

Reserved on : 15.04.2026
Pronounced on : 05.06.2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF JUNE, 2026

PRESENT

THE HON'BLE MR. JUSTICE S.G.PANDIT

AND

THE HON'BLE MR. JUSTICE K. V. ARAVIND

WRIT PETITION No.22599 OF 2025 (S-KSAT)

BETWEEN:

1. THE REGISTRAR,
KARNATAKA LOKAYUKTA,
OFFICE OF KARNATAKA LOKAYUKTA,
M. S. BUILDING,
BENGALURU-560001.

...PETITIONER

(BY SRI K. PRASANNA SHETTY, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS PRINCIPAL SECRETARY,
DEPARTMENT OF PUBLIC WORKS,
VIKASA SOUDHA,
BANGALORE-560 001
2. THE STATE OF KARNATAKA,
REPRESENTED BY ITS PRINCIPAL SECRETARY,
DEPARTMENT OF URBAN DEVELOPMENT,
VIKASA SOUDHA,
BANGALORE-560 001.
3. THE PRINCIPAL ACCOUNTANT GENERAL (A & E),
PARK HOUSE ROAD,



POST BOX No. 5329,
BANGALORE-560 001.

4. SRI SHANKARA BHARATHI,
S/O LATE PUTTASWAMY GOWDA,
AGED ABOUT 65 YEARS,
RETIRED AS ASSISTANT EXECUTIVE ENGINEER,
R/AT No.87/2, 7TH CROSS,
2ND MAIN, WIDIA LAYOUT,
VIJAYANAGAR 2ND STAGE,
CHANDRA LAYOUT,
BANGALORE-560 072.
5. SRI D. BALARAMA,
S/O LATE DODDEGOWDA,
AGED ABOUT 63 YEARS,
RETIRED AS EXECUTIVE ENGINEER,
R/AT No.41, 13TH CROSS,
SANJAYNAGAR,
RMV 2ND STAGE,
BANGALORE-560 096.

...RESPONDENTS

(BY SRI.V. SHIVAREDDY, AGA FOR R1 TO R3;
SRI. SATISH K., ADVOCATE FOR R4 & R5)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DATED 04.03.2025 PASSED BY THE HON'BLE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL IN SO FAR AS IT RELATES TO APPLICANTS No.1 AND 2 IN APPLICATION No.4992 AND 4993/2024 i.e., RESPONDENT No.4 AND 5 HEREIN (ANNEXURE-A) AND ETC.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS, COMING ON FOR PRONOUNCEMENT THIS DAY, **K.V. ARAVIND J.**, MADE THE FOLLOWING:-

CORAM: HON'BLE MR. JUSTICE S.G.PANDIT
and
HON'BLE MR. JUSTICE K. V. ARAVIND

C.A.V. ORDER

(PER: HON'BLE MR. JUSTICE K.V. ARAVIND)

Heard Sri K. Prasanna Shetty, learned counsel for the petitioner, Sri V. Shivareddy, learned Additional Government Advocate appearing for respondent Nos.1 to 3 and Sri Satish K., learned counsel for respondent Nos.4 and 5.

2. The Registrar, Karnataka Lokayukta, has preferred this petition impugning the order dated 04.03.2025 passed in Application Nos.4992 & 4993 of 2024 by the Karnataka State Administrative Tribunal (for short "the Tribunal").

3. The brief facts of the case are that, while respondent Nos.4 and 5 were working as Assistant Engineers in BBMP, Hebbal Sub-Division, one Smt. K. Shambhavi Bai filed a complaint alleging that construction was being carried out by her neighbour in violation of the BBMP bye-laws and the sanctioned building plan. Pursuant thereto, respondent Nos.4 and 5 initiated proceedings under Section 321 of the Karnataka Municipal Corporations Act, 1976. A complaint was also lodged before the Karnataka Lokayukta.

