

7. Lokpal

Prelims Level: Polity & Governance

Mains Level: GS-II Statutory, Regulatory and Various Quasi-Judicial Bodies

Why in News?

- In a response to RTI, Lokpal stated that several key provisions needed for it has not yet been operational.

About the Issue

- The key Provisions needed for the anti-corruption ombudsman to function is still not been operationalised.
- The Lokpal's inquiry and protection wings has not yet begun.
- The regulation for how to conduct preliminary investigations have not been made.

About Lokpal and Lokayukta Act, 2013:

- It is for the establishment of Lokpal for the Union and Lokayukta for States.
- It is a statutory body without any constitutional status.
- It performs the function of an "ombudsman".
- Its inquiries into allegations of corruption against certain public functionaries and for Related Matters.

Structure of Lokpal:

- It is a multi-member body, that consists of one chairperson and a maximum of 8 members.
- Its Chairperson should be either the former Chief Justice of India or the former Judge of Supreme Court or an eminent person with impeccable integrity and outstanding ability, having special knowledge and expertise of minimum 25 years in the matters relating to anti-corruption policy, public administration, vigilance, finance including insurance and banking, law and management.
- Its other members are half will be judicial members and minimum 50% of the Members will be from SC/ ST/ OBC/ Minorities and women.
- The judicial member of the Lokpal either a former Judge of the Supreme Court or a former Chief Justice of a High Court.
- The non-judicial member should be an eminent person with impeccable integrity and outstanding ability, having special knowledge and expertise of minimum 25 years in the matters relating to anti-corruption policy, public administration, vigilance, finance including insurance and banking, law and management.

- The term of office is 5 years or till the age of 70 years.
- Its members are appointed by the president on the recommendation of a Selection Committee.
- The selection committee is composed of the Prime Minister who is the Chairperson; Speaker of Lok Sabha, Leader of Opposition in Lok Sabha, Chief Justice of India or a Judge nominated by him/her and One eminent jurist.
- For selecting the chairperson and the members, the selection committee constitutes a search panel of at least eight persons.

Lokpal Search Committee:

- Under the Lokpal Act of 2013, the Department of Personnel and Training (DoPT) is supposed to put together a list of candidates interested to be the chairperson or members of the Lokpal.
- This list will then go to the proposed eight-member search committee, which would shortlist names and place them before the selection panel headed by the Prime Minister.
- It may or may not pick names suggested by the search committee.
- In September 2018, the government had constituted a search committee headed by former Supreme Court judge Justice Ranjana Prakash Desai.
- The 2013 Act also provides that **All States** should set up the office of the Lokayukta within one year from the commencement of the Act.

Jurisdiction and Powers:

- It includes Prime Minister, Ministers, members of Parliament, Groups A, B, C and D officers and officials of Central Government.
- It also included the Prime Minister except on allegations of corruption relating to international relations, security, the public order, atomic energy and space.
- It does not have jurisdiction over Ministers and MPs in the matter of anything said in Parliament or a vote given there.
- Its jurisdiction also includes any person who is or has been in charge (director/ manager/ secretary) of anybody/ society set up by central act or any other body financed/ controlled by central government and any other person involved in act of abetting, bribe giving or bribe taking.
- It mandates that all public officials should furnish the assets and liabilities of themselves as well as their respective dependents.

- It is the powers to superintendence over, and to give direction to CBI.
- If it referred a case to CBI, the investigating officer in such case cannot be transferred without the approval of Lokpal.
- Its Inquiry Wing is been vested with the powers of a civil court.
- Its powers of confiscation of assets, proceeds, receipts and benefits arisen or procured by means of corruption in special circumstances.
- It has the power to recommend transfer or suspension of public servant connected with allegation of corruption.
- It has the power to give directions to prevent the destruction of records during the preliminary inquiry.

Limitations:

- It did not provide concrete immunity to the whistle blowers.
- Its provision for initiation of inquiry against the complainant if the accused is found innocent will only discourage people from complaining.
- It is not given any constitutional backing and there is no adequate provision for appeal against the Lokpal.
- The biggest lacuna is the exclusion of judiciary from the ambit of the Lokpal.
- To some extent, the need for functional independence of the CBI has been catered to by a change brought forth in the selection process of its Director, by this Act.
- The complaint against corruption cannot be registered after a period of seven years from the date on which the offence mentioned in such complaint is alleged to have been committed.

The Lokpal and Lokayukta (Amendment) Bill, 2016:

- It is passed by Parliament in July 2016 and amended the Lokpal and Lokayukta Act, 2013.
- It enables the leader of the single largest opposition party in the Lok Sabha to be a member of the selection committee in the absence of a recognized Leader of Opposition.
- It also amended **section 44** of the 2013 Act that deals with the provision of furnishing of details of assets and liabilities of public servants within 30 days of joining the government service.
- It replaces the time limit of 30 days, now the public servants will make a declaration of their assets and liabilities in the form and manner as prescribed by the government.

- It also gives an extension of the time given to trustees and board members to declare their assets and those of their spouses in case of these are receiving government funds of more than Rs. 1 crore or foreign funding of more than Rs. 10 lakhs.

About Background:

- The term Lokpal and Lokayukta were coined by Dr. L. M. Singhvi.
- In 2002, the Commission to Review the Working of the Constitution headed by M.N. Venkatachaliah recommended the appointment of the Lokpal and Lokayukta; also recommended that the PM be kept out of the ambit of the authority.
- In 2005, the Second Administrative Reforms Commission chaired by Veerappa Moily recommended that the office of Lokpal should be established without delay.
- In 2011, the government formed a Group of Ministers, chaired by Pranab Mukherjee to suggest measures to tackle corruption and examine the proposal of a Lokpal Bill.
- "India Against Corruption movement" led by Anna Hazare put pressure on the United Progressive Alliance (UPA) government at the Centre and resulted in the passing of the Lokpal and Lokayuktas Bill, 2013, in both the Houses of Parliament.

