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## सूची - परिशिष्ट

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1	1.4.2002 से 31.3.2003 तक की कालावधि के दौरान लंबित, प्राप्त शिकायतों, निपटाई गई शिकायतों एवं 31.3.2003 को लम्बित रही शिकायतों को दर्शित करने वाला विवरण	54.55
2	1.4.2002 से 31.3.2003 की कालावधि के दौरान लोकसेवकों के सेवानिवृत्त हो जाने, त्याग पत्र दे देने एवं लोकसेवक के परिवाद करने में सक्षम न होने के कारण नस्तीबद्ध किये गये प्रकरणों को दर्शाने वाला विवरण	56
3	1.4.2002 से 31.3.2003 तक की कालावधि के दौरान परिवादीगण को लोकायुक्त सचिवालय के हस्तक्षेप से प्रदान किये गये विभागवार अनुतोष वाले प्रकरणों का विवरण	57
4	वर्ष 1996-97 से 2002-03 की कालावधि में परिवादियों को प्रदान किये अनुतोष के प्रकरणों की तुलनात्मक स्थिति को दर्शित करने वाला चार्ट	58
5	दिनांक 26.11.1999 से 31.3.2003 की अवधि में प्रदान किये गये अनुतोष के प्रकरणों को दर्शाने वाला चार्ट	59
6	1.4.2002 से 31.3.2003 की कालावधि के दौरान लंबित, संस्थित एवं निपटाई गई प्रारंभिक जांचों की संख्या को दर्शित करने वाला विवरण	60
7	1.4.2002 से 31.3.2003 की कालावधि के दौरान लंबित, संस्थित एवं निपटाये गये अन्वेषण प्रकरणों की संख्या को दर्शित करने वाला विवरण	61
8	1.4.2002 से 31.3.2003 की कालावधि के दौरान धारा 12(1) के अन्तर्गत सक्षम अधिकारियों को प्रेषित प्रकरणों को दर्शित करने वाला विवरण	62
9	बजट वर्ष 2002-2003	63

परिशिष्ट संख्या	परिशिष्ट का विवरण	पृष्ठ संख्या
	विभिन्न लोकायुक्तों द्वारा लोकायुक्त अधिनियम को अधिक प्रभावी बनाये जाने हेतु समय-समय पर वार्षिक प्रतिवेदनों एवं पत्राचार द्वारा दिये गये सुझावों का विवरण	
ए	<b>न्यायमूर्ति श्री आई.डी.दुआ, कार्यकाल 28.8.1973 से 27.8.1978</b> <ul style="list-style-type: none"> <li>❖ दूसरा वार्षिक प्रतिवेदन वर्ष 1974-75</li> <li>❖ तीसरा वार्षिक प्रतिवेदन वर्ष 1975-76</li> <li>❖ चौथा वार्षिक प्रतिवेदन वर्ष 1976-77</li> <li>❖ पांचवा वार्षिक प्रतिवेदन वर्ष 1977-78</li> </ul>	64.75 76.82 83.87 88.102
बी	<b>न्यायमूर्ति श्री डी.पी.गुप्ता, कार्यकाल 28.8.1978 से 5.8.1979</b> <ul style="list-style-type: none"> <li>❖ छठा वार्षिक प्रतिवेदन वर्ष 1978-79</li> </ul>	103.105
सी	<b>न्यायमूर्ति श्री एम.एल.जोशी, कार्यकाल 6.8.1979 से 7.8.1982</b> <ul style="list-style-type: none"> <li>❖ सातवां वार्षिक प्रतिवेदन वर्ष 1979-80</li> <li>❖ आठवां वार्षिक प्रतिवेदन वर्ष 1980-81</li> <li>❖ नवां वार्षिक प्रतिवेदन वर्ष 1981-82</li> </ul>	106.116 117.125 126.135
डी	<b>न्यायमूर्ति श्री एम.एल.श्रीमाल, कार्यकाल 4.1.1985 से 3.1.1990</b> <ul style="list-style-type: none"> <li>❖ दसवां वार्षिक प्रतिवेदन 1.4.82-3.1.85 व 4.1.85-31.12.87</li> <li>❖ ग्यारहवां वार्षिक प्रतिवेदन अवधि 1.1.1988-30.6.1989</li> <li>❖ बारहवां वार्षिक प्रतिवेदन अवधि 1.7.1989 से 31.12.1989</li> </ul>	136.144 145.149 150.157
ई	<b>न्यायमूर्ति श्री एम.बी.शर्मा कार्यकाल 10.8.90-30.9.93 एवं 6.7.94-6.7.99</b> <ul style="list-style-type: none"> <li>❖ तेरहवां वार्षिक प्रतिवेदन अवधि 1.1.1990-31.8.1993</li> <li>❖ चौदहवां वार्षिक प्रतिवेदन अवधि 1.9.1993-31.3.1996</li> <li>❖ पन्द्रहवां वार्षिक प्रतिवेदन वर्ष 1996-97</li> <li>❖ सोलहवां वार्षिक प्रतिवेदन वर्ष 1997-98</li> <li>❖ सत्रहवां वार्षिक प्रतिवेदन वर्ष 1998-99</li> </ul>	158.163 164.175 176.198 199.202 203
	लोकायुक्त अधिनियम की धारा 14(3) के अन्तर्गत इस सचिवालय द्वारा किये जाने वाले अन्वेषणों में भ्रष्टाचार निरोधक ब्यूरो व केन्द्रीय अन्वेषण ब्यूरो की सेवाओं के उपयोग हेतु सहमति प्रदान करने के लिये राज्य सरकार व केन्द्र सरकार से किये गये पत्राचार का विवरण	
एफ	राज्य सरकार से 1.4.2002 से पूर्व किया गया पत्राचार	204.227
एफ-1	राज्य सरकार से 1.4.2002 से 31.3.2003 में किया गया पत्राचार	228.231
जी	केन्द्र सरकार से 1.4.2002 से पूर्व किया गया पत्राचार	232.243
जी-1	केन्द्र सरकार से 1.4.2002 से 31.3.2003 में किया गया पत्राचार	244.256
एच	सातवें अखिल भारतीय लोकायुक्त/लोकपाल/उप-लोकायुक्त (ऑम्बुड्समैन)	257

	सम्मेलन, 2003 बैंगलोर का संक्षिप्त विवरण	
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## प्रस्तावना

देश के स्वतंत्र होने के पश्चात् 26 जनवरी, 1950 से लोकतन्त्र स्थापित हुआ और संविधान प्रभावी हुआ । लोकतंत्र की स्थापना के पश्चात् देशवासियों को लोकतंत्र के उज्ज्वल भविष्य की बड़ी आशाएँ थीं, किन्तु ज्यों-ज्यों समय बीतता गया, वे आशाएँ धूमिल होती गईं । कई दिशाओं में लोकतन्त्र में प्रगति भी हुई, किन्तु सुशासन की जो कल्पना की जाती थी, उसको बड़ा आघात पहुँचा । शासकीय तन्त्र में सच्चरित्रता की कमी, कुशासन और भ्रष्टाचार ने पनपना प्रारम्भ कर दिया । एक प्रशासनिक सुधार आयोग का गठन हुआ । इस आयोग के समक्ष विभिन्न विचारणीय विषयों में सबसे महत्व का विषय, शासन में होने वाले भ्रष्टाचार एवं जन शिकायतों के निराकरण के रूप में सम्मिलित किया गया था । आयोग ने अक्टूबर, 1966 में अपना अन्तरिम प्रतिवेदन प्रस्तुत किया, जिसमें यह सिफारिश की गई कि सरकार लोकपाल एवं लोकायुक्त नाम से दो संस्थाएँ कायम करें, जो शासन में उत्पन्न होने वाली आम आदमियों की कठिनाईयों का निराकरण करे एवं लोक सेवकों के भ्रष्टाचार सम्बन्धी शिकायतों के मामले में कार्यवाही सुनिश्चित करे ।

यहाँ मैं यह व्यक्त करना चाहूँगा कि राजाजी ने अपनी कारागृह दैनंदिनी में दिनांक 24 जनवरी, 1922 को यह अंकित किया था -

*"Elections and their corruptions, injustice and the power and tyranny of wealth, and inefficiency of administration, will make a hell of life as soon as freedom is given to us. Men will look regretfully back to the old regime of comparative justice and efficient, peaceful, more or less honest administration.*

*The only thing gained will be that as a race we will be saved from dishonour and subordination. Hope lies only in universal education by which right conduct, fear of God and love will be developed among the citizens from childhood.*

*"It is only if we succeed in this that Swaraj will mean happiness. Otherwise it will mean the grinding injustice and tyranny of wealth."*

उक्त कथन से यह स्थापित होता है कि राजाजी के शब्द भविष्य द्रष्टा के रूप में कितने सही थे ।

भ्रष्टाचार के विषय में विश्व स्तरीय सर्वे करनेवाला जर्मनी का एक गैर सरकारी संगठन ट्रान्सपेरेन्सी इण्टरनेशनल है । इस संस्था ने विश्व के करीब 102 राष्ट्रों का विस्तृत सर्वे किया है और एक रिपोर्ट सन् 2002 में प्रकाशित की है, जिसके अनुसार

भारत 29 देशों में से है, जो सबसे ज्यादा भ्रष्ट है । भारत का स्कोर 10 में से 2.7 है और यह 71 वें स्थान पर है । 1999 में यह स्कोर 2.9 था और 2000 में 2.8 था । यह जो स्कोर है, यदि कम स्कोर हो तो अधिक भ्रष्ट की और स्कोर ज्यादा हो तो वह कम भ्रष्ट की परिधि में आता है । भारत में भी इसी नाम से एक स्वतंत्र संस्था ट्रान्सपैरेन्सी इन्टरनेशनल इण्डिया पंजीकृत है, जिसकी रिपोर्ट के अनुसार भारतवासियों को लोकसेवकों को रिश्वत, विभिन्न क्षेत्रों में वार्षिक करीब 26,728 करोड़ रुपये देना होता है और इस प्रकार एक समानान्तर आर्थिक प्रणाली देश में चल रही है। ट्रान्सपैरेन्सी इन्टरनेशनल के अनुरूप कोई दूसरी संस्था ने इस प्रकार विश्व के देशों का सर्वे नहीं किया है । सर्वे को यदि नजरअन्दाज भी कर दिया जावे, तब भी यह कहना अनुचित नहीं होगा कि आज भ्रष्टाचार का बोलबाला है और भ्रष्टाचार थमने या रूकने की बजाय बढ़ता चला जा रहा है और सर्व व्याप्त है ।

