



Nudged into action: on the Lokpal Act

This article is related to General Studies-
Paper II (Governance).

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After long delays, a Supreme Court push is needed to establish the Lokpal.

It should have never come to this on the Lokpal. That it requires a Supreme Court order to nudge the government to make any progress towards establishing the anti-graft institution is a poor commentary on its functioning. The court has asked the eight-member Search Committee under the Lokpal Act to recommend a panel of names before the end of February.

This shortlist has to be sent to the Selection Committee, headed by the Prime Minister. It has taken five years since the Lokpal Act, 2013, received the President's assent on January 1, 2014, for a Search Committee to even begin its work. It was formed only on September 27, 2018, after Common Cause, an NGO, filed a contempt petition against the government over the delay in constituting the authority despite a Supreme Court verdict in April 2017.

It is true that setting up the Search Committee requires some groundwork, as its composition should be drawn from diverse fields such as anti-corruption policy, public administration, law, banking and insurance; also, half its membership should consist of women, backward class, minority and SC/ST candidates. However, it is the government's duty to expedite this process and not cite it as a reason for delay.

Even after it was formed, the Search Committee has been handicapped because of lack of office space, manpower, infrastructure and a secretariat. The court has now asked the government to provide the required infrastructure. In the past too, the court has admonished the Centre for the delay in creating the institution. In its April 2017 verdict, the court brushed aside the reason that the government was awaiting the passage of an amendment based on a parliamentary committee report and said there was no legal bar on the Selection Committee moving ahead with its work even if there was a vacancy in it.

There is a good deal of politics behind the delay. The Selection Committee, which includes the Lok Sabha Speaker, the Leader of the Opposition, the Chief Justice of India and an eminent jurist, has met in the past without Mallikarjun Kharge, who heads the Congress in the Lok Sabha.

He has been skipping meetings, as he is aggrieved that the government has not made him a full member, and has roped him in as a 'special invitee'. The government sticks to its view that he has not been recognised as the Leader of the Opposition by the Speaker.

This minor issue has been resolved in respect of appointments to other posts such as CBI Director and Central Vigilance Commissioner by a simple amendment to treat the leader of the largest Opposition party as the Leader of the Opposition for this purpose.

This amendment has not been brought about despite a parliamentary committee report endorsing the idea in December 2015. Nothing except the lack of political will to establish the Lokpal can explain years of delay.



Lokpal and Lokayukta Act of 2013

Why in the discussion?

- Recently the Supreme Court has given important instructions about the Lokpal.
- The apex court has directed the search committee to decide the list of Lokpal and members.
- The court said that names of Lokpal and members should be finalized. For this, the court has given the time till February.
- Ranjana Prakash Desai, former Judge of the Supreme Court is the chairman of the Search Committee.

What is it?

- This bill became the 'Act' after signing the Lokpal and Lokayuktas Bill, 2013 on January 1, 2014 by the President of India.
- In this, the provision of appointment of Lokpal at the center level and Lokayukta at the state level has been made.
- In this act a statutory body was formed to investigate allegations of corruption against public persons.

Major provisions

- Lokpal can have a president and a maximum of eight members, 50% of that must be from a judicial background.
- The President and members of the Lokpal will be lected through a 'Selection Committee' in which the judges of the Supreme Court of India nominated by the Prime Minister of India, the Speaker of Lok Sabha, the Leader opposition of of the Lok Sabha, the Chief Justice of India
- Another member will be an eminent lawyer, who will nominate the president on the recommendation of these four members.
- In the jurisdiction of the Lokpal, all the categories of public servants, will be under
- With some safeguards, the prime minister has also been brought under the purview of this Act.

- Under the Act, adequate security will be provided to honest public servants.
- The Act also provides for seizure of the property acquired through corrupt ways, even if the matter of prosecution is pending.
- The Act has set an explicit deadline for preliminary investigations and trials. There is also provision for the formation of special courts for the trial.

Work of the Search Committee

- The Search Committee prepares a panel of names and names of its President and members of the Lokpal and the Selection Committee chooses the name for the appointment.
- The selection committee consists of Prime Minister, Lok Sabha Speaker, Leader of Opposition and eminent lawmaker.
- According to the rules, the Search Committee will prepare a panel of five names for the Lokpal president, while the eight members in which four judicial members and four administrative members the search committee will prepare 12 names for each.
- According to the rules, the Lokpal may be the current or retired Chief Justice of the Supreme Court or a Supreme Court Judge or an expert person in his area of convincing allegiance, while members of the judiciary may be the Chief Justice of the current or retired High Court or Supreme Court Judge.

What is the benefit of Lokpal

- The Lokpal will have the right to hear the complaints of corruption against any public servant (government officials, ministers, panchayat members etc. of any level), except the army, from the Prime Minister to the peon.
- He can also seize the property of all of these. Under special circumstances, the Lokpal will also have the right to run a court trial against a man and impose up to Rs 2 lakh penalty.

Expected Questions (Prelims Exams)

1. Consider the following statements -

1. Lokpal can have a president and maximum eight members in which half of the members are from judicial area.
2. The president and members of Lokpal are chosen by the President.

Which of the above statements is/are correct?

- (a) Only 1 (b) Only 2
(c) Both 1 and 2 (d) Neither 1 nor 2

2. Consider the following statements -

1. The Selection Committee of Lokpal includes Prime Minister, Lok Sabha Speaker, Leader of Opposition and eminent Lawyer.
2. All the categories of public servants are under the jurisdiction of Lokpal.

Which of the above statements is/are correct?

- (a) Only 1 (b) Only 2
(c) Both 1 and 2 (d) Neither 1 nor 2

Expected Questions (Mains Exams)

Q. Observing the low political interest in Lokpal, to what extent the steps taken by the Supreme Court will proved to be beneficial for establishing Lokpal? Analyse.

(250 Words)

Note: Answer of Prelims Expected Question given on 18 Jan. is 1(a)

