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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(CRL) 1847/2023, CRL.M.A. 29887/2024**

ADESH KUMAR GUPTA

.....Petitioner

Through: Mr. Siddharth R. Gupta, Mr. Aman
Agarwal, Mr. Uddaish Palya, Mr.
Siddharth Sahu, Advocates and Mr.
Mrigank Prabhakar, AOR

versus

GOVT. OF NCT OF DELHI & ORS.

.....Respondents

Through: Mr. Sanjeev Bhandari, ASC (Crl.) for
the State with Mr. Arjit Sharma, Mr.
Nikunj Bindal, Advocates
Respondent No. 3 in person

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER

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12.02.2025

CRL.M.A. 17070/2023 (seeking interim relief)

1. The present petition filed under Article 226 of the Constitution of India, 1950 challenges the procedure adopted for the cross-examination of the Petitioner in Complaint Case No. C-4303/LOK/2021 pending before the Office of Lokayukta, Delhi (Respondent No. 2). Through this application, the Petitioner presses for interim relief for stay of the said proceedings before Respondent No. 2.
2. Counsel for the Petitioner places reliance on order dated 6th November, 2024, whereby Respondent No. 2 has directed that the proceedings before it shall continue and the pendency of the present writ



petition shall not stand in the way of the proceedings before the Lokayukta.

3. Counsel for the Petitioner contends that the inquiry before Respondent No. 2 is being conducted under Sections 11 and 12 of the Delhi Lokayukta and Upalokayukta Act, 1995.¹ According to the procedure being followed, Respondent No. 2 is conducting a “mini-trial,” summoning the Petitioner as a witness and requiring him to undergo examination and cross-examination. The Petitioner asserts that this approach is in direct conflict with his fundamental rights enshrined under Article 20(3) of the Constitution of India, which provides protection against self-incrimination. Additionally, he submits that proceedings under the Lokayukta Act are criminal in nature and places reliance on the judgments of the Supreme Court in *M.P. Sharma and others v. Satish Chandra, District Magistrate, Delhi and others*² and *Nandini Satpathy v. P.L. Dani and Anr.*³

4. While the Court is yet to deliberate on the merits of Petitioner’s contentions, in so far as the interim relief is concerned, the Respondents have drawn attention of this Court to the decision made in *Sat Prakash Rana v. Lieutenant Governor of Delhi and Anr.*⁴ In the said proceedings the petitioner had challenged the proceedings before the Lokayukta on the ground that a parallel inquiry into an incident which already formed the subject matter of an FIR under investigation could not continue. Furthermore, the petitioner therein raised an identical ground regarding the violation of fundamental rights due to the requirement of disclosing his defence in the Lokayukta inquiry. The Court, however, rejected these

¹ “the Lokayukta Act”

² (1954) 1 SCC 385

³ (1978) 2 SCC 424



contentions, making the following pertinent observations:

“29. This Court does not find any merit in the contention that the Petitioner's fundamental rights are going to be violated because he has to disclose his defence in the inquiry before the Lokayukta to the complainant. It has been explained by the Supreme Court in several judgments referred to in Capt. M. Paul Anthony that the civil liability proceedings are distinct and different from a criminal law action. It has been pointed out that the non-criminal or disciplinary proceedings, or for that matter even proceedings before the Lokayukta, are essential to keep the administrative machinery unsullied. It has also been emphasized in State of Rajasthan v. B.K. Meena, (1996) 6 SCC 417 that it is not in the interests of the administration to stay the disciplinary proceedings, awaiting the result of criminal proceedings which could go on indefinitely. In any event, as contended by the learned Senior counsel for the petitioner himself, the findings of the Lokayukta would not bind either a civil court or a criminal court. In the circumstances, the Petitioner cannot be said to be prejudiced by having to disclose his defence in proceedings before the Lokayukta since in any event those findings will not bind the criminal court.”

30. This court also finds no illegality having been committed by the Lokayukta in settling the procedure to be followed in the present inquiry before him. This is in conformity with Section 10 of the DLAU Act. The procedure is also consistent with the requirement of Rules 15 and 16 of the Delhi Lokayukta and Upalokayukta (Investigation) Rules 1998. No prejudice can be said to be caused to the Petitioner on that score. As regards the last submission, the word "affirmation" in Section 2 (b) (i) DLAU Act . need not be understood as an affirmation on oath. Given the context, and in particular the object and purpose of the DLAU Act, a more flexible purposive interpretation is called for. The Rules also indicate that the Lokayukta has the discretion to devise a flexible procedure consistent with the rules of natural justice. The Lokayukta can at the stage of inquiry devise a procedure whereby the complainant will state that he stands by the allegation made in his complaint. That will satisfy the requirement that he should “affirm” the allegation.”

[Emphasis Supplied]

5. At this stage, counsel for the Petitioner submits that the primary

⁴ 2010 SCC OnLine Del 1069



contention of the Petitioner which is premised on violation of Article 20(3) of the Constitution of India, was neither raised, nor adjudicated upon in the case of **Sat Prakash Rana**.

6. Nonetheless, the Court is of the opinion that the issue of violation of fundamental rights has already been sufficiently addressed in paragraphs No. 29 and 30 of the judgment in **Sat Prakash Rana**. Further, the reasoning adopted in the said decision clarifies that the inquiry before the Lokayukta does not prejudice the Petitioner's defence in any subsequent criminal proceedings. It has been categorically held that the Lokayukta is empowered to conduct proceedings in a manner distinct from both civil and criminal trials, ensuring procedural fairness while fulfilling its mandate. Thus, Petitioner's contention that the proceedings before the Lokayukta bear a criminal character, is unfounded. The Court, in **Sat Prakash Rana**, while placing reliance on the decision of the Division Bench of this Court in **Office of Lokayukta v. Govt. of NCT of Delhi**⁵ observed as follows:

"23. A conspectus of the above provisions reveals that the powers of the Lokayukta under the DLAU Act are indeed wide. A Division Bench of this Court in Office of Lokayukta v. Govt. of NCT of Delhi, while holding that the powers of the Lokayukta are wide, noted that the proceedings under the DLAU were different from civil or criminal proceedings. It said:

"The nature of proceedings conducted by the Lokayukta are altogether different from a civil or criminal lis. Unlike civil or criminal proceedings, a citizen making allegations against a public functionary may not be in possession of complete facts or documents, unless the allegation arises out of his personal transaction with any public functionary. The powers conferred on the Lokayukta are advisedly very wide. These powers are wider than of any court of law. Notwithstanding remedies to be found in courts of law and in statutory appeals against

⁵ 2009 SCC OnLine Del 1437



administrative decisions, there still remains a gap in the machinery for the redressal of grievances of the individuals against administrative acts or omissions.....”
[Emphasis Supplied]

7. In light of the foregoing, the Court finds no ground to grant interim relief sought in the present application.

8. Accordingly, the present application is dismissed.

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9. Re-notify on 06th May, 2025.

SANJEEV NARULA, J

FEBRUARY 12, 2025/ab