लोकायुक्तों का 7वाँ अखिल भारतीय सम्मेलन दिनांक 17-18 जनवरी, 2003 को बंगलौर में हुआ था, जिसमें मैंने अपने स्वागत भाषण में यह कहा था कि भारत वर्ष एक घोटालों का देश है, जिसमें यूरिया स्कैम, फोडर स्कैम, सिक्कूरिटी स्कैम, बैंक स्कैम, डिफेन्स डीलस स्कैम, कौफीन स्कैम, यूटीआई स्कैम, किडनी स्कैम, कुछ राज्यों में पब्लिक सर्विस कमीशन द्वारा किये गये जॉब स्कैम, पेट्रोल पम्प स्कैम, सांसद/विधायक क्षेत्रिय विकास निधि स्कैम बड़े घोटालें हैं, जैसा समाचार पत्रों में प्रकाशित हुए हैं और हमारी राजधानी न केवल अपराधों की राजधानी, बल्कि भ्रष्टाचार की भी राजधानी है और जिसके हाथ में थोड़ी भी सत्ता है, वह भी भ्रष्टाचार युक्त है । हमारे प्रधानमंत्री माननीय श्री अटल बिहारी वाजपेयी जी ने अभी सैन्ट्रल ब्यूरो ऑफ इन्वेस्टीगेशन व राज्यों के भ्रष्टाचार विरोधी संस्थानों के सम्मेलन में विज्ञान भवन में यह विचार व्यक्त किये थे :-

*"We shall not tolerate corruption, howsoever highly placed the offender may be."*

*"Let each institution in our democracy do the work that the law earmarks as its domain - in proper coordination with other institutions; with no interference or pressure from outside; with requisite autonomy but with full responsibility."*

*The Prime Minister complimented the CBI on the trust and credibility it enjoyed in the eyes of the people and reminded its officers that they could create a deterrent impression that "no fish - big or small - can escape your net."*

लोकायुक्तों, लोकपालों एवं उपलोकायुक्तों का 7 वाँ अखिल भारतीय सम्मेलन दिनांक 17 व 18 जनवरी, 2003 को बंगलौर में हुआ था, जिसका समापन समारोह में

माननीय उप प्रधानमंत्री श्री लाल कृष्ण आडवानी ने अपने विचार व्यक्त करते हुए कहा-

*"I used to come across many people 'Advaniji, Ye Kya tum corruption, corruption ki bat karte ho, corruption to chalega, party Aayengi, Jayengi, lekin corruption khatam nahi hoga, election me bhee ye corruption chalega'. This Cynicism is one of the biggest weaknesses, which can afflict in our Society. I had been discussing with Mr. Justice Jain about the deliberations that went on yesterday and today and I assure you that by those deliberations, we would be guided. Vajpayeeji himself attended your last Session and this time your resolutions or your recommendations or suggestions will again come to us."*

*Having come here, I would think, it would be our duty to follow them up and to see that Lokayukta, as an Instrument of good governance, thus become really effective.*

*But in the message that we gave to the people I tried to emphasize that even after 50 years, the dreams of these patriots have not come true, it is because we got Swaraj, but we have not been able to convert it into Suraj. Swaraj is self Government. Suraj is good government. Having failed to convert this to Suraj, we have this problem and so, I would urge the people who had been given this right of the vote, right of franchise by the Indian Constitution to exercise their vote in favour of Suraj. Think in terms of good governance.*

*Most of you are from the Judiciary. I can tell you one thing. Politicians being corrupt is accepted. Bureaucrats being corrupt is accepted. Vo to hain hee Aise. But, these days when there is talk of corruption in the judiciary, one feels sad, one feels distressed, one feels that this last remnant of public faith is lost. If that happens, what is going to be the consequence and therefore firstly let there be no cynicism that we can overcome corruption. Now, I know the Issues that go on, we should be provided teeth, that I will have your proposals thoroughly examined, though in the present situation, in order to see that the law is amended or that a new law is passed, we have to had the support of consensus among political parties, that has become a must.*

*Specifically speaking that I will examine all the recommendations that you would give about law that needs to be enacted at the State Level or that the law that needs to be enacted at the Central level and see what I can do about it. "*

लोकपाल एवं लोकायुक्त संस्थान की परिकल्पना औम्बुड्समैन संस्था, जो विदेशों में प्रचलित थी, के आधार पर भारत में उक्त नामकरण से स्थापित करने की सिफारिश की गई थी । औम्बुड्समैन संस्था स्वीडेन में सर्वप्रथम वर्ष 1809 में स्थापित की गई थी और इस प्रकार की संस्थाएँ अब विश्व के अनेक देशों में धीरे-धीरे स्थापित हो

चुकी है । भारतीय संसद में लोकपाल एवं लोकायुक्त बिल 1968 में पेश किया गया और फिर इसी नाम से यह बिल 1971 में भी पेश किया गया, किन्तु कोई प्रभावी कानून नहीं बन पाया । तत्पश्चात् विभिन्न राज्यों में लोकायुक्त अधिनियम के अन्तर्गत लोकायुक्त संस्थान की स्थापना हुई और सन् 1973 में राजस्थान लोकायुक्त तथा उप लोकायुक्त अधिनियम, 1973, अधिनियम संख्या 9 दिनांक 3 फरवरी, 1973 से प्रभावी हुआ । यद्यपि इस अधिनियम को महामहिम राष्ट्रपति की स्वीकृति दिनांक 26 मार्च, 1973 को प्राप्त हुई थी, किन्तु अधिनियम में प्रावधान के द्वारा दिनांक 3 फरवरी, 1973 से प्रभावी माना जायेगा । शासन तन्त्र पर अंकुश लगाने के उद्देश्य से संस्थान की उपयोगिता समझी गई, ताकि शासन तन्त्र में भ्रष्टाचार, सच्चरित्रता की कमी, पद के दुरुपयोग को दूर किया जा सके और एक सुशासन स्थापित किया जा सके । जिन लोक सेवकों के आचरण के सम्बन्ध में इस अधिनियम के अन्तर्गत कार्यवाही की जा सकती है, वे लोक सेवक अधिनियम के अन्तर्गत 'लोक सेवक' की परिभाषा में आने चाहिए और उनके विरुद्ध ऐसा अभिकथन या आरोप हो, जो कि अभिकथन की परिभाषा में आता हो । कई लोक सेवक, जो अपने लाभ के लिए अथवा किसी अन्य के लाभ के लिए अथवा किसी अन्य को नुकसान अथवा कठिनाई उत्पन्न करने के लिए अपने पद का दुरुपयोग करें अथवा कोई लोक सेवक अपने व्यक्तिगत हित अथवा अनुचित अथवा भ्रष्ट हेतुओं से प्रेरित होकर अपने कर्तव्य का निर्वहन करे, अथवा कोई भ्रष्टाचार में लिप्त हो अथवा अपने काम में सच्चरित्रता की कमी रखता हो, ऐसे अभिकथनों की अथवा आरोपों का अन्वेषण इस अधिनियम के अन्तर्गत संस्थान द्वारा किया जा सकता है ।

संस्थान को स्थापित हुए करीब 30 साल होने को आये, लेकिन संस्थान के अधिकार क्षेत्र के विषय में, कार्य और प्रक्रिया के विषय में आम आदमी को बहुत ही कम जानकारी है ।

मैंने लोकायुक्त के पद का पदभार दिनांक 26.11.1999 को ग्रहण किया था । आम आदमी को संस्थान के बारे में जानकारी न होने का अनुभव मुझे थोड़े समय में ही हो गया, इसलिए मैंने संचार माध्यमों के द्वारा संस्थान के विषय में जानकारी देने का कार्य प्रारम्भ किया । इस हेतु मैंने दिनांक 30.5.2000 एवं 14.2.2001 को प्रिन्ट मीडिया और इलेक्ट्रॉनिक मीडिया का प्रेस सम्मेलन आयोजित किया और संस्थान के विषय में प्रमुख-प्रमुख प्रावधानों की जानकारी दी और संस्थान अपने उद्देश्य में कितनी प्रगति कर पाया है, इस पर प्रकाश डाला । अधिनियम की खामियाँ, कमियाँ भी उजागर की गई और क्या-क्या आवश्यक संशोधन किये जाने चाहिए, इस पर प्रकाश डाला ।

22 एवं 23 जनवरी, 2001 को अखिल भारतीय लोकायुक्तों का छठा सम्मेलन नई दिल्ली में आयोजित किया गया था, जिसका उद्घाटन माननीय प्रधानमंत्री श्री अटल बिहारी वाजपेयी जी ने किया था और लोकायुक्त संस्थान के विषय में विस्तृत चर्चा की गई थी। लोकायुक्तों ने एक प्रस्ताव यह भी पारित किया था कि मॉडल लोकायुक्त बिल बनाकर सभी राज्यों को भेजा जावे और उसके अनुरूप अपने-अपने राज्यों की विधियों में संशोधन किया जावे। कई बैठकें करने के बाद मॉडल लोकायुक्त बिल तैयार किया गया और सभी राज्यों को उसकी प्रति भेजी गई, सिवाय इसके कि राज्यों में कई कमेटियों का गठन किया गया, लेकिन कोई सार्थक परिणाम सामने नहीं आया। राजस्थान सरकार को भी दिनांक 27.6.2001 को मॉडल लोकायुक्त बिल की प्रति भेजी गई थी (19 वें वार्षिक समेकित प्रतिवेदन में मॉडल लोकायुक्त बिल को उद्धृत भी किया गया है), किन्तु इस दिशा में क्या किया गया, जैसी कि जानकारी मिली है, कुछ भी नहीं किया गया।

