

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 9<sup>TH</sup> DAY OF JANUARY 2018**

**PRESENT**

**THE HON'BLE MR.H.G.RAMESH  
ACTING CHIEF JUSTICE**



**AND**

**THE HON'BLE MR. JUSTICE P.S.DINESH KUMAR**

**WRIT PETITION NO.58401/2017 (S-KSAT)**

**BETWEEN:**

T.N.RAVIPRAKASH  
S/O NARASIMHE GOWDA  
AGED ABOUT 52 YEARS  
SECOND DIVISION SURVEYOR  
BANGALORE DEVELOPMENT AUTHORITY  
BENGALURU & R/AT NO.428  
6<sup>TH</sup> MAIN, KENGERI UPANAGARA  
BENGALURU - 560 060

...PETITIONER

(BY SRI M.NAGAPRASANNA, ADVOCATE)

**AND:**

1. STATE OF KARNATAKA  
REPRESENTED BY ITS  
PRINCIPAL SECRETARY TO GOVERNMENT  
REVENUE DEPARTMENT  
M.S.BUILDING, BENGALURU - 560 001
2. COMMISSIONER OF SURVEY  
SETTLEMENT & LAND RECORDS IN  
KARNATAKA, NEW PUBLIC OFFICES  
K.R.CIRCLE, BENGALURU - 560 001
3. THE REGISTRAR  
KARNATAKA LOKAYUKTA  
M.S.BUILDING, BENGALURU - 560 001

4. ADDITIONAL REGISTRAR OF ENQUIRIES-8  
KARNATAKA LOKAYUKTA  
M.S.BUILDING  
BENGALURU – 560 001 ...RESPONDENTS

(BY MS.M.S.PRATHIMA, AGA FOR R1 & R2;  
SRI VENKATESH S.ARBATTI, ADVOCATE FOR R3 & R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DATED 29.11.2017 (ANNEXURE-A) PASSED BY THE KARNATAKA STATE ADMINISTRATIVE TRIBUNAL, BANGALORE IN APPLICATION NO.6857/2017, THE ORDER DATED 16.09.2017 (ANNEXURE-A4) PASSED BY RESPONDENT NO.1 AND THE ORDER DATED 30.10.2017 (ANNEXURE-A5) PASSED BY RESPONDENT NO.4.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING, THIS DAY, **THE ACTING CHIEF JUSTICE** MADE THE FOLLOWING:

**ORDER**

**Ag.CJ (Oral):**

**1.** *The question that requires to be examined in this case is, whether sub-section (1) of Section 8 of the Karnataka Lokayukta Act, 1984 ('the Act' for short) applies to any complaint involving an **allegation** as defined in Section 2(2) of the Act? The question is answered in the negative.*

**2.** This writ petition is directed against the order dated 29.11.2017 passed by the Karnataka State Administrative Tribunal ('the Tribunal' for short) rejecting the

petitioner's application in Application No.6857/2017 with the following order:

"10. Further, it is well settled that interference in the conduct of disciplinary proceedings and the consequential order that may be passed by the disciplinary authority is permissible only (i) where the disciplinary proceedings are initiated by an incompetent authority; (ii) such proceedings are in violation of any statutory rule of law; (iii) where there has been gross violation of principles of natural justice; and (iv) on account of proven bias and mala fides. None of the above grounds is present in the case on hand warranting interference with the impugned order and Articles of Charge."

The aforesaid application was filed by the petitioner before the Tribunal challenging the order dated 16.09.2017 (Annexure-A4) passed by the Government in exercise of the power under Rule 14-A(2)(a) of the Karnataka Civil Services (Classification, Control and Appeal) Rules, 1957 entrusting holding of disciplinary inquiry against the petitioner to *Upa-lokayukta* in respect of a certain misconduct alleged against him. In the aforesaid application, the petitioner had also challenged the Articles of charge dated 30.10.2017 (Annexure-A5) issued to the petitioner by Additional Registrar Enquiries-8, Karnataka Lokayukta, Bengaluru.

