

HOW TO COMPLAIN:-

Section 9 of Andhra Pradesh Lokayukta Act, 1983 provides for filing of complaints in respect of any action, in the case of an allegation by any person, or in the case of a grievance by a person aggrieved, referred to in Section 2 (a) (b) (ea) of Andhra Pradesh Lokayukta Act, 1983. '*Action*' means an administrative action taken by a public servant by way of decision, recommendation or finding or in any other manner, and includes any omission and commission and failure to act in connection with or arising out of such action; and all other expressions connecting action shall be construed accordingly. "*Allegation*" in relation to a public servant means any affirmation that such public servant- (i) has abused his position as such, to obtain any gain or favour to himself or to any other person, or to cause undue harm or hardship to any other person; (ii) was actuated in the discharge of his functions as such public servant by improper or corrupt motive and thereby caused loss to the State or any member or section of the public; or (iii) is guilty of corruption, or lack of integrity in his capacity as such public servant. '*Grievance*' means a claim by a person that he sustained injustice or undue hardship in consequence of maladministration.

Thus, the matters and actions of the Public Servants which can form the subject matter of the complaint to the Institution of Lokayukta of Andhra Pradesh are:-

- 1) Any administrative action taken by a public servant by way of decision, recommendation or finding or in any other manner, and includes any omission and commission and failure to act in connection with or arising out of such action;
- 2) Any administrative action involving abuse of position for personal gain or to cause undue harm or hardship to any other person;
- 3) Any administrative action motivated by improper or corrupt motive causing loss to the State exchequer or to any person;
- 4) All acts involving outright corruption or lack of integrity in the capacity as such public servant.

A wide range of Public Servants, defined in Section 2(k) of the A.P. Lokayukta Act, 1983, will come under purview of the Institution, viz., Ministers, Members of either House of the State Legislature, including the Chief Whip, any person appointed to a Public Service or post in connection with the affairs of the State of Andhra Pradesh, Chair Person and Vice Chairperson of Zilla Parishad, President of Mandal Parishad, Mayor of Municipal Corporation, Chairperson of Municipal Council, Chairmen or Presidents and Directors of the Governing Body to which the Management is entrusted in respect of any local authority in the State or any Society registered under the A.P. Registration Act or any Co-operative Society whose area of operation extends to the whole of the State or is confined to a part of the State extending to an area not less than a District, the Vice Chancellor and the Registrar of a University, etc., and officer in the service or pay of a Local Authority, University, Statutory Body or Corporation, Society or other Institutions.

As per Rule 3 of Andhra Pradesh Lokayukta and Upa-Lokayukta (Investigation) Rules 1984, a complaint shall be signed by the complainant and shall be made in Form-I accompanied by his own affidavit in Form II and affidavits of his witnesses, if any, duly affirmed and attested by a Gazetted Officer, Village Munsif or Patel, Member of the State Legislature, Advocate, Notary Public, Sarpanch, or a Central Nazir or Deputy Nazir governed by the Andhra Pradesh Judicial Ministerial Service Rules.

Provided that the Lokayukta or the Upa-Lokayukta, as the case may be, may in his discretion permit the filing of Forms I and II on any day subsequent to the date of filing of the original complaint.

Every complaint shall be accompanied by a Money Order, Banker's Cheque or Demand Draft drawn in favour of the Registrar of the Institution on any Bank having branch at Kurnool for Rupees one hundred and fifty or cash of Rupees one hundred and fifty to be paid in the Office of the Institution of Lokayukta and obtain receipt.

Lokayukta has power to take Suo-motu action in respect of any “action” as defined under Section 2-A of the Act and also in the case of an allegation/ grievance contemplated under the Act by recording reasons in writing.

HOW TO SUBMIT A COMPLAINT: -

A complaint may be presented in person to the Registrar or any other officer duly authorized by him in this behalf or be sent by registered post.

If the complainant requires any further clarification for filing of complaint, it is open for him to approach this Institution in any working day during office hours.

SCRUTINY OF COMPLAINT:-

The provisions of Rule 4 of AP Lokayukta and Upa-Lokayukta (Investigation) Rules deal with scrutiny of the complaint:-

- (1) As soon as may be after presentation or receipt of the complaint, it shall be scrutinized by such member of the staff of the Lokayukta as may be specially authorized in that behalf by the Lokayukta.
- (2) If, on scrutiny of the complaint, it is found to be defective or deficient in any of the required particulars, the complainant shall be called upon in Form III to rectify the defects or supply the omissions within ten days or such further time as may be granted in his discretion by the Lokayukta or Upa-Lokayukta, as the case may be.
- (3) If the defects are not rectified and / or the omissions are not supplied within the time specified or such further time as may be granted by the Lokayukta or Upa-Lokayukta, as the case may be, the Lokayukta or Upa-Lokayukta may reject the complaint and inform the complainant in Form IV.
- (4) The complaint shall also be liable for rejection in *limine* by the Lokayukta or Upa-Lokayukta, as the case may be, for any of the following reasons, namely,-

- a) that the complaint does not disclose an allegation which may be investigated by the Lokayukta or Upa-Lokayukta, as the case may be;
 - b) that the complaint is-
 - i) Frivolous, or
 - ii) Vexatious, or
 - iii) Not made in good faith;
 - c) that there are not sufficient grounds for investigating the complaint;
 - d) that 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;
 - e) that the public servant against whom the complaint is made is not one in respect of whom a complaint can be entertained by the Lokayukta or Upa-Lokayukta;
 - f) that the complaint is made after the expiry of six years from the date on which the action complained against is alleged to have taken place;
 - g) that an earlier complaint based on the same allegations as those made in the present complaint was previously disposed of by the Lokayukta or Upa-Lokayukta or any other authority.
- (5) The Lokayukta or Upa-Lokayukta, as the case may be, in his discretion afford an opportunity to the complainant to show cause why the complaint shall not be rejected for any of the reasons mentioned in sub-rule (4).