प्रथम लोकायुक्त ने व उसके पश्चात् करीब-करीब सभी लोकायुक्तों ने अपने वार्षिक प्रतिवेदनों में अधिनियम की कमियाँ व खामियाँ उल्लेखित की हैं व पत्राचार द्वारा भी सरकार को इनसे अवगत कराया है व संशोधन प्रस्तावित किये हैं। इस विषय में सम्पूर्ण जानकारी इस प्रतिवेदन के “परिशिष्ट-ए” से “परिशिष्ट-ई” में अंकित की है, जिससे यह प्रकट होगा कि वांछित व प्रस्तावित संशोधनों में से कोई भी संशोधन अधिनियम में नहीं किये गये, जिससे कि लोकायुक्त संस्थान, सक्षम व सशक्त बन सके।

लोकायुक्तों द्वारा समय-समय पर जो वार्षिक प्रतिवेदन प्रस्तुत किये गये हैं और जो विधानसभा के पटल पर रखे गये हैं, उनसे ऐसा लगता है कि यह वार्षिक प्रतिवेदन प्रस्तुत करना केवल एक औपचारिकता मात्र ही रह गई है। मेरी जानकारी में यह नहीं आया है कि विधानसभा में उन पर कोई विस्तृत चर्चा की गई हो। समय-समय पर सभी लोकायुक्तों ने अपने विचार प्रतिवेदनों में अंकित किये हैं और सुझाव दिये हैं। संस्थान हेतु जो किया जाना चाहिए, उनको भी प्रकट किया है। ऐसा प्रतीत होता है कि उनको गंभीरता से नहीं लिया गया है, उन पर गम्भीरता से विचार नहीं हुआ है, जो होना आवश्यक है। हमारी विधायिका का यह दायित्व बन जाता है कि वह भ्रष्टाचार की समस्या को गम्भीरता से लेते हुए इस पर गहराई से विचार करे। यह हर भारतीय के लिए चिन्ता का विषय है। भ्रष्टाचार राष्ट्र विरोधी है, विकास विरोधी है और जन विरोधी है। इसे समूल नष्ट करनेवाला कारगर प्रयत्न किया जाना चाहिए। लोकायुक्त संस्थान विधि द्वारा स्थापित एक स्वतंत्र संस्थान है और इसे सरकार के विभाग के रूप में नहीं देखा जाना चाहिए और उसको सक्षम व सशक्त बनाया जाना चाहिए।

इस दिशा में जाँच के काम को प्रगति देने के उद्देश्य से राजस्थान लोकायुक्त एवं उप लोकायुक्त अधिनियम सन् 1973 (अधिनियम संख्या 9) की धारा 14 उप धारा 3 के अन्तर्गत जाँच एजेंसी के लिए राज्य सरकार की सहमति प्राप्त करने के लिए पत्राचार किया गया। इस संबंध में प्रतिवेदनाधीन अवधि से पूर्व के पत्राचार की प्रतियाँ “परिशिष्ट-एफ” में दी गई हैं तथा इस वर्ष जो पत्राचार किया गया, उसकी प्रतियाँ “परिशिष्ट-एफ-1” में दी गई हैं। अन्तिम पत्र दिनांक 6 सितम्बर, 2002 को माननीय मुख्यमंत्री जी को लिखा गया था, जिसका उत्तर दिनांक 13/19.09.2002 प्राप्त हुआ, जिसमें यह उल्लेखित किया गया है, कि उन्होंने सचिव, कार्मिक विभाग को मामले को देखने के लिए और आवश्यक कार्यवाही करने के लिए निर्देशित किया है, किन्तु सचिव, कार्मिक विभाग के पास यह मामला अभी तक लम्बित है और इस दिशा में आगे कोई कार्यवाही नहीं की गई है और इसकी कोई सूचना अभी तक प्राप्त नहीं हुई है।

इसी प्रकार इस धारा के अन्तर्गत केन्द्रीय सरकार से भी सहमति प्राप्त करने के लिए केन्द्रीय सरकार को लिखा गया था और वहाँ से अभी तक कोई सहमति प्राप्त नहीं हुई है। 4 फरवरी, 2002 के पश्चात् दिनांक 31.5.2002 को मैंने माननीय राज्य मंत्री, कार्मिक, लोक शिकायत एवं पेंशन श्रीमती वसुन्धरा राजे को एक पत्र उनके पत्र दिनांक 20 फरवरी, 2002 के जबाब में भेजा था, जिसका उन्होंने दिनांक 5 जुलाई, 2002 को यह उत्तर भेजा कि उन्होंने अपने विभाग को मामले को देखने के लिए कहा है और शीघ्र ही इस विषय में सूचित करेंगी। उसके पश्चात् मैंने दिनांक 3 एवं 4 सितम्बर, 2002 को पत्र क्रमशः माननीय उप प्रधानमंत्री जी एवं माननीय प्रधानमंत्री जी को प्रेषित किये। तत्पश्चात् दिनांक 7 मार्च, 2003 को माननीय श्री अटल बिहारी वाजपेयी, प्रधानमंत्री, भारत सरकार एवं माननीय लालकृष्ण आडवानी, उप-प्रधानमंत्री, भारत सरकार एवं माननीय श्री हरेन पाठक, मंत्री, कार्मिक, लोक शिकायत एवं पेंशन को पत्र लिखे, किन्तु अभी तक भारत सरकार से कोई सहमति प्राप्त नहीं हुई है और मामला भारत सरकार के विचाराधीन है। अलबत्ता माननीय श्री लालकृष्ण आडवानी, उप-प्रधानमंत्री, भारत सरकार, नई दिल्ली से मेरे पत्र दिनांक 7 मार्च, 2003 के जवाब में उनका पत्र दिनांक 24 मार्च, 2003 अवश्य प्राप्त हुआ है जिसमें उन्होंने लिखा है कि वे मामले को देख रहे हैं। इसी प्रकार श्री हरिन पाठक, राज्यमंत्री, कार्मिक, लोक शिकायत तथा पेंशन, भारत सरकार से भी मेरे पत्र दिनांक 7 मार्च, 2003 के जवाब में उनका पत्र दिनांक 26 मार्च, 2003 प्राप्त हुआ है जिसमें उन्होंने लिखा है कि उन्होंने अपने विभाग से मामले को शीघ्र देखने एवं शीघ्र इस सचिवालय को सूचित करने के लिये कहा है। इस संबंध में प्रतिवेदनाधीन अवधि से पूर्व के पत्राचार की प्रतियाँ “परिशिष्ट-जी” में दी गई हैं तथा प्रतिवेदनाधीन अवधि में किये गये पत्राचार की प्रतियाँ “परिशिष्ट-जी-1” में दी गई हैं।

मैने संस्थान के विषय में जानकारी देने के लिए, इसकी प्रक्रिया बताने के लिए, क्या अधिकार क्षेत्र है, किन आरोपों के विषय में शिकायतें प्रस्तुत की जा सकती है और किन के विरुद्ध की जा सकती है, ऐसी कई बातें बताने के उद्देश्य से यह सोचा कि हर जिले में जिला स्तरीय अधिकारियों की व गैर सरकारी संगठनों की, स्वयं सेवी संस्थाओं की बैठकें बुलायी जावे और संस्थान के बारे में जानकारी दी जावे। किस प्रकार शिकायत प्रस्तुत की जा सकती है और संस्थान में क्या प्रक्रिया अपनाई जाती है, इसकी भी जानकारी दी जावे ।

अब तक 18 जिलों में इस प्रकार की बैठकें की जा चुकी है और सूचनाएँ अखबारों में पूर्व प्रकाशित होने के कारण शिकायतें सीधी उन जिलों में बैठकों से प्राप्त हुई हैं । वर्ष 2000-2001 में 4 जिलों में बैठकें की गई । वर्ष 2001-2002 में 10 जिलों में बैठकें की गई तथा इस वर्ष 2002-2003 में 4 जिलों में बैठकें की गई । अब 14 जिले, जिनमें बैठकें की जानी है, शेष बचे हैं । शिकायतों की संख्या, निरन्तर इस प्रकार जानकारी होने पर बढ़ती जा रही है ।

मैने जब कार्यभार सम्भाला तब 223 शिकायतें लम्बित थीं । मेरे कार्यभार सम्भालने के दिनांक 26.11.1999 के पश्चात् 31.3.2000 तक 254 शिकायतें, वर्ष 2000-2001 (1.4.2000 से 31.3.2001 तक) में 1101 शिकायतें, वर्ष 2001-2002 (1.4.2001 से 31.3.2002 तक) में 1648 शिकायतें प्राप्त हुई । इन सबका ब्यौरा मैने वार्षिक प्रतिवेदन में दिया हुआ है ।

मेरे द्वारा पहला वार्षिक प्रतिवेदन (18वाँ समेकित वार्षिक प्रतिवेदन) दिनांक 17 जुलाई, 2000, दूसरा वार्षिक प्रतिवेदन (19वाँ समेकित वार्षिक प्रतिवेदन) दिनांक 1.4.2000 से 31.3.2001 तक का दिनांक 2.7.2001 को प्रस्तुत किया गया । इसके पश्चात् तीसरा वार्षिक प्रतिवेदन (20वाँ समेकित वार्षिक प्रतिवेदन) दिनांक 1.4.2001 से दिनांक 31.3.2002 तक कालावधि में किये गये कृत्यों के सम्पादन के सम्बन्ध में दिनांक 13.7.2002 को प्रस्तुत किया गया ।

