

# HIGH COURT FOR THE STATE OF TELANGANA

(Rule 4 (e) of the High Court for the State of Telangana  
PUBLIC INTEREST LITIGATION RULE, 2015)

W.P.(PIL) NO.

OF 2019

BETWEEN:

FORUM FOR GOOD GOVERNANCE,  
(A non-profit organization Regd., vide Registration No. 653, dt.19.10.2009),  
Having its Registered office at  
Flat No. 204, G.K.R. Mansion, Saifabad,  
Lakdikapul, Hyderabad – 500 004

Rep. by its Secretary, Sri M Padmanabha Reddy,  
S/o.Sri M Ganga Reddy, aged about 76 years,  
R/o.Plot No. 91, Amar Society, Madhapur,  
Hyderabad- 500 033.

Bank A/c. No. 370602010096206  
Union Bank of India, Saifabad, Hyderabad.

PAN Number: AAAAF1653M  
Adhar ID No. 572433865174,  
Mobile No. 98492-69105,  
Email address: ffggapindia@gmail.com

... Petitioner

AND

The State of Telangana  
Rep. by its Chief Secretary to Government,  
Department of General Administration (GAD),  
Secretariat, Hyderabad – 500 022,  
Telangana State.

... Respondent

1. PARTICULARS OF THE CAUSE/ORDER AGAINST WHICH THE  
PETITION IS MADE:

(i) SUBJECT MATTER IN BRIEF:

The Petitioner is aggrieved by the action of the Respondents for  
non-compliance and lack of response of the respondent government

in taking up the matter Administrative reforms Commission has recommended constitution of Lokayukta and Upa Lokayukta to deal with complaints against elected public representatives and government servants. Lokayukta started functioning in integrated state of A.P. since 1983. At present in the state of Telangana the post of Lokayukta and Upa Lokayukta are vacant since last 15 months. In the absence of Lokayukta and Upa Lokayukta cases are piling up. The Institution, which is supposed to check the abuse of power by administration, decisions taken with corrupt motive causing loss to the state and actions involving outright corruption or lack of integrity, is today dysfunctional. Hence it is imperative that a Lokayukta and Upa Lokayukta to be appointed urgently. Hence, this Writ Petition (PIL)

## 2. PARTICULARS OF PETITIONER:

- 2.1 I submit that Petitioner organization is a nonprofit organization registered vide Registration No. 653 on 19-10-2009 founded by a few retired All India Service Officers and social activists who have all come together under the leadership of a retired High Court Judge, with an objective to secure good governance at all levels, to resist the state abdicating its primary responsibility in providing good quality education and health services for all, build public opinion for the overdue electoral reforms, strive for enabling the various constitutional and autonomous institutions of the State to function

effectively, campaign for the much-needed decentralization and reforms in administration etc. Copy of registration is filed as **Annexure P1** and it is prayed that the same may be treated as part and parcel of this affidavit. The organization runs on the contributions from its founder members and other persons interested in furthering the cause of the forum.

LOCUS STANDI :

- 2.1 I hereby affirm and state on oath that the petitioner herein has no personal interest in the subject matter of this petition. The petitioner hereby undertakes to pay exemplary costs and/or compensatory damages as directed by this Court in the event of a contrary finding upon adjudication by the Court that the writ petition is filed for extraneous/personal considerations or with an oblique motive. This petition is being filed for appointment of Lokayukta and Upa Lokayukta. Therefore this Hon'ble Court has got both territorial and pecuniary jurisdiction to entertain the above Public Interest Litigation Petition under the Public Interest Litigation Rules, 2015, since the cause of action arose in the State of Telangana, which is well within the jurisdiction of the Hon'ble Court.
- 2.2. I further submit that the Petitioner is not involved in any Civil, Revenue, and Criminal Litigation in any capacity before any Court

or Tribunal. However, the Petitioner in its capacity as a Non-Governmental organization has filed many Public Interest Litigations before this Hon'able High Court.

