



AOA Fact Sheet *Ombudsman of india*

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Legal Framework

The Lokayukt organization in Madhya Pradesh came into existence in February 1982 after the Madhya Prolokayukt and Up-Lokayukt Act 1981 was enhanced by the state legislature. Attempts to establish an independent organization on the lines of ombudsman started way back in the mid 70s after the State Administrative Reforms Commission (ARC) in 1966 recommended that the vigilance commission, which was then in existence, should be replaced by an organization with a statutory base and powers. Examining the limitations of the state vigilance commission, the ARC has observed that in the absence of a constitutional or even statutory recognition of its position, the vigilance commission might act at best as a department of government to check corruption. In view of the above observations of the ARC and various recommendations received from the Government of India, a bill was moved in the M.P. Legislative Assembly in the year 1975 which was for the President's assent after its passage by the Assembly. But due to certain rethinking at the level of the Union Government, the bill was re-introduced in April 1981 with certain modifications. The bill so passed became the Act after receiving the President's assent in September 1981. The Lokayukt organization was constituted and the organization is totally free from executive influence. Indeed, the organization functions as an instrument of control over the executive of the legislature as its annual reports are submitted to the Governor and thereafter discussed in the State Legislative Assembly.

Jurisdiction

The Act covers public servants of all categories, making a few exceptions like the Speaker and Deputy Speaker. Lokayukt has exclusive jurisdiction to inquire into complaints against the Chief Minister, Deputy Chief Minister, Minister of State, Deputy Minister, Leader of Opposition and officers of the rank of Secretary and above. The Speaker, Deputy Speaker and MLAs are excluded from the purview of the Act. The Up-Lokayukt is empowered to inquire into all other cases except those in which power vests exclusively with the Lokayukt. The office in a government company, a corporation or a local authority established by the State Government, Chancellor or Registrar of the University and any person appointed in to the public service or post in connection with the affairs of the State of Madhya Pradesh.

The Lokayukt or the Up-Lokayukt cannot inquire into any complaint the subject matter of which is more than five years old. They cannot also inquire into any case which is the subject matter of an enquiry under the Public Service Enquiries Act 1950 or which has been referred for enquiry under the Commission of Enquiry Act 1952.

Legal Powers

The lokayukt and the up-lokayukt are vested with powers under the evidence act of 1872 and the criminal procedure code 1973 for conducting enquiries. All proceedings before the lokayukt and the up-lokayukt are deemed to be judicial proceedings and the lokayukt and up-lokayukt are deemed to be a court within the meaning of the contempt of courts act 1971.

After allegations against a public servant are established to the satisfaction of the lokayukt or the up-lokayukt, as the case may be, the act requires him to send his report in writing to the competent authority with recommendations. It is incumbent on the part of the competent authority to report the action taken within three months of receipt of such report. If the lokayukt or the up-lokayukt is not satisfied with the action taken he can send a special report to the governor in such cases. The act also provides for submission of annual reports of lokayukt and the up-lokayukt to the state governor which is thereafter laid before the state legislative assembly. The lokayukt may also make suggestions to the state government in respect of any practice or procedure coming to his notice which in his opinion affords an opportunity for corruption or mal-administration. The act prohibits any suit, prosecution and other proceedings against the lokayukt or the up-lokayukt or against any officer, agency or person in respect of anything which is done or intended to be done by them in good faith under the act.

*Implementation
Arrangements*

*Research &
Analysis Wing*