दिनांक 1.4.2002 को 1491 शिकायतें लम्बित थी । दिनांक 1.4.2002 से 31.3.2003 तक 1934 शिकायतें और प्राप्त हुई । इस प्रकार कुल 3425 शिकायतों में से प्रतिवेदनाधीन अवधि में 2341 शिकायतों का निस्तारण किया गया तथा दिनांक 31.3.2003 को 1084 शिकायतें लम्बित रही । इस संबंध में विस्तृत विवरण अध्याय "सांख्यिकी" में दिया गया है ।

## राजस्थान राज्य के लोकायुक्त तथा उप-लोकायुक्त

लोकायुक्त सचिवालय, राजस्थान में पदस्थापित रहे लोकायुक्तगण तथा उप-लोकायुक्त का विवरण निम्नानुसार है :-

लोकायुक्त			
क्रस	नाम	दिनांक से	दिनांक तक
1	माननीय न्यायमूर्ति श्री आई.डी.दुआ, सेवानिवृत्त न्यायाधीश, उच्चतम न्यायालय, भारत	28.8.1973	27.8.1978
2*	माननीय न्यायमूर्ति श्री डी.पी.गुप्ता, न्यायाधीश, राजस्थान उच्च न्यायालय	28.8.1978	5.8.1979
3	माननीय न्यायमूर्ति श्री मोहन लाल जोशी, सेवानिवृत्त न्यायाधीश, राजस्थान उच्च न्यायालय	6.8.1979	7.8.1982
4*	माननीय न्यायमूर्ति श्री के.एस.सिद्धू, न्यायाधीश, राजस्थान उच्च न्यायालय	4.4.1984	3.1.1985
5	माननीय न्यायमूर्ति श्री मोहन लाल श्रीमाल, सेवानिवृत्त मुख्य न्यायाधीश, सिक्किम उच्च न्यायालय	4.1.1985	3.1.1990
6	माननीय न्यायमूर्ति श्री पुरुषोत्तम दास कुदाल, सेवानिवृत्त न्यायाधीश, राजस्थान उच्च न्यायालय	16.1.1990	6.3.1990
7*	माननीय न्यायमूर्ति श्री महेन्द्र भूषण शर्मा, न्यायाधीश, राजस्थान उच्च न्यायालय	10.8.1990	30.9.1993
8*	माननीय न्यायमूर्ति श्री विनोद शंकर दवे, न्यायाधीश, राजस्थान उच्च न्यायालय	21.1.1994	16.2.1994
9	माननीय न्यायमूर्ति श्री महेन्द्र भूषण शर्मा, सेवानिवृत्त न्यायाधीश, राजस्थान उच्च न्यायालय	6.7.1994	6.7.1999
10	माननीय न्यायमूर्ति श्री मिलाप चन्द जैन, सेवानिवृत्त मुख्य न्यायाधीश, दिल्ली उच्च न्यायालय	26.11.1999	
उप-लोकायुक्त			
1~	श्री के.पी.यू.मेनन, सेवानिवृत्त आई.ए.एस.	5.6.1973	25.6.1974

\* कार्यवाहक लोकायुक्त ।

~प्रथम उप-लोकायुक्त श्री के.पी.यू.मेनन के दिनांक 25.6.74 को त्याग पत्र दिये जाने के बाद से उप-लोकायुक्त का पद निरन्तर रिक्त चला आ रहा है।

## लोकायुक्त सचिवालय का प्रशासनिक सेट-अप

राजस्थान लोकायुक्त तथा उप-लोकायुक्त अधिनियम, 1973 के अन्तर्गत राजस्थान राज्य में एक लोकायुक्त तथा एक अथवा अधिक उप-लोकायुक्त होंगे। उप-लोकायुक्त का पद दिनांक 25.6.1974 से रिक्त है, जो प्रथम उप-लोकायुक्त श्री के.पी.यू.मेनन के पदत्याग करने से रिक्त हुआ था।

वर्तमान में लोकायुक्त सचिवालय में 40 अधिकारियों एवं कर्मचारियों के स्वीकृत पदों में से 37 अधिकारी एवं कर्मचारी कार्यरत हैं व तीन पद रिक्त हैं। वरिष्ठ अधिकारीगण में सचिव एवं उप सचिव के पद पर राजस्थान उच्चतर न्यायिक सेवा के अधिकारी पदस्थापित हैं। विस्तृत विवरण निम्नानुसार है :-

क्र.सं.	पदनाम	स्वीकृत पद	स्थायी	अस्थायी	रिक्त पदों की संख्या
1.	सचिव	1	1	-	-
2.	उप सचिव	1	1	-	-
3.	सहायक सचिव	1	1	-	-
4.	निजी सचिव	2	2	-	1
5.	अनुभागाधिकारी	2	2	-	-
6.	वरि. निजी सहायक	1	1	-	-
7.	निजी सहायक	1	1	-	-
8.	आशुलिपिक	2	1	1	1
9.	सहायक	1	1	-	-
10.	कनिष्ठ लेखाकार	1	1	-	-
11.	वरिष्ठ लिपिक	3	3	-	-
12.	सहा.पुस्तकालयाध्यक्ष	1	-	1	-
13.	कनिष्ठ लिपिक	7	7	-	1
14.	जमादार	2	2	-	-
15.	चतुर्थ श्रेणी कर्मचारी	12	12	-	-
16.	प्रोसेस सर्वर	2	-	2	-
	योग:-	40	36	4	3

## जांच और अन्वेषण करने की प्रक्रिया

यह सचिवालय “दोषी लोकसेवक को दण्ड और निर्दोष को संरक्षण” के सिद्धान्त का अनुसरण करता है । इसलिये यह सचिवालय लोकसेवकों के विरुद्ध प्राप्त प्रत्येक शिकायत की गहन परीक्षा कर विषय की सच्चाई की तह तक पहुंचने का प्रयास करता है । परीक्षण के पश्चात् यदि शिकायत में लगाये गये आरोप अधिक स्पष्ट न हों तो उसमें लगाये गये आरोपों के संबंध में तथ्यात्मक प्रतिवेदन मांगे जाने के आदेश प्रदान किये जाते हैं और यदि मामला प्रथम दृष्टि में ही प्रारंभिक जांच किये जाने का प्रतीत हो तो उसमें प्रारंभिक जांच किये जाने के आदेश प्रदान किये जाते हैं । तथ्यात्मक प्रतिवेदन प्राप्त होने पर उसका परीक्षण किया जाता है एवं परीक्षणोपरान्त यदि आरोप प्रमाणित नहीं पाये जावें तो शिकायत को नस्तीबद्ध कर दिया जाता है एवं यदि आरोप प्रमाणित पाये जाते हैं तो उसके संबंध में या तो इस सचिवालय स्तर पर प्रारंभिक जांच किये जाने या सीधे ही अन्वेषण किये जाने के आदेश प्रदान किये जाते हैं ।

इस सचिवालय स्तर पर प्रारंभिक जांच करने के दौरान परिवारी, उसके साक्षीगण एवं सुसंगत अभिलेख के परीक्षण करने के पश्चात् यदि किसी भी लोकसेवक के विरुद्ध अभिकथन प्रथम दृष्टया प्रमाणित नहीं पाये जाते हैं तो प्रारंभिक जांच को बंद कर प्रकरण को नस्तीबद्ध कर दिया जाता है जिसकी सूचना परिवारी को भी दी जाती है । यदि प्रारंभिक जांच में आरोप प्रथम दृष्टया सही पाये जाते हैं तो राजस्थान लोकायुक्त तथा उप-लोकायुक्त अधिनियम, 1973 की धारा 10 के अन्तर्गत उसके विरुद्ध अन्वेषण प्रारंभ करने के आदेश प्रदान किये जाते हैं और संबंधित लोकसेवक को नोटिस एवं अन्वेषण के आधारों का विवरण, उसका जवाब/स्पष्टीकरण मय शपथ पत्र एवं उन दस्तावेजी एवं मौखिक साक्ष्य के साथ प्रस्तुत करने के लिये, भेजा जाता है जिसे कि वह अपने बचाव में प्रस्तुत करना उचित समझे एवं उसकी एक प्रति उसके सक्षम प्राधिकारी को सूचनार्थ प्रेषित की जाती है।

लोकसेवक को अन्वेषण के दौरान अपना पक्ष रखने का एवं व्यक्तिगत सुनवाई का पूर्ण अवसर प्रदान किया जाता है एवं उसे साक्षियों के प्रतिपरीक्षण का अवसर भी प्रदान किया जाता है । अन्वेषण के पश्चात् यदि लगाये गये आरोप अंशतः या पूर्णतः सिद्ध किये जाने योग्य नहीं पाये जाते हैं तो अन्वेषण को बंद कर प्रकरण को नस्तीबद्ध कर दिया जाता है एवं इसकी सूचना परिवारी को भी दी जाती है तथा यदि लगाये गये आरोप अंशतः या पूर्णतः सिद्ध किये जाने योग्य पाये जाते हैं तो उसके संबंध में अन्वेषण प्रतिवेदन धारा 12(1) के अन्तर्गत उसके सक्षम प्राधिकारी को भेजा जाता है जिसमें यदि लोकसेवक द्वारा कोई दण्डनीय अपराध किया गया हो तो दण्डनीय मामला संस्थित करने या अनुशासनात्मक कार्यवाही किये जाने की सिफारिश की जाती है । यदि

किसी मामले में किसी भी लोकसेवक के विरुद्ध कोई आरोप प्रमाणित नहीं पाया जावे, परन्तु यह प्रतीत हो कि प्रशासन की किसी भी प्रक्रिया या चलन से भ्रष्टाचार या अवचार का अवसर मिलता है तो यह सचिवालय सुझाव दे सकता है कि ऐसी प्रक्रिया या चलन में समुचित परिवर्तन कर दिया जाये या संबंधित नियमों को उपयुक्त रूप से ऐसे संशोधित कर दिया जावे कि जिससे लोकसेवकों द्वारा भ्रष्टाचार या अवचार किये जाने की संभावना समाप्त हो जाये या जिससे कि आम लोगों को अनुचित अपहानि न हो । यदि शिकायत पूर्णतया मिथ्या एवं आधारहीन हो तो लोकसेवक को शिकायतकर्ता को अभियोजित करने की अनुमति दी जाती है ।