3. DECLARATION AND UNDERSTANDING OF THE PETITIONER:

I, M. Padmanabha Reddy, S/o.M.Ganga Reddy, aged about 76 years, Occ: Retired Government servant and presently functioning as the Secretary of the Petitioner organization, resident of Plot No. 91, Amar Society, Madhapur, Hyderabad- 500 033, do hereby swear under oath and sincerely affirm as follows:

- 3.1 That the present petition is filed by way of Public interest Litigation and the Petitioner does not have any personal interest in the matter.

I am a retired All India Services Officer, presently functioning as the Secretary of the Petitioner organization herein and as such I am well acquainted with the facts of this case and able to depose as follows:

- 3.2 That the entire litigation cost including the Advocate's fee and other charges are being borne by the Petitioner. The PAN number of the Petitioner is already mentioned above.

- 3.3. That thorough research has been conducted in the matter raised through this petition. All the relevant documents pertinent to the subject are discovered by the Petitioner to this petition. The

Petitioner collected the information by filing applications under R.T.I. Act.

- 3.4 That to the best of Petitioner's knowledge and research, the issue that is raised was not dealt with or decided and that a similar or identical petition was not filed earlier by the Petitioner.

I submit that, I am filing this PIL after obtaining the relevant documents and after submitting representations, consequently after having been completely satisfied that the not filling the Lokayukta and Upa Lokayukta the cases are piling up and people are not getting justice.

- 3.5 That the Petitioner understood that in the course of hearing of this Petition, this Hon'able Court may require any security to be furnished towards costs or any other charges and the petitioner shall comply with such requirements. This issue was not dealt with or decided earlier and I have not filed any similar or identical petitions earlier.

I also understood that in the course of hearing of this petition, I may be required to furnish any security towards any cost or any other charges and I will comply with such requirement.

4. FACTS IN BRIEF:

- 4.1 I humbly submit that the Lokpal and Lokayuktas Act, 2013 is an Act sought to be promulgated by the parliament to systematically

eliminate corruption. An Act to provide for the establishment of a body of Lokpal for the Union and Lokayukta for States to inquire into allegations of corruption against certain public functionaries and for matters connected therewith or incidental thereto.

- 4.2 I respectfully submit that there is a mandate for setting up of the institution of Lokayukta through enactment of a law by the State Legislature within a period of 365 days from the date of commencement of the Lokpal and Lokayuktas Act, 2013.
- 4.3 I further respectfully submit that Section 63 of the Lokpal and Lokayuktas Act, 2013, states that every state shall establish a body to be known as the Lokayukta.

**Section 63-Establishment of Lokayukta.**

Every State shall establish a body to be known as the Lokayukta for the State, if not so established, constituted or appointed, by a law made by the State Legislature, to deal with complaints relating to corruption against certain public functionaries, within a period of one year from the date of commencement of this Act.

- 4.4 I further respectfully submit that in Writ Petition (CIVIL) No(S).684/2016, ASHWINI KUMAR UPADHYAY VERSUS UNION OF INDIA & ORS, Supreme Court Directed the Union of India to implement the Lokpal and Lokayukta Act, 2013. It is submitted that even prior to the Lokpal and Lokayukta Act, 2013 was enacted in the

country; many states have already set up Lokayukta for combating corruption.