3.1 Thereafter, the Deputy Registrar of Enquiries issued an observation note dated 29.06.2018 calling upon respondent

Nos.4 and 5 to submit their replies. Upon completion of the investigation, a report under Section 12(3) of the Karnataka Lokayukta Act, 1984 (for short "the Act") was submitted recommending initiation of departmental enquiry and entrustment of the enquiry to the Lokayukta. Consequently, an order under Rule 14-A of the Karnataka Civil Services (CCA) Rules, 1957 (for short, '1957 Rules'), entrusting the departmental enquiry to the petitioner, came to be passed.

3.2 An Enquiry Officer was appointed and articles of charge were issued. Upon conclusion of the enquiry, the Enquiry Officer submitted a report holding the charges proved against both the delinquent Government officials, namely respondent Nos. 4 and 5. Based on the findings recorded in the enquiry report, a second show-cause notice was issued. After considering the replies submitted by respondent Nos. 4 and 5, the disciplinary authority imposed the penalty of withholding 10% of pension for a period of five years on both the respondents.

3.3 The said order of penalty was assailed before the Tribunal. The Tribunal, by the impugned order, noticing that the observation note issued by the Deputy Registrar of

Enquiries was not in compliance with Section 9 of the Act, and placing reliance on the judgment by the Division Bench of this Court in ***W.P. No.100553/2021 dated 22.07.2021***, in the case of ***Basavaraj and another vs. State of Karnataka and another***, set aside the order of penalty.

4. Sri K. Prasanna Shetty, learned counsel appearing for the petitioner, submits that the enquiry was conducted on the basis of the complaint lodged against respondent Nos.4 and 5. It is submitted that a copy of the complaint was served on respondent Nos.4 and 5 through the Deputy Registrar (Enquiries). Learned counsel contends that the object of forwarding a copy of the complaint is to afford the public servant an opportunity to offer comments on the allegations made therein. Therefore, once a copy of the complaint is caused to be served on the public servant, the same would amount to substantial compliance with clause (a) of sub-section (3) of Section 9 of the Act.

4.1 It is further submitted that compliance with sub-section (3) of Section 9 of the Act is directory in nature and that any irregularity in such compliance would not vitiate the departmental enquiry. In support of the said contention,

reliance is placed on the judgment of the Division Bench of this Court in **W.P. No.29212/2017, dated 29.06.2021**, in the case of **Lokayukta and another vs. Prakash T.V. and another**, wherein it is held that Section 9 of the Act is procedural in nature and non-compliance thereof would not invalidate the departmental enquiry.

4.2 Learned counsel further places reliance on the judgment of the Division Bench of this Court in **W.P. No.22235/2024, dated 19.05.2025**, in the case of **Smt. Bharathi S. vs. State of Karnataka and others**, wherein, after considering the decision in **Basavaraj's case (supra)**, it has been held that, in the absence of any challenge to the observation note and having regard to Sections 15 and 23(2)(e) of the Act, the departmental enquiry cannot be quashed merely on the ground that the observation note was issued by the Deputy Registrar (Enquiries).

5. Sri Satish K., learned counsel appearing for respondent Nos.4 and 5, submits that the language employed in sub-section (3) of Section 9 of the Act, mandatorily requires the Lokayukta or Upalokayukta to forward a copy of the complaint and, in the case of a *suo motu* investigation, a copy of the

opinion recorded by the Lokayukta or Upalokayukta, to the public servant concerned.

5.1 It is contended that compliance with sub-section (3) of Section 9 of the Act is a jurisdictional requirement warranting strict adherence, failing which all consequential proceedings would be rendered without authority of law. In support of the said submission, learned counsel places reliance on the judgment of the Division Bench of this Court in the case of **Basavaraj** (*supra*), to contend that where a statute requires a particular act to be performed by a particular authority and in a particular manner, the same has to be performed strictly in that manner alone. It is submitted that non-compliance with such mandatory requirement would vitiate the subsequent proceedings. On the above grounds, learned counsel seeks dismissal of the writ petition.