## लोकायुक्त सचिवालय के कार्य का कम्प्यूटराइजेशन

जैसाकि पूर्व प्रतिवेदन में अंकित किया गया था, इस सचिवालय में प्राप्त होने वाले परिवारों से संबंधित कार्य का पूर्ण रूप से कम्प्यूटराइजेशन किया जा चुका है। इस कार्य के लिए सात नोड लगा कर उन्हें आपस में लैन से सम्बद्ध किया गया है। यह कार्य “फाइल मूवमेंट सिस्टम” सॉफ्टवेयर द्वारा अंग्रेजी भाषा के साथ-साथ राजभाषा हिन्दी में भी कार्य करता है और समस्त पत्रादि राजभाषा हिन्दी में ही छापता है।

सिस्टम के विभिन्न मॉड्यूलस निम्नानुसार है :-

Module name	Description
Inbox	Inbox for each use of the system
Forward File	Module for forwarding file through system
Create New File	Module for creation of new complaint file
File Activation	Module for activation of new complaint
Search File	Search engine for files
Letter Generation	Module for generating various letters
Letter Updation	Module for updating status of letters
Action List	List of cases in which action is to be taken
Cause List	Module for listed cases for hearing
Update Cause List	Module for updating the cause list
Reopen File	Module for Re-opening the closed file.
Order Update	Module for generating the status of file
File Register	Module for generating File Register etc.
My Receipt	Shows acknowledgement of forward file
Reports	Module for generating various reports
Update U/s 12	Module for updating files u/s 12 of the Act
Recommendation U/s 12	Module for maintaining files u/s 12
Logout	Module for quit from system

उक्त मॉड्यूलस का सचित्र विवरण निम्नानुसार है।

फाइल मूवमेंट सिस्टम का Login स्क्रीन निम्न प्रकार है :-

**LOKAYUKTA SACHIVALAYA, RAJASTHAN, JAIPUR**  
Welcome To File Movement System

User Name:  To Enter in the File Movement  
Enter Your User Name,  
Password:  Department Password and  
then submit  
Section:

Phone: (0)2227284, 2227145, 2227222 Ext: 2203, 2266, 2541 Fax: 2227284 E-Mail: Umesh@raj.nic.in  
Supplied by: Radhika Electrotec  
Developed By: Asian CERC Information Technology Limited, Jaipur

## Inbox

**LOKAYUKTA SACHIVALAYA, RAJASTHAN, JAIPUR**

:- Inbox :-

Thursday 20. Feb 2003

SN	FILE NO	IN DATE	SEND BY	NOTE NO	ACTION PROPOSED	MODE	ACK
1	1024/LAS/2002	02/20/03	mcjain	4	For Filed	Gen.	Acknowledge Required
2	1107/LAS/2001	02/20/03	mcjain	29	For Filed	Gen.	Acknowledge Required
3	1031/LAS/2001	02/20/03	mcjain	19	For Filed	Gen.	Acknowledge Required
4	2111/LAS/2002	02/20/03	mcjain	13	For Filed	Gen.	Acknowledge Required
5	11130/LAS/2001	02/20/03	mcjain	27	For Filed	Gen.	Acknowledge Required
6	173/LAS/2002	02/20/03	mcjain	13	For Filed	Gen.	Acknowledge Required
7	1835/LAS/2002	02/20/03	mcjain	11	For Filed	Gen.	Acknowledge Required

इस मॉड्यूल में वे पत्रावलियां होती हैं, जो कि user को अग्रेषित होकर कार्यवाही हेतु आती हैं ।

## Forward File

इस मॉड्यूल द्वारा user प्राप्त पत्रावलियों को संबंधित को अग्रेषित करता है।

## Create New File

इस मॉड्यूल में प्राप्त परिवाद का प्राप्ति का क्रमांक एवं दिनांक भरने के पश्चात् नई पत्रावली खोले जाने का अगला मॉड्यूल आता है जिसमें समस्त जानकारी अंकित

करने के पश्चात् नई पत्रावली खुल जाती है, पत्रावली का शीर्ष, पावति पत्र एवं प्रथम नोटशीट अपने-आप तैयार हो जाती है ।

## File Activation

The screenshot shows a web browser window displaying the 'File Activation: -Step 1' page. The page title is 'LOKAYUKTA SACHIVALAYA, RAJASTHAN, JAIPUR'. The date is 'Friday 21. Feb 2003'. The form contains the following fields:

- Select File Number For Activation: 3(172)/LAS/2001
- Name Of Receiver: MilapChandJain [HLA]
- File Action Proposed: For Action Of HLA
- File Note No: (empty)

Below the form, there is a note: 'Note:-You have Select All The Parameter. Press Button "Submit For Activation"'. At the bottom of the form, there are two buttons: 'Submit For Activation' and 'Reset'.

पत्रावली के सृजन के पश्चात् उसे संबंधित user को अग्रेषित करने से पहिले उसे एकटिवेट इस मॉड्यूल द्वारा किया जाता है । हालांकि एक्टिवेशन को अब CREATE NEW FILE मॉड्यूल में ही जोड़ दिया गया है ।

## Search File

The screenshot shows a web browser window displaying the 'Search File' page. The page title is 'LOKAYUKTA SACHIVALAYA, RAJASTHAN, JAIPUR'. The date is 'Friday 21. Feb 2003'. The page contains the following text:

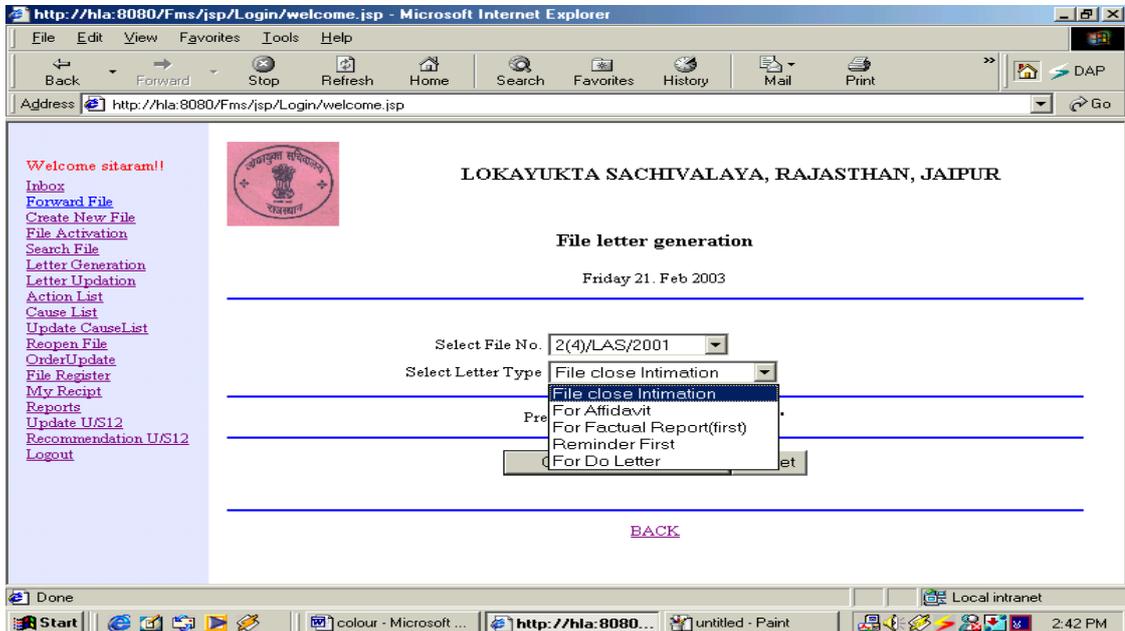
Search A complaint By:-

- By File No
- By Complainant
- By Public Servant
- By Post and District

At the bottom of the page, there is a 'BACK' link.

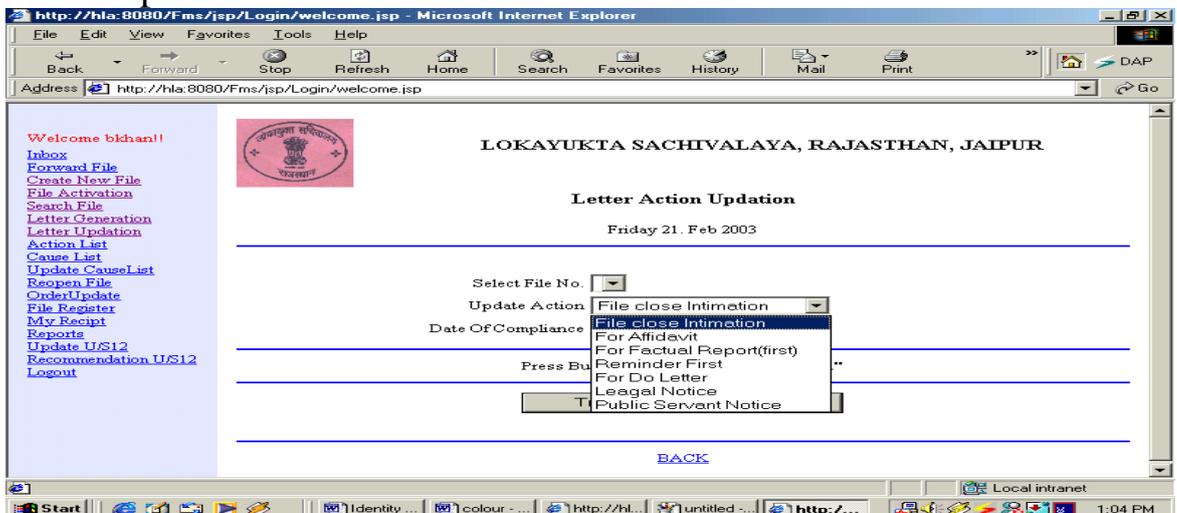
इस मॉड्यूल द्वारा किसी भी पत्रावली को पत्रावली संख्या, परिवादी के नाम, लोकसेवक, जिसके विरुद्ध शिकायत की गई है एवं परिवादी के पते से सर्च किया जा सकता है ।

## Letter Generation



इस मॉड्यूल द्वारा परिवाद नस्तीबद्ध किये जाने, शपथ पत्र चाहने बाबत, तथ्यात्मक प्रतिवेदन चाहने बाबत, प्रथम स्मरण पत्र एवं अर्द्धशासकीय पत्र जेनरेट किये जाते हैं ।

## Letter Updation



मॉड्यूल में लेटर एक्शन अपडेशन का कार्य किया जाता है अर्थात् अगला पत्र किस प्रकृति का जारी होना है ।

## Action List

http://hla:8080/Fms/jsp/Login/welcome.jsp - Microsoft Internet Explorer

Address: http://hla:8080/Fms/jsp/Login/welcome.jsp

Welcome sitaram!!