- 4.5 I further respectfully submit that Lokayukta can be understood as an independent anti-corruption statutory body established in states, to fight against corruption. On the receipt of any complaint regarding corruption or bribery of the public official working at the state level, members of legislative assembly or ministers etc., Lokayukta comes into the picture, to deal with it and investigate the case thoroughly.
- 4.6 I further respectfully submit that the **Upa-Lokayukta** shall be a person who is or has been a Judge of a High Court. The Upa-Lokayukta or Upa-Lokayuktas shall be appointed after consultation with the Lokayukta. The Upa-Lokayuktas, shall be subject to the administrative control of the Lokayukta and in particular, for the purpose of convenient disposal of investigations under this Act.
- 4.7 I further respectfully submit that the Andhra Pradesh Lokayukta and Upa Lokayukta Act, 1983 was passed in the year 1983. This institution is a product of statute. The person to be appointed as Lokayukta shall be a judge or a retired Chief Justice of High Court. The Upa-Lokayuta of Andhra Pradesh shall be appointed from among the District Judges Grade-1.
- 4.8 I further respectfully submit that the objective of passing the Andhra Pradesh Lokayukta and Upa Lokayukta Act, 1983 is that the

institution established under this act should provide easy and cost free access to the common people, redress their grievances speedily and effectively; and in the process check and mitigate corruption and maladministration.

4.9 I further respectfully submit that Section 3 deals with the appointment of the Lokayukta and Upa Lokayukta.

**Section-3 of Lokayukta and Upa-Lokayukta Act-Appointment of Lokayukta and Upa-Lokayukta:-**

- (1) For the purpose of conducting investigation in accordance with the provisions of this Act, the Governor shall, by warrant under his hand and seal, appoint a person to be known as the Lokayukta and one or more persons to be known as the Upa-Lokayukta or Upa-Lokayuktas: Provided that –
  - (a) the person to be appointed as the Lokayukta shall be a Judge or a retired Chief Justice of a High Court;
  - (b) the Lokayukta shall be appointed after consultation with the Chief Justice of the High Court concerned;
  - (c) the Upa-Lokayukta shall be appointed from among the District Judges of Grade I, out of a panel of five names forwarded by the Chief Justice of the High Court of Andhra Pradesh.
- (2) In the Andhra Pradesh Lokayukta and Upa-Lokayukta Act, 1983 (hereinafter referred to as the principal Act) for sub-section (2) of section 3, the following shall be substituted, namely:-
  - 2 (i) Every person appointed to be the Lokayukta shall, before entering upon his office, make and subscribe, before the Governor an oath



or affirmation according to the form set out for the purpose in the First Schedule.

(ii) Every person appointed to be the Upa-Lokayukta shall, before entering upon his office, make and subscribe before the Governor or some person appointed in that behalf by him, an oath or affirmation according to the form set-out for the purpose in the First Schedule.

(3) The Upa-Lokayukta shall function under the administrative control of the Lokayukta and in particular, for the purpose of convenient disposal of investigations under this Act, the Lokayukta may issue such general or special directions, as he may consider necessary, to the Upa-Lokayukta: Provided that nothing in this Sub-section shall be construed to authorise the Lokayukta to question any decision, finding, or recommendation of the Upa-Lokayukta.

4.10 I further respectfully submit that the Governor of the concerned state appoints both Lokayukta and UpaLokayukta for a period of five years. Lokayukta constituted in undivided Andhra Pradesh has been listed in Andhra Pradesh Re-organisation Act, 2014, and has been serving both the states till now.

4.11 I further respectfully submit that as per the recommendation of the Administrative Reforms Commission government of A.P. (erstwhile) has constituted Lokayukta and Upa Lokayukta with supporting staff. The Institution of Lokayukta is independent from executive control, follows formal procedure, is more easily accessible and relatively easy financially as well to file before. It is submitted that

the post of Lokayukta is vacant from 12-10-2017 and upon retirement even the Upa Lokayukta position is vacant from 16-12-2017. It is submitted that since that time the institution has become dysfunctional (**Annexure P2**) and it is prayed that the same may be treated as part and parcel of this affidavit

4.12 I further respectfully submit that however, in the states of Telangana and Andhra Pradesh, ever since retired Justice B. Subhashan Reddy vacated the position post retirement, not a single direction has come out of Lokayukta as the body is headless. Complaints are being registered on a weekly basis and only dates are being issued for postponement. Several complaints remained undisputed for so long that the reported officials have either retired or moved to other positions. In the absence of Lokayukta and Upa Lokayukta, the staff has no work. Annually about 12 crores are being spent for salaries of staff and office maintenance.