6. Sri V. Shivareddy, learned Additional Government Advocate appearing for respondent Nos.1 to 3, supports the submissions advanced on behalf of the petitioner.

7. Considered the submissions made by learned counsel for the petitioner and the respondents.

8. Respondent Nos.4 and 5, while working as Assistant Executive Engineers in BBMP, were subjected to proceedings initiated pursuant to a complaint alleging grant of permission for unauthorized construction in violation of the approved building plan. The Deputy Registrar (Enquiries) issued an observation note dated 29.06.2018 calling upon respondent Nos.4 and 5 to submit their replies. Thereafter, a report under Section 12(3) of the Act was submitted. Pursuant thereto, enquiry was entrusted under Rule 14-A of 1957 Rules.

8.1 Articles of charge were framed, an Enquiry Officer was appointed, and upon conclusion of the enquiry, the charges were held proved against respondent Nos.4 and 5. Thereafter, a second show-cause notice was issued. The disciplinary authority ultimately imposed the penalty of withholding 10% of pension for a period of five years. The said order of penalty was the subject matter of challenge before the Tribunal. These facts are not in dispute.

8.2 The Tribunal set aside the order of penalty on the ground that there was non-compliance with Section 9 of the Act. The said conclusion is arrived at by placing reliance on the judgment of the Division Bench of this Court in the case of

Basavaraj (*supra*). In the case of **Basavaraj** (*supra*), the Division Bench has held as under:

"(e) The text & context of Section 9 make it clear that the Lokayukta/Upa-Lokayuktha shall hold or cause a Preliminary Inquiry and thereafter, decide as to desirability of the investigation into the matter; when he forms an opinion on the basis of a Preliminary Inquiry that there is a case for investigation, it is he who shall forward a copy of the complaint to the public servant and also to the competent authority concerned; the public servant shall then have an opportunity to offer his comments on the complaint; this is the legislative scheme and an otherwise interpretation would bruise it to the prejudice of delinquent public servant, to say the least;"

8.3 On the other hand, the Division Bench of this Court in **Prakash T.V.** (*supra*), has held as under:

"..... The departmental enquiry itself is a complete trial wherein the employee gets full opportunity to defend himself and therefore, merely because the procedure of Section 9 of the Act of 1984 has not been followed, the question of quashing the charge sheet only because of opportunity of hearing was not given during the preliminary enquiry does not arise. The Tribunal has erred in law and in fact in quashing the charge sheet."

8.4 Further, the Division Bench in the case of **Bharathi S.** (*supra*), while noticing that the observation note was issued by the Deputy Registrar (Enquiries), held that, in the absence of any challenge to the observation note, the correctness of forwarding of the observation note by the Deputy Registrar

(Enquiries) could not be gone into, and accordingly rejected the contention urged in that regard.

8.5 From the above judgments, it is noticed that, in the case of **Basavaraj** (*supra*), compliance with sub-section (3) of Section 9 of the Act, is held to be mandatory. On the other hand, in the case of **Prakash T.V.** (*supra*), it is held otherwise, observing that quashing of the articles of charge would not arise merely on account of non-compliance with the procedure contemplated under Section 9 of the Act. Similarly, in the case of **Smt. Bharathi S.** (*supra*), no interference was made, notwithstanding the fact that the observation note had been forwarded by the Deputy Registrar (Enquiries).

9. The relevant provisions, namely Sections 9, 15 and 23 of the Karnataka Lokayukta Act, 1984, read as under:

"9. Provisions relating to complaints and investigations.-

(1) Subject to the provisions of this Act, any person may make a complaint under this Act to the Lokayukta or an Upalokayukta.

(2) Every complaint shall be made in the form of a statement supported by an affidavit and in such form and in such manner as may be prescribed.