**3.** The sole contention urged by Sri M.Nagaprasanna, learned counsel appearing for the petitioner is that the

complaint made against the petitioner involved only a **grievance** as defined in Section 2(8) of the Act in respect of an **action** taken, and hence could not have been the subject matter of investigation by *Upa-lokayukta* in view of Section 8(1)(b) of the Act. To examine the contention urged, it is relevant to refer to sub-sections (1), (2) & (8) of Section 2 and Section 8 of the Act; they read as follows:

**2. Definitions.**-In this Act, unless the context otherwise requires,-

(1) "**action**" means administrative action taken by way of decision, recommendation or finding or in any other manner and includes wilful failure or omission to act and all other expressions relating to such action shall be construed accordingly;

(2) "**allegation**" in relation to a public servant means any affirmation that such public servant,-

(a) has abused his position as such public servant to obtain any gain or favour to himself or to any other person or to cause undue harm or hardship to any other person;

(b) was actuated in the discharge of his functions as such public servant by personal interest or improper or corrupt motives;

(c) is guilty of corruption, favoritism, nepotism, or lack of integrity in his capacity as such public servant; or

(d) has failed to act in accordance with the norms of integrity and conduct which ought to be followed by public servants of the class to which he belongs;

.....  
(8) "**grievance**" means a claim by a person that he sustained injustice or undue hardship in consequence of maladministration;

**8. Matters not subject to investigation.**- (1) Except as hereinafter provided, the Lokayukta or an Upa-lokayukta shall not

conduct any investigation under this Act in the case of a complaint involving a **grievance** in respect of any action,-

- (a) if such action relates to any matter specified in the Second Schedule; or
- (b) if the complainant has or had, any remedy by way of appeal, revision, review or other proceedings before any Tribunal, Court officer or other authority and has not availed of the same.

**(2)** The Lokayukta or an Upa-lokayukta shall not investigate,-

- (a) any action in respect of which a formal and public inquiry has been ordered with the prior concurrence of the Lokayukta or an Upa-lokayukta, as the case may be;
- (b) any action in respect of a matter which has been referred for inquiry, under the Commission of Inquiry Act, 1952 with the prior concurrence of the Lokayukta or an Upa-lokayukta, as the case may be;
- (c) any complaint involving a grievance made after the expiry of a period of six months from the date on which the action complained against becomes known to the complainant; or
- (d) any complaint involving an allegation made after the expiry of five years from the date on which the action complained against is alleged to have taken place:

Provided that he may entertain a complaint referred to in clauses (c) and (d) if the complainant satisfies that he had sufficient cause for not making the complaint within the period specified in those clauses.

**(3)** In the case of any complaint involving a grievance, nothing in this Act shall be construed as empowering the Lokayukta or an Upa-lokayukta to question any administrative action involving the exercise of a discretion except where he is satisfied that the elements involved in the exercise of the discretion are absent to such an extent that the discretion can *prima facie* be regarded as having been improperly exercised."

(Emphasis supplied)

**4.** We have perused the complaint against the petitioner which is at Annexure-A1. The complaint is that while he was working as a Taluk Surveyor, he prepared a false sketch in

respect of Sy.No.56/3B of Chunchanakuppe Village, Tavarekere Hobli, Bangalore South Taluk to favour two persons namely, Udayashankar and Chikkarevanna. The charge framed against the petitioner at Annexure-A5 reads as follows:

"2. That you DGO Sri T.N.Ravi Prakash, while working as Taluk Surveyor, Tavarekere Hobli, Bangalore South taluk, Bengaluru, prepared wrong and illegal sketch in respect of Sy.no.56/3B of Chunchana Kuppe, Bangalore South Taluk, without issuing notice to concerned parties and without following the procedure at the instance of one Udaya Shanker and Chikka Revanna in order to help them and thereby, you DGO has failed to maintain absolute integrity and devotion to duty, the act of which is unbecoming of a Government Servant and you DGO has committed misconduct as enumerated under Rule 3(1) of Karnataka Civil Services (Conduct) Rules, 1966."

5. In our opinion, the complaint made against the petitioner amounts to an **allegation** as defined in Section 2(2) of the Act. Sub-section (1) of Section 8 of the Act will have no application in respect of any complaint involving an **allegation**. The contention urged is, therefore, devoid of merit.

6. The impugned order of the Tribunal does not suffer from any error to warrant interference under the extraordinary jurisdiction of this Court under Articles 226 & 227 of the Constitution of India. The writ petition is

accordingly dismissed. Sri Venkatesh S.Arbatti, learned counsel is permitted to file his memo of appearance for respondent nos.3 & 4.

Petition dismissed.

**Sd/-  
ACTING CHIEF JUSTICE**

**Sd/-  
JUDGE**

hkh.