lokayukta, either himself or through the Upa-Lokayukta shall investigate the same as if it was a complaint presented under this Act”.

5. Insertion of new section 10A.- After section 10 of the principal Act, the following section shall be inserted, namely:-

“10A. Statutory matters, etc.- Nothing in this Act shall permit the Lokayukta or Upa-Lokayukta to examine the correctness of any Judgement or order passed by any Court of Law, Tribunal, Statutory Authority or Officer, under a Statute, or to decide any issue, question or dispute which is required to be settled, decided or adjudicated upon by a competent Court or Authority created under any statute.”

6. Amendment of section 13- In section 13 of the principal Act, in sub-section (1), the following proviso shall be inserted, namely:-

“Provided that if prior sanction of any authority is required under any law for the time being in force for such investigation then, such prior sanction shall be obtained from such authority before initiation of such investigation.”

7. Amendment of section 16- In section 16 of the principal Act, -

(i) in sub-section (1), clause (b) shall be omitted;

(ii) for sub section (2), the following sub-section shall be substituted, namely:-

“ (2) The competent authority shall examine the report forwarded to it under sub-section (1), and within three months of the date of receipt of the report, intimate or cause to be intimated to the Lokayukta or Upa Lokayukta, as the case may be, the action taken or proposed to be taken or the reasons for refusal to take action, on the basis of the report.”

(iii) for sub section (3), the following sub-section shall be substituted, namely:-

“(3) If the Lokayukta or the Upa-Lokayukta, as the case may be, is satisfied with the action taken or proposed to be taken or the reasons for refusal to take action intimated to him under sub-section (2) by the Competent Authority, he shall close the case under information to the complainant, if any, the public functionary and the competent authority, but where he is not satisfied and if he considers that the case so deserves, he may make a special report upon the case to the Governor and also inform the competent authority concerned and the complainant, if any.”

8. Amendment of section 16 A - In section 16A of the principal Act-

(i) sub-section (3) and sub-section (4) shall be omitted;

(ii) in sub-section (5) the words “or deemed acceptance” shall be omitted.

9. Substitution of section 17- For section 17 of the principal Act, the following section shall be substituted, namely:-

17. Initiation of prosecution- If, after investigation into any complaint, the Lokayukta or Upa-Lokayukta, as the case may be, is satisfied that the public functionary has committed a criminal offence and that he should be prosecuted in a court of law for such an offence, then the Lokayukta

or Upa-Lokayukta, as the case may be, may pass an order directing the initiation of prosecution against the public functionary concerned:

Provided that before implementation of the direction for prosecution, prior sanction from the competent Authority shall be obtained for such prosecution against the public functionary:

Provided further that nothing in this section shall be construed as enabling the Lokayukta or Upa-Lokayukta to exercise powers under subsection (3) of section 156 of the Code of Criminal Procedure 1973 (Central Act 2 of 1974).

10. Omission of section 27- Section 27 of the principal Act shall be omitted.

The Bill has been passed by the Legislative Assembly of the State of Goa on
28th January 2021.

Dated

Speaker

I assent to this Bill

Dated

Governor