(3) Where the Lokayukta or an Upalokayukta proposes, after making such preliminary inquiry as he deemed fit, to conduct any investigation under this Act, he,-

(a) shall forward a copy of the complaint to the public servant and the competent authority concerned;

(b) shall afford to such public servant an opportunity to offer his comments on such complaint;

(c) may make such order as to the safe custody of documents relevant to the investigation, as he deems fit.

(4) Save as aforesaid, the procedure for conducting any such investigation shall be such, and may be held either in public or in camera, as the Lokayukta or the Upalokayukta, as the case may be, considers appropriate in the circumstances of the case.

(5) The Lokayukta or the Upalokayukta may, in his discretion, refuse to investigate or cease to investigate any complaint involving a grievance or an allegation, if, in his opinion,-

(a) the complaint is frivolous or vexatious or is not made in good faith;

(b) there are no sufficient grounds for investigating or, as the case may be, for continuing the investigation; or

(c) other remedies are available to the complainant and in the circumstances of the case it would be more proper for the complainant to avail of such remedies.

(6) In any case where the Lokayukta or an Upalokayukta decides not to entertain a complaint or to discontinue any investigation in respect of a complaint he shall record his reasons therefor and communicate the same to the complainant and the public servant concerned.

(7) The conduct of an investigation 1[under this Act against a public servant]1 in respect of any action shall not affect such action, or any power or duty of 1[any other public servant]1 to take further action with respect to any matter subject to the investigation."

"15. Staff of Lokayukta, etc.-

[(1) There shall be such officers and employees as may be prescribed to assist the Lokayukta and the Upalokayutha or the Upalokayuktas in the discharge of their functions under this Act.]

(2) The categories, recruitment and conditions of service of the officers and employees referred in sub-section (1) including such special conditions as may be necessary for enabling them to act without fear in the discharge of their functions, shall be such as may be prescribed in consultation with the Lokayukta.

(3) Without prejudice to the provisions of sub-section (1) the Lokayukta or an Upalokayukta may for the purpose of conducting investigations under this Act utilise the services of,-

[(a) any officer or investigating agency of the State Government; or

(aa) any officer or investigating agency of the Central Government with the prior concurrence of that Government; or]

(b) any other agency.

[(4) The officers and other employees referred to in sub-section (1) shall be under the administrative and disciplinary control of the Lokayukta. Provided that when Lokayukta is unable to discharge his functions owing to absence, illness or any other cause, the Upalokayukta or if there are more than one Upalokayukta, the senior among them may discharge the functions of the Lokayukta under this subsection]."

"23. Power to make rules.-

(1) The State Government may, by notification in the official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing provisions, such rules may provide for,-

(a) the authorities to be prescribed under sub-clause (d) of clause (4) of section 2;

(b) the allowances and pensions payable to and other conditions of service of the Lokayukta and an Upalokayukta;

(c) the form and manner in which 1[a complaint]1 may be made;

(d) the powers of a civil court which may be exercised by the Lokayukta or an Upalokayukta under clause (f) of sub-section (2) of section 11;

(e) the salary, allowances, recruitment and other conditions of service of the staff and employees of the Lokayukta or Upalokayukta under sub-section (2) of section 15;

(f) enquiries against 1[Government servants]1 under section 19;

(g) any other matter for which rules have to be made 1[or are necessary]1 under this Act.

[(2A) Any rule made under this Act may be made with retrospective effect and when such a rule is made the reasons for making the rule shall be specified in a statement laid before both Houses of the State Legislature, subject to any modification made under sub-section

(3) every rule made under this Act shall have effect as if enacted in this Act.]

(3) Every rule made under this Act shall be laid as soon as may be after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session in which it is so laid or the session immediately following both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that, any such modification or

annulment, shall be without prejudice to the validity of anything previously done under that rule."