LOKAYUKTA SACHIVALAYA, RAJASTHAN, JAIPUR

:-:Your Action List:-

Friday 21. Feb 2003

SN.	FILE NO	Date Of Action	ACTION PROPOSED
1	11203/LAS/2002	12/10/02	Reminder First
2	11202/LAS/2002	12/15/02	Reminder First
3	11206/LAS/2002	12/16/02	Reminder First
4	12104/LAS/2002	12/14/02	Reminder First
5	11163/LAS/2002	12/16/02	Reminder First
6	11207/LAS/2002	12/17/02	Reminder First
7	11233/LAS/2002	12/20/02	Reminder First
8	12107/LAS/2002	12/16/02	Reminder First
9	11223/LAS/2002	12/20/02	Reminder First
10	11211/LAS/2002	12/23/02	Reminder First
11	1237/LAS/2002	12/16/02	Reminder First
12	11205/LAS/2002	12/13/02	Reminder First
13	11224/LAS/2002	12/20/02	Reminder First
14	11222/LAS/2002	12/20/02	Reminder First

इस मॉड्यूल में व पत्रावलियां अंकित होती हैं जिन पर कि उनके सम्मुख अंकित कार्यवाही user को करनी होती है ।

## Cause List

http://hla:8080/Fms/jsp/Login/welcome.jsp - Microsoft Internet Explorer

Address: http://hla:8080/Fms/jsp/Login/welcome.jsp

Welcome sitaram!!

LOKAYUKTA SACHIVALAYA, RAJASTHAN, JAIPUR

Cause List

Friday 21. Feb 2003

SN.	FILE NO	PUBLIC SERVANT SUMMONED	ACTION TIME	Remarks	Next Date
1	3126/LAS/2002	शासन सचिव	रिपोर्ट व	11.00 बजे	

[BACK](#)

इस मॉड्यूल द्वारा कॉज लिस्ट की जानकारी प्राप्त की जाती है कि लोकायुक्त, सचिव या उप सचिव में से किन-किन के पास, कौन-कौन से परिवाद सुनवाई हेतु नियत है ।

## Update Cause List

इस मॉड्यूल द्वारा काँज लिस्ट को अपडेट किया जाता है ।

## Reopen File

इस मॉड्यूल द्वारा किसी नस्तीबद्ध की जा चुकी पत्रावली को उचित कारण होने पर पुनः खोला जाता है ।

## Order Update

Welcome sitaram!!

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[Letter Generation](#)  
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[Update US12](#)  
[Recommendation US12](#)  
[Logout](#)

 **LOKAYUKTA SACHIVALAYA, RAJASTHAN, JAIPUR**

**-:Update Order:-**  
 Friday 21. Feb 2003

---

1. Select File No.

2. By Whom

3. Order Date  [Click](#)

4. Order for  Preliminary Enquiry  Investigation

5. Order No.

---

[BACK](#)

इस मॉड्यूल में किसी पत्रावली में प्रारंभिक जांच या अन्वेषण किये जाने के आदेश प्रदान किये जाने पर पत्रावली को अपडेट किया जाता है जिससे इस बाबत रिकार्ड तैयार रहता है कि कौन-कौनसी पत्रावली प्रारंभिक जांच या अन्वेषण में किस-किस अधिकारी के पास लंबित है ।

## File Register

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[Recommendation US12](#)  
[Logout](#)

 **LOKAYUKTA SACHIVALAYA, RAJASTHAN, JAIPUR**

**Genrate File Register**  
 Friday 21. Feb 2003

---

**Genrate By Year**

Register Year No.

Complaint Register  File Register

इस मॉड्यूल द्वारा परिवाद रजिस्टर या पत्रावली रजिस्टर तैयार किया जा सकता है ।

## My Receipt

ID	File Name	Date	User	Status	
12	3(35)/AS/2001	03/24/02	sitaram	4	Yes
13	2(4)/AS/2000	03/24/02	Sitaram	57	Yes
14	5(11)/AS/2000	03/24/02	Sitaram	75	Yes
15	5(36)/AS/2000	03/24/02	Sitaram	8	Yes
16	3(25)/AS/2000	03/24/02	Sitaram	16	Yes
17	3(35)/AS/2000	03/24/02	Sitaram	17	Yes
18	3(44)/AS/2000	03/24/02	Sitaram	19	Yes
19	1(42)/AS/2001	03/24/02	Sitaram	12	Yes
20	3(105)/AS/2001	03/26/02	RKSHAH	5	Yes
21	1(6162)/AS/2001	03/26/02	RKSHAH	5	Yes
22	1(186)/AS/2001	03/26/02	RKSHAH	5	Yes
23	1(6208)/AS/2001	03/26/02	RKSHAH	4	Yes
24	1(187)/AS/2001	03/26/02	RKSHAH	5	Yes
25	3(3)/AS/2001	03/26/02	RKSHAH	6	Yes
26	3(156)/AS/2001	03/26/02	RKSHAH	7	Yes
27	1(183)/AS/2001	03/26/02	RKSHAH	5	Yes
28	4(5)/AS/2001	03/27/02	Rajendra	23	Yes
29	3(179)/AS/2001	03/31/02	Sitaram	0	Yes
30	3(179)/AS/2001	03/31/02	sitaram	0	Yes
31	2(32)/AS/2001	03/31/02	sitaram	1	Yes
32	3(181)/AS/2001	03/31/02	Sitaram	1	Yes
33	1(312)/AS/2001	03/31/02	rajendra	2	Yes
34	1(6226)/AS/2001	03/31/02	sitaram	0	Yes
35	3(169)/AS/2001	03/31/02	sitaram	0	Yes

यह user द्वारा प्रेषित पत्रावलियों की प्राप्ति रसीद का मॉड्यूल है ।

## Reports

LOKAYUKTA SACHIVALAYA, RAJASTHAN, JAIPUR

--Factual Reports --

Friday 21. Feb 2003

Select Report Type

- Headwise detail of files
- F.R. Authority wise detail
- Complainant district wise detail
- Public Servant district wise detail
- Periodically Report
- All pending Files

इस मॉड्यूल में कई प्रकार से रिपोर्ट प्राप्त किये जाने की सुविधा है यथा हम तथ्यात्मक प्रतिवेदन, प्रारंभिक जांच, अन्वेषण, धारा 12(1) एवं नस्तीबद्ध पत्रावलियों की हेडवाइज, एफ.आर.ऑथोरिटीवाइज, परिवादी के जिलेवार, लोकसेवक के जिलेवार, किसी विशेष अवधि या समस्त लंबित पत्रावलियों की रिपोर्ट प्राप्त कर सकते हैं।

## Update U/S 12

http://hla:8080/Fms/jsp/Login/welcome.jsp - Microsoft Internet Explorer

File Edit View Favorites Tools Help

Back Forward Stop Refresh Home Search Favorites History Mail Print

Address http://hla:8080/Fms/jsp/Login/welcome.jsp

Welcome sitaram!!

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[Logout](#)

**LOKAYUKTA SACHIVALAYA, RAJASTHAN, JAIPUR**

**Update Under Section 12**

Friday 21. Feb 2003

---

1. File No.

2. Competent Authority (Only mention Post/Name)

3. Address

4. Date of Order  [Click](#)

Done

Start http://hla:8080... colour - Microsoft Word untyped - Paint Local intranet 2:28 PM

इस मॉड्यूल में राजस्थान लोकायुक्त तथा उप-लोकायुक्त अधिनियम, 1973 की धारा 12 के प्रकरणों की सूचना दर्ज की जाती है ।

## Recommendation U/S 12

http://hla:8080/Fms/jsp/Login/welcome.jsp - Microsoft Internet Explorer

File Edit View Favorites Tools Help

Back Forward Stop Refresh Home Search Favorites History Mail Print

Address http://hla:8080/Fms/jsp/Login/welcome.jsp

Welcome sitaram!!