PRELIMINARY VERIFICATION:-

- 1) After the registration of the complaint, the Lokayukta or Upa-Lokayukta, as the case may be, shall inform the complainant in Form V and may make such preliminary verification as he deems fit in regard to the allegation in the complaint and the action complained of on the basis of the information furnished through the complaint and the affidavits, documents and copies thereof, if any, enclosed to the

complaint and also on his own motion before he proposes to conduct any investigation.

- 2) The Lokayukta or Upa-Lokayukta may utilize the services of such Law Officers or other legally trained persons as may be attached to his establishment in the course of the preliminary verification.
- 3) The Lokayukta or Upa-Lokayukta may (if felt necessary) hear the complainant after giving him notice in Form VI before passing the order refusing to investigate his complaint at the stage of preliminary verification.
- 4) If the Lokayukta or Upa-Lokayukta, as the case may be, does not reject a complaint under sub-rule (3) or sub-rule (4) of Rule 4; and if in his opinion, the complaint contains verifiable details justifying further action, he may, -
 - (i) call for remarks, information or report after a confidential probe from the concerned departmental authority or officer about the truth or otherwise of the allegations made in the complaint and fix a time for submission of such remarks, information or report; and or
 - (ii) require any investigating agency or the Investigation Section attached to the Institution to make a confidential probe into the allegations contained in the complaint and submit a report within the time specified.
- 5) The remarks, information or report referred to in sub-rule (4) shall after its receipt in the Institution be examined by the legal Section attached to the Institution and after such examination they shall submit their report along with the remarks, information and report referred to in sub-rule (4) of the Lokayukta or Upa-Lokayukta as the case may be.
- 6) After consideration of the remarks, information and / or reports referred to in sub-rules (4) and (5) and after hearing the complainant if and when available and necessary and also the officers of the Section, the Lokayukta and Upa-Lokayukta, as the case may be, shall decide whether or not there are any sufficient grounds for ordering investigation, and if he finds that there are no sufficient grounds for conducting investigation, he shall pass an order rejecting the complaint:

Provided that if the Lokayukta or Upa-Lokayukta, as the case may be, is of the opinion after a consideration of the material referred to in sub-rules (4) and (5), that the injustice complained of or the grievance alleged can be remedied or redressed at the departmental level, he may close the complaint and send the relevant records to the concerned departmental authority with suitable directions and for appropriate action.

- 7) If after such consideration of the reports etc., mentioned above the Lokayukta or Upa-Lokayukta, as the case may be, is satisfied that there is a prima facie case for conducting an investigation into the allegations in the complaint, he may pass an order to that effect and direct the concerned officers of the Institution to take the necessary steps in that behalf.
- 8) Nothing prevents the Lokayukta or Upa-Lokayukta from closing a complaint at any stage and referring it to the concerned departmental authorities for appropriate action.

COMMENCEMENT OF INVESTIGATION:-

If the Lokayukta or Upa-Lokayukta after making necessary preliminary verification, proposes to conduct an investigation into a complaint, he shall follow the procedures laid down in Rule 6, 7, 8 & 9 of AP Lokayukta and Upa-Lokayukta (Investigation) Rules and complete the final investigation.

Once a prima-facie case is held to have been made out, a regular enquiry (Investigation) is conducted after giving opportunity to the complainant as well as the public servant complained against, to put forth their versions and to adduce their evidence. This enquiry is on the lines of a trial in a court in which parties are permitted to be represented by their lawyers.

On the basis of such evidence, if the Lokayukta or the Upa-Lokayukta finds that the allegations against the public servant have been substantiated, either wholly or partly, a report has to be made to the competent authority under Sec.12 of the Act, communicating him findings and recommendations.

The Competent Authority, on receipt of the report, shall take action on the recommendation, including removal of the guilty public servant wherever recommended, without any further enquiry and intimate within three months of the date of receipt of the report, to the Institution of Lokayukta, the action taken or proposed to be taken on the basis of the report. In the event the Lokayukta or Upa-Lokayukta is not satisfied with the action taken or proposed to be taken by the Competent Authority, he may make a special report upon the case to the Governor and also inform the complainant accordingly. On receipt of a special report, the Governor shall cause a copy thereof, together with an explanatory memorandum, to be laid before each House of the State Legislative.

WITHDRAWAL OF THE COMPLAINT:-

As per the provisions of Rule 15 of AP Lokayukta and Upa-Lokayukta (Investigation) Rules “No complaint shall be permitted to be withdrawn unless the Lokayukta or Upa-Lokayukta, as the case may be, is satisfied that the complaint was made under a *bona fide* mistake or that the grievance complained of, has been adequately redressed”.