4.13 I further respectfully submit that the institution which is supposed to check the abuse of power by administration, decisions taken with corrupt motive, actions involving outright corruption or lack of integrity is dysfunctional and cases are piling up. The number of complaints pending as on 29-12-2018 is 5550 (**Annexure P3**) and it is prayed that the same may be treated as part and parcel of this affidavit.

4.14 I further respectfully submit that as per Sec.3 of Lokayukta Act the Governor shall appoint the Lokayukta and Upa Lokayukta. In this regard petitioner submitted a representation to his Excellency the Governor of Telangana but so far there is no response.

5. SOURCE OF INFORMATION:

The Petitioner collected information by filing application under R.T.I. Act.

6. NATURE OF EXTENT OF INJURY CAUSED/APPREHENDED:

The Institution of Lokayukta is independent from executive control, follows informal procedure, easy accessibility and almost free service. This made the Lokayukta a popular institution to expose corruption in administration and redressal of grievances of common man. Since October 2017 the institution is dysfunctional and 5550 cases (complaints) have piled up. The common man has no other agency to approach for quick and expense free justice. A statutory body and position is now vacant in absolute violation of the Act.

7. ANY REPRESENTATION ETC., MADE:

I submit that, the petitioner filed representation to his excellency, the Governor for appointment of Lokayukta on 1-5-2018 as per Sec. 3 of Lokayukta Act, as the Governor of the state is appointing authority. So far no action has been taken **(Annexure**

**P4)** and it is prayed that the same may be treated as part and parcel of this affidavit.

8. DELAY IF ANY:

I submit that there is NO DELAY in filing this petition.

9. DOCUMENTS RELIED UPON ARE:

Information received from the institution of Lokayukta by filing R.T.I application.

In this circumstances stated above that the lackadaisical attitude of the respondents has left the petitioner with no other alternative remedy except to invoke the Extraordinary Jurisdiction of this Hon'ble Court under Article 226 of the Constitution of India. I have not filed any other writ, suit or any other proceedings before any Court of Law or authority for the relief or reliefs sought for hereunder.

10. MAIN RELIEF PRAYED IS AS FOLLOWS:

It is respectfully prayed that this Hon'ble Court in the interest of justice may be pleased to issue a Writ Order or Direction more particularly one in the nature of Writ Mandamus declaring the inaction of respondents in not appointing Lokayukta and Upa Lokayukta, in spite of the representation dated: 01.05.2018 as irregular, illegal, arbitrary, in violation of the Andhra Pradesh Lokayukta and Upa Lokayukta Act, 1983, and principles of

natural justice and to consequently initiate immediate action for appointment of Lokayukta and Upa Lokayukta for the state of Telangana and to pass such other order or orders as this Hon'ble Court may deem fit and proper in the interest of justice.

11. INTERIM PRAYER:

It is further prayed that this Hon'ble Court may be pleased to direct the concerned authorities to consider the Petitioner's representation and to immediately appoint Lokayukta and Upa Lokayukta, pending disposal of the main writ petition, and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

12. CAVEAT:

I submit that no notice has been received for lodging a caveat by the respondent.

Hyderabad

-01-2019

PETITIONER

Before me

Advocate, Hyderabad

VERIFICATION STATEMENT

I, M. Padmanabha Reddy, S/o.M Ganga Reddy, aged about 76 years, Occ: Retired Government servant and presently functioning as the Secretary of the Petitioner organization, resident of Plot No. 91, Amar Society, Madhapur, Hyderabad- 500 033, the Petitioner herein whatever

facts stated above in the above affidavit are true to the best of my knowledge and belief.

Hence, verified on this      day January, 2019 at Hyderabad.

Hyderabad

.01.2019

PETITIONER