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**LOKAYUKTA SACHIVALAYA, RAJASTHAN, JAIPUR**

**Update Under Section 12 Recommendation**

Friday 21. Feb 2003

---

1. File No.

2. Recommendation

3. Processing

Done

Start colour - Microsoft Word http://hla:8080/Fms/... Local intranet 2:32 PM

इस मॉड्यूल में इन प्रकरणों को दर्ज किया जाता है जिनमें राजस्थान लोकायुक्त तथा उप-लोकायुक्त अधिनियम, 1973 की धारा 12 के अन्तर्गत सक्षम अधिकारी को अनुशंसा की जाती है ।

लोकायुक्त सचिवालय की “वेबसाइट” एवं टेलीफोन पर ही प्रकरण संख्या डायल करने पर वांछित सूचना आवाज आधारित साफ्टवेयर द्वारा प्रदान किया जाना भी प्रस्तावित है जिससे परिवादी कहीं से भी अपने परिवाद के बारे में जानकारी प्राप्त कर सकेंगे ।

परिवादों के निस्तारण हेतु स्थापित इस सुविधा से प्रकरणों का निस्तारण त्वरित गति से हो रहा है जिससे परिवादीगण एवं लोकसेवकगण के साथ-साथ कार्यरत कर्मचारी एवं अधिकारी भी लाभान्वित हो रहे हैं ।

राजस्थान लोकायुक्त तथा उप-लोकायुक्त अधिनियम, 1973 की धारा 12(1) के अन्तर्गत सक्षम प्राधिकारियों को प्रेषित अन्वेषण प्रेषितवेदनों का संक्षिप्त विवरण

एफ. 3(25)लोआस/2000

परिवादी श्री बलदेव सिंह, श्री इन्द्र सिंह निवासी अजीतपुरा एवं श्री धर्मपाल, निवासी मलखेड़ा, पुलिस थाना भिरानी, तहसील भादरा, जिला हनुमानगढ़ ने इस संबंध में शिकायत की गई कि गांव गांधीबड़ी के श्री रामेश्वर लाल ने एक प्रथम सूचना सं. 70/2000 अन्तर्गत धारा 354, 452 भादस दर्ज कराई जिसमें बताया गया कि उसकी लड़की सुमित्रा जब घर में सोई हुई थी तब गांव के महेश पुत्र श्री नत्थूराम चमार ने घर में घुस कर उसका चुम्बन लिया व छेड़खानी की। तीन दिन बाद धारा 354 भादस के स्थान पर 376 भादस बिना किसी कारण के पत्रावली में जोड़ कर महेश को गिरफ्तार करने के लिये सुमित्रा के पिता टिकुराम से 15 हजार रुपये की रिश्वत श्री भागलाराम मीणा ने ली।

उक्त परिवाद के संबंध में प्रारंभिक जांच करने पर थानेदार श्री भागला राम मीणा, पुलिस थाना, भिरानी, डा. आर.एल.बेनीवाल एवं डा.ललिता स्वामी, चिकित्सा अधिकारी, राजकीय चिकित्सालय, भादरा, जिला हनुमानगढ़ के विरुद्ध आरोप प्रथम दृष्टया प्रमाणित पाये जाने पर उनके विरुद्ध राजस्थान लोकायुक्त तथा उप-लोकायुक्त अधिनियम, 1973 की धारा 10 के अन्तर्गत अन्वेषण प्रारंभ किया गया।

अन्वेषण के दौरान उक्त तीनों लोकसेवकगण को नोटिस, परिवाद एवं अन्वेषण के आधारों का विवरण अपना-अपना जवाब/प्रत्युत्तर प्रस्तुत करने हेतु दिनांक 6.7.2001 को जारी किया गया एवं उनके सक्षम प्राधिकारी शासन सचिव, गृह विभाग एवं माननीय चिकित्सा एवं स्वास्थ्य विभाग, राजस्थान सरकार, जयपुर को सूचनार्थ प्रेषित किये गये।

अन्वेषणोपरान्त डा. आर.एल.बेनीवाल एवं डा.ललिता स्वामी, चिकित्सा अधिकारी, राजकीय चिकित्सालय, भादरा, जिला हनुमानगढ़ के विरुद्ध यह पाया गया कि उक्त चिकित्सकों ने अपनी रिपोर्ट में यह भ्रम पैदा करने का प्रयास किया कि सुमित्रा के साथ बलात्कार हुआ है। उनका कृत्य अभियुक्त महेश कुमार को नुकसान पहुंचाने के आशय से एवं परिवादी रामेश्वर को लाभ पहुंचाने के आशय से किया गया। अतः डा. आर.एल.बेनीवाल एवं डा.ललिता स्वामी, चिकित्सा अधिकारी, राजकीय चिकित्सालय, भादरा, जिला हनुमानगढ़ के विरुद्ध उपयुक्त अनुशासनात्मक कार्यवाही किये जाने की अनुशंसा दिनांक 3.6.2002 को माननीय मंत्री, चिकित्सा एवं स्वास्थ्य विभाग को की

गई। श्री भागलाराम के संबंध में कर्तव्य का ईमानदारी से निष्पादन नहीं किये जाने का दोषी पाये जाने पर प्रमुख शासन सचिव, गृह विभाग, राजस्थान सरकार, जयपुर को दिनांक 3.6.2002 को यह अनुशंसा की गई कि उनके विरुद्ध भी यदि न्यायालय का कोई निर्णय हो तो, तो उसे ध्यान में रखते हुए उपर्युक्तानुसार कार्यवाही की जावे ।

उक्त दोनों सक्षम प्राधिकारियों से अनुशंसा की पालना में की गई अथवा की जाने हेतु प्रस्तावित कार्यवाही की सूचना अभी तक अपेक्षित है ।

**एफ. 15(19)लोआस/2000**

आम जनता, ग्राम खाखरवाड़ा द्वारा श्री गोपाल सैन, तत्कालीन उप वन संरक्षक, आबूरोड, दांतीवाड़ा, वन विभाग के विरुद्ध यह शिकायत की गई कि श्री सैन मुख्यालय पर नहीं रुकते और उनके द्वारा प्रोजेक्ट में कोई काम नहीं कराया गया ।

प्रारंभिक जांच के दौरान श्री गोपाल सैन से पूछताछ की गई । उनके द्वारा दिये गये विवरण/तथ्यों की जांच निदेशक, परियोजनाएं (भू-संरक्षण) वन विभाग, कोटा से कराई गई । इस संबंध में उन्होंने अपने पत्र दिनांक 7.11.2001 द्वारा यह सूचित किया कि श्री गोपाल सैन ने प्रधान मुख्य वन संरक्षक, राजस्थान के निर्देशों के अनुसार कोई कार्यवाही नहीं की और कार्यवाही की डायरियां भी प्रस्तुत नहीं की । श्री सेन ने उपखण्ड नहीं बनाये और विकास का कोई कार्य नहीं करवाया ।

ऐसी स्थिति में आरोप प्रमाणित पाये जाने पर श्री गोपाल सैन, तत्कालीन उप वन संरक्षक, आबूरोड दांतीवाड़ा के विरुद्ध उसके सक्षम प्राधिकारी माननीय मंत्री, कार्मिक विभाग, राजस्थान सरकार, जयपुर को दिनांक 5.12.2002 को प्रारंभिक जांच प्रतिवेदन मय सुसंगत दस्तावेजात के प्रेषित कर यह अनुशंसा की गई कि उसके विरुद्ध उचित रूप से विभागीय स्तर पर अनुशासनात्मक कार्यवाही कर दण्डित किया जावे ।

अनुशंसा की पालना में की गई अथवा की जाने हेतु प्रस्तावित कार्यवाही की सूचना अभी तक अपेक्षित है ।

**एफ. 24(10)लोआस/2000**

परिवादी श्री प्रदीप कुमार चाचाण, मैसर्स जे.पी.सी. एण्ड कम्पनी, भादरा, जिला हनुमानगढ़ ने इस बाबत परिवाद प्रस्तुत किया कि श्री बी.एम.जालान, अधीक्षण अभियन्ता, सिद्धमुख सिंचाई वृत्त भादरा ने आवंटित कार्य लगभग एक करोड़ चालीस लाख रूपये के बदले सत्तर हजार रूपये की रिश्वत ली और कार्य समय वृद्धि के लिये 25 हजार

रूपये की मांग की । श्री जालान गलत काम करने के आदी है । श्री जालान की शिकायत कर्मचारियों ने भी की थी ।

इस परिवाद पर प्रारंभिक जांच की गई जिसमें आरोप प्रथम दृष्टया प्रमाणित पाये जाने पर श्री जालान के विरुद्ध धारा 10 के अन्तर्गत अन्वेषण प्रारंभ किया गया एवं उसे दिनांक 26.6.2001 को नोटिस दिया जाकर परिवाद में वर्णित आरोपों के संदर्भ में पक्षकथन/प्रत्युत्तर एवं साक्ष्य प्रस्तुत करने का अवसर दिया गया व उसके सक्षम प्राधिकारी माननीय मंत्री, कार्मिक विभाग, राजस्थान सरकार, जयपुर को सूचनार्थ प्रेषित किया गया ।

अन्वेषणोपरान्त श्री बी.एम.जालान के विरुद्ध यह आरोप प्रमाणित पाया गया कि उन्होंने अधीक्षण अभियन्ता, सिद्धमुख परियोजना, वृत भादरा, जिला हनुमानगढ़ के पदस्थापन के दौरान परिवादी प्रदीप कुमार चाचाण, मैसर्स जे.पी.सी. एण्ड कम्पनी, भादरा के संविदा प्रकरण की समय सीमा बढ़ाने की कार्यवाही जानबूझ कर दुर्भावनापूर्वक की और उच्चाधिकारियों को गलत रिपोर्ट परिवादी को परेशान करने के आशय से प्रेषित की। यही नहीं श्री जालान ने अपने अधीनस्थ पदस्थापित अधिकारी पर रिपोर्ट बदलने लिये दबाव डाला जो उनके आचरण में सच्चरित्रता की कमी को प्रदर्शित करता है ।

अतः श्री बी.एम.जालान, तत्कालीन अधीक्षण अभियन्ता, सिद्धमुख परियोजना, वृत भादरा, जिला हनुमानगढ़ के विरुद्ध उसके सक्षम प्राधिकारी माननीय मंत्री, कार्मिक विभाग, राजस्थान सरकार, जयपुर को पत्र दिनांक 16.12.2002 द्वारा अन्वेषण प्रतिवेदन की प्रति प्रेषित कर उसके विरुद्ध उचित रूप से विभागीय स्तर पर अनुशासनात्मक कार्यवाही कर दण्डित किये जाने की अनुशंसा की गई ।

अनुशंसा की पालना में की गई अथवा की जाने हेतु प्रस्तावित कार्यवाही की सूचना अभी तक अपेक्षित है ।

