



The search for a Lokpal

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For decades, India has made efforts to appoint an anti-corruption ombudsman. A look at how these efforts have unfolded, from Bills in 1970s to an Act in 2013, followed by a search committee and an SC deadline.

Last week, the Supreme Court “requested” a search committee to suggest by February-end a panel of names for appointment of the country’s first Lokpal, an anti-corruption ombudsman. A look at the long history of India’s efforts to appoint a Lokpal.

Background

Amid repeated demands for such an ombudsman, many attempts were made at legislation, with Lokpal Bills introduced in 1971, 1977, 1985, 1989, 1996, 1998, 2001, 2005 and 2008, but none of these was passed. It was four decades after the introduction of the first Bill that the Lokpal and Lokayuktas Act was enacted in December 2013. This was the fallout of a public movement for a Jan Lokpal Bill, initiated by activist Anna Hazare and others such as Kiran Bedi and Arvind Kejriwal. Under pressure at a time when it was facing several allegations of corruption, the then UPA government brought the Bill and it was passed after several hurdles.

Lokpal and Lokayuktas Act

The Lokpal and Lokayuktas Act, 2013 was notified on January 1, 2014. It provides for establishing a body to be called the Lokpal and headed by a Chairperson, who is or has been a Chief Justice of India, or is or has been a judge of the Supreme Court, or an eminent person who fulfils eligibility criteria as specified. Of its other members, not exceeding eight, 50% are to be judicial members, provided that not less than 50% of the members belong to the Scheduled Castes, Scheduled Tribes, OBCs, minorities, and women. For states, the Act says: “Every State shall establish a body to be known as the Lokayukta for the State, if not so established, constituted or appointed, by a law made by the State Legislature, to deal with complaints relating to corruption against certain public functionaries, within a period of one year from the date of commencement of this Act.”

Lokpal will have an “Inquiry Wing, headed by the Director of Inquiry, for the purpose of conducting preliminary inquiry into any offence alleged to have been committed by a public servant punishable under the Prevention of Corruption Act, 1988. It will also have a “Prosecution Wing headed by the Director of Prosecution for the purpose of prosecution of public servants in relation to any complaint by the Lokpal under this Act”. These are to deal with complaints against public servants; the chairperson and members of the Lokpal too come under the definition of “public servant”.

Jurisdiction of Lokpal

The Lokpal Act covers a wide range of public servants — from the Prime Minister, ministers and MP, to groups A, B, C and D officers of the central government. “Lokpal shall inquire or cause an inquiry to be conducted into any matter involved in, or arising from, or connected with, any allegation of corruption made in a complaint” in respect of the Prime Minister, the Act says. However, it does not allow a Lokpal inquiry if the allegation against the Prime Minister relates to international relations, external and internal security, public order, atomic energy and space. Also, complaints against the Prime Minister are not to be probed unless the full Lokpal bench considers the initiation of inquiry and at least 2/3rds of the members approve it. Such an inquiry against the Prime Minister (if conducted) is to be held in camera and if the Lokpal comes to the conclusion that the complaint deserves to be dismissed, the records of the inquiry are not to be published or made available to anyone.

The search committee

Once the Bill was passed, applications were invited on January 17, 2014 for filling up the post of Chairperson and eight posts of members. The same day, the search committee rules were notified, but appointments



to the committee were not made. Lok Sabha elections followed, and a new government was formed in May 2014. The same year, the NGO Common Cause filed a petition in the Supreme Court, and later a contempt petition, over the delay. On September 27, 2018, the search committee was constituted. It is chaired by retired SC Justice Ranjana Desai, and its members are former Allahabad High Court Justice Sakha Ram Singh Yadav, former Solicitor General Ranjit Kumar, former State Bank of India chair Arundhati Bhattacharya, retired IAS officer Lalit K Panwar, former Gujarat Police chief Shabbirhusein S Khandwawala, Prasar Bharati chairperson A Surya Prakash and former ISRO head A S Kiran Kumar. On January 17, 2019, the Supreme Court “request-ed” the search committee to prepare its panel by the end of the next month and set March 7, 2019 as the next date of hearing.

What next

Once the search committee submits its recommendation for the Lokpal and its members, a selection committee will consider those names and forward them to the President for his consideration. The selection committee is chaired by the Prime Minister, and its members are the Lok Sabha Speaker, Leader of the Opposition in the Lok Sabha, the Chief Justice of India or a Judge of the Supreme Court nominated by him, and an eminent jurist as nominated by the President. Under the Lokpal and Lokayuktas Act, a Lokayukta is to be appointed in every state within one year of the passing of the Act, but several states are yet to appoint such an institution.

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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.

Who will be in Lokpal

- The Lokpal will have a chairman who is either ex-chief justice of India or the retired judge of the Supreme Court or any other important person.

- There can be up to eight members in the Lokpal, half of which should be from the judicial background.

- Apart from this, at least half of the members should be from Scheduled Castes, Scheduled Tribes, Backward Castes, Minorities and Women.

Who can not be?

- Member of Parliament or member of a State or Union Territory Assembly
- A person who has been found guilty of any kind of moral corruption
- A person whose age is not 45 years at the time of assuming the post of chairman or member
- Member of a panchayat or corporation

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.
- In the context of the Foreign Contribution Regulation Act (FCRA), any / all institutions which will receive donations of more than Rs.10 lakhs from foreign sources will come under its ambit.
- Under the Act, adequate protection will be provided to honest and straightforward public servants.
- The Act provides the authority to direct the Ombudsman to superintendence and direct any investigating agency including the CBI in various cases, whether if has been directed to the investigation agency by the Lokpal himself.
- The Director of CBI will be recommended by the High Power Committee under the chairmanship of the Prime Minister of India.
- The Central Vigilance Commission will recommend the appointment of the Director of CBI.
- The approval of Lokpal for the transfer of CBI officers who are investigating cases referred by the Lokpal will be needed.
- The Act also provides for seizure of property acquired in corrupt ways, even if the case of prosecution is pending.
- The Act has set an explicit deadline for preliminary investigations and trials. The establishment of special courts for the trial is also mentioned.
- After the implementation of this act the state legislature have to establish the institution of Lokayukt within 365 days through the enactment of the law has been mentioned.

Expected Questions (Prelims Exams)

1. 1. Consider the following statements -

1. Lokpal and Lakayukt Act was implemented in December 2013.
2. Except the army all the other services will be included under the jurisdiction of the 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. Discussing the Lokpal and Lokayukt Act 2013, mention to what extent it will be able to check the corruption.

(250 Words)

Note: Answer of Prelims Expected Question given on 19 Jan. is 1(a) 2 (c)