9.1 On a plain reading of sub-section (3) of Section 9 of the Act, it indicates that, in the case of a complaint, a copy of the complaint has to be forwarded to the public servant by the Lokayukta or Upa-Lokayukta so as to afford the public servant an opportunity to offer comments on such complaint. Insofar as a *suo motu* investigation by the Lokayukta or Upa-Lokayukta is concerned, the opinion recorded by the Lokayukta or Upa-Lokayukta has to be forwarded to the public servant seeking his comments. Thus, in both situations, namely, a complaint and a *suo motu* investigation, the object and purpose of the provision is to afford the public servant an opportunity to offer comments.

9.2 Merely because the word "shall" is employed, the text of sub-section (3) of Section 9 cannot automatically be construed as mandatory. It is a settled principle of interpretation that, while construing a statutory provision, particularly in cases of ambiguity, the provision has to be interpreted by gathering the object and purpose sought to be achieved by the enactment.

9.3 On a plain reading and analysis of the scheme of Section 9 of the Act, the purpose of sub-section (3) appears to be only to provide an opportunity to the public servant to offer comments on the complaint or on the opinion recorded by the Lokayukta or Upa-Lokayukta, so as to enable further proceedings in the matter.

9.4 In the case of **Basavaraj** (*supra*), by emphasizing the expression "shall", compliance with sub-section (3) of Section 9 has been held to be mandatory. However, in the case of **Prakash T.V.** (*supra*), a different view has been expressed by this Court. Likewise, in the case of **Smt. Bharathi S.** (*supra*), while dealing with identical facts, wherein the observation note had been issued by the Deputy Registrar (Enquiries), the disciplinary proceedings were not interfered with on the ground that there was no challenge to the observation note.

9.5 In the present case also, the observation note dated 29.06.2018 was issued by the Deputy Registrar (Enquiries)-3, and admittedly there is no challenge to the said observation note before the Tribunal. We thus find divergent views expressed by the Division Benches of this Court in the cases of **Basavaraj** and **Prakash T.V** (*supra*), one judgment holding

compliance with sub-section (3) of Section 9 to be mandatory, and the other upholding the departmental enquiry though the observation note had been issued by an authority other than the Lokayukta or Upa-Lokayukta.

9.6 Moreover, we notice that the interpretation of sub-section (3) of Section 9 would have wide implications and ramifications on enquiries initiated and conducted by the Lokayukta or Upa-Lokayukta. The interpretation of sub-section (3) of Section 9, therefore, assumes considerable significance involving larger public interest. Interpretation to sub-section (3) of Section 9 of the Act raises substantial questions of law having larger interest.

10. In the light of the above discussion, we deem it appropriate to refer the matter for consideration by a Larger Bench.

11. Accordingly, the following points are framed for consideration by the Larger Bench:

1. Whether forwarding of a copy of the complaint by the Deputy Registrar (Enquiries) or any other staff of the Lokayukta would constitute sufficient

compliance with sub-section (3) of Section 9 of the Karnataka Lokayukta Act, 1984?

2. Whether causing service of a copy of the complaint by the Lokayukta or Upa-Lokayukta through the staff of the Lokayukta would amount to sufficient compliance with sub-section (3) of Section 9 of the Act?
3. In the case of a *suo motu* investigation, where the opinion is recorded by the Lokayukta or Upa-Lokayukta and the same is forwarded through the staff of the Lokayukta, whether such forwarding would constitute sufficient compliance with sub-section (3) of Section 9 of the Karnataka Lokayukta Act, 1984?
4. Whether compliance with sub-section (3) of Section 9 of the Karnataka Lokayukta Act, 1984 is mandatory or directory in nature?
5. Whether any irregularity in compliance with sub-section (3) of Section 9 of the Karnataka Lokayukta Act, 1984 would vitiate the departmental/

disciplinary proceedings initiated against the public servant?

The Registry is directed to place the papers before the Hon'ble The Chief Justice for appropriate orders.

**Sd/-
(S.G.PANDIT)
JUDGE**

**Sd/-
(K. V. ARAVIND)
JUDGE**

MV*