**एफ. 19(2)लोआस/1999**

परिवादी श्री कंचन के.खन्ना, प्रबन्ध निदेशक, टेलीमेटस इण्डिया प्राइवेट लिमिटेड, ए-3, चितरंजन पार्क, नई दिल्ली की ओर से यह परिवाद प्राप्त हुआ कि उसने राजस्थान ऊर्जा विकास अधिकरण (रेडा) द्वारा सौर ऊर्जा से संचालित घरेलू उपकरणों के लिये टेण्डर भरा था । उसका टेण्डर यह आधार बताकर कि परिवादी कम्पनी टेलिमेट इंडिया प्रा0 लि0 लघु उद्योग के रूप में पंजीकृत नहीं है, खारिज कर दिया गया तथा अर्नेस्ट (Earnest) राशि के अभाव में भी खारिज कर दिया।

उक्त परिवाद पर सर्वप्रथम सचिव, ऊर्जा विभाग से तथ्यात्मक रिपोर्ट चाही गई। सचिव, ऊर्जा विभाग ने रेडा से ही तथ्यात्मक रिपोर्ट लेकर बिना किसी विवेचन के अग्रेषित, इस सचिवालय को कर दी। जिस पर प्रारंभिक जांच करने का आदेश दिया।

प्रारंभिक जांच के सिलसिले में परिवादी की ओर से श्री एस0 के0 शील व विभाग की ओर से श्री एस0एस0 शेखावत, वरिष्ठ अधिशाषी अधिकारी उपस्थित आये, जिनका परीक्षण किया गया एवं दस्तावेजात का भी परीक्षण किया गया। उक्त दोनों का परीक्षण एक ही दिन, एक ही समय किया गया।

प्रारंभिक जांच से यह तथ्य स्पष्ट हुए कि रेडा द्वारा विवादित टेण्डर दिनांक 3.6.99 को जारी किये गये। उक्त टेण्डर दिनांक 6.7.99 को खोले गये। टेण्डर निविदादाताओं के प्रतिनिधि की उपस्थिति में खोलना बताया गया, किन्तु उनके केवलमात्र हस्ताक्षर उपस्थिति पंजिका में है। यह कहीं अंकित नहीं है कि निविदादाताओं के सामने खोली गई। यह स्वीकृत तथ्य है कि निविदाओं में क्या दर थी उसका उल्लेख दिनांक 6.7.99 को रिकार्ड पर नहीं किया गया। प्रारंभिक जांच के दौरान यह बताया गया कि दर की मौखिक जानकारी निविदादाताओं को दी गई थी, किन्तु यह तथ्य प्रलेख पर कहीं रिकार्ड नहीं किया गया।

निविदाओं को प्रोसेस करने के लिये श्री निरंजन मेहता, अतिरिक्त मुख्य निष्पादित अधिकारी, श्री एस.एस. शेखावत, वरिष्ठ अधिशाषी अधिकारी एवं श्री ब्रिजेश शर्मा, लेखाधिकारी की समिति बनाई गई। उक्त समिति की रिपोर्ट के अनुसार दिनांक 17.8.99 व 23.8.99 को मीटिंग करना उल्लेखित किया है, परन्तु 23.8.99 को किसी मीटिंग का उल्लेख विभाग की नोटशीट पर नहीं है। दिनांक 17.8.99 की मीटिंग के मीनिट्स दिनांक 20.8.99 को प्रस्तुत करना बताया गया है जिसके बारे में यह बताया जा रहा है, वहीं मीनिट्स प्रस्तुत किये थे जो इस सचिवालय को उपलब्ध कराये गये, जिसमें दिनांक 23.8.99 की मीटिंग का भी उल्लेख है। स्वीकृत रूप से दिनांक 20.8.99 को प्रस्तुत किये जा रहे हैं। मीनिट्स में दिनांक 23.8.99 का उल्लेख नहीं हो सकता। इससे प्रतीत होता है कि या तो नोटशीट बाद में तैयार की गई है अथवा मीनिट्स बाद में तैयार किये गये हैं। मीनिट्स को बाद में तैयार करने की संभावना अधिक प्रतीत होती है, क्योंकि मीनिट्स दिनांक 28.8.99 को प्रस्तुत करना बताये है जबकि नोटशीट के अनुसार मीनिट्स दिनांक 20.8.99 को प्रस्तुत किये गये थे, मीनिट्स पत्रावली पर पृष्ठ संख्या-61, 62 एवं 63 पर उपलब्ध है। जिसके अवलोकन से स्पष्ट होता है कि मीनिट्स दिनांक 27.8.99 व 28.8.99 को तैयार किये गये। ऐसा प्रतीत होता है कि उक्त मीनिट्स का पृष्ठ-12 दिनांक 28.8.99 को तैयार किया गया है और

पृष्ठ-13 दिनांक 27.8.99 को तैयार कर लिया गया। जो इन समस्त कार्यवाही पर गंभीर एवं युक्तिपूर्ण संदेह उत्पन्न करता है ।

स्पष्ट है कि प्रार्थी/परिवादी का टेण्डर अस्वीकार करना सद्भावी नहीं है ऐसा किये जाने से किसी फर्म विशेष को लाभ हुआ अथवा लाभ पहुंचाने के उद्देश्य से यह कृत्य किया गया अथवा नहीं, इस तथ्य की विस्तृत जांच किया जाना उचित समझा गया। अतः श्री निरंजन मेहता, अतिरिक्त मुख्य निष्पादित अधिकारी, श्री एस.एस.शेखावत, वरिष्ठ अधिशाषी अधिकारी, श्री ब्रिजेश शर्मा, लेखाधिकारी एवं श्री सुभाष गर्ग, मुख्य कार्यकारी अधिकारी एवं निदेशक, रेडा के विरुद्ध धारा 10 के अन्तर्गत अन्वेषण प्रारंभ किया गया। इस संबंध में उक्त चारों लोकसेवकों को दिनांक 9.7.2001 को नोटिस मय परिवाद की प्रति व अन्वेषण के आधारों का विवरण अपना-अपना जवाब/प्रत्युत्तर प्रेषित करने के लिये प्रेषित किया गया व उनके सक्षम प्राधिकारी माननीय मंत्री, कार्मिक विभाग, राजस्थान सरकार, जयपुर को सूचनार्थ प्रेषित किया गया ।

लोकसेवकगण सर्वश्री निरंजन मेहता, एस.एस.शेखावत एवं श्री बृजेश शर्मा ने अपने-अपने जवाब प्रस्तुत किये, परन्तु लोकसेवक श्री सुभाष गर्ग, आई.ए.एस., तत्कालीन मुख्य अधिशाषी अधिकारी एवं निदेशक, रेडा ने नाटिस के जवाब में कोई प्रत्युत्तर प्रस्तुत नहीं किया बल्कि उसके जवाब में अपने पत्र दिनांक 19.7.2001 द्वारा यह सूचित किया कि वे किसी रिकार्ड का अवलोकन करना या शपथ पत्र प्रस्तुत करना नहीं चाहते और उनके द्वारा लिया गया निर्णय सही था । श्री सुभाष गर्ग ने इस प्रकरण के अन्वेषण कोई सहयोग नहीं किया और अन्वेषण के दौरान आई साक्ष्य से यह स्पष्ट हो गया कि श्री सुभाष गर्ग स्वयं अपनी हस्तलिपि में परिवादी फर्म को अनुचित हानि पहुंचाने की नीयत से उसका टेण्डर निरस्त किया और बाद में टेण्डर की शर्तों में भी नियमों के विरुद्ध फेरबदल किया ।

अतः लोकसेवक श्री सुभाष गर्ग, आई.ए.एस., तत्कालीन मुख्य अधिशाषी अधिकारी एवं निदेशक, रेडा, जयपुर के विरुद्ध दिनांक 21.12.2002 को उसके सक्षम प्राधिकारी माननीय मंत्री, कार्मिक विभाग, राजस्थान सरकार, जयपुर तथा मुख्य सचिव, राजस्थान सरकार, जयपुर को निम्नानुसार अनुशंसा की गई :-

Issue adequate guidelines, that in future, if it is considered in the interest of the Government, and the beneficiaries, to change the basic conditions/stipulations, of the tender after floating the document, in that eventuality, a new tender must be floated with the revised conditions and stipulations.

Agendum/agenda of any meeting and minutes of the meeting must form part of the record, which is also essential for transparency and accountability.

Copies of the letters of Shri Subhash Garg be forwarded to the Chief Secretary, for taking appropriate action by the Government, if think proper by the Government. Action taken by the Government may be conveyed.

अनुशंसा की पालना में की गई अथवा की जाने हेतु प्रस्तावित कार्यवाही की सूचना अभी तक अपेक्षित है ।

एफ. 11(92)लोआस/2001

श्री एम.पी.सोमानी, अधिकृत प्रतिनिधि, मोदी इन्स्टीट्यूट आफ एडुकेशन एण्ड रिसर्च, लक्ष्मणगढ़, जिला सीकर ने यह परिवाद इस संबंध में पेश किया कि इस संस्थान में महिला छात्रावास, स्टाफ क्वार्टर, खेल के मैदान व अकादमिक परिसर आदि की आवश्यकताओं के लिये भूमि अवाप्ति अधिनियम की धारा 6 के अन्तर्गत नोटिफिकेशन दिनांक 3 दिसम्बर, 1991 को जारी किया गया था जो लक्ष्मणगढ़ की कुल 61.09 हैक्टेयर व ग्राम नारोदरा की 3.79 हैक्टेयर भूमि के लिये था । उक्त आदेश के खिलाफ कुछ पक्षकारों ने राजस्थान उच्च न्यायालय में याचिका दायर की जो खारिज हुई और इसके बाद डिविजन बैच में अपील दायर की जो भी खारिज हुई और अवाप्ति के आदेश को बहाल रखा गया । राजस्थान उच्च न्यायालय के निर्णय के विरुद्ध सर्वोच्च न्यायालय में अपील सिविल नम्बर एस-11398/97 लीव टू अपील प्रस्तुत की गई जिसे भी माननीय उच्चतम न्यायालय ने दिनांक 1.8.1997 को खारिज कर दिया, परन्तु इसके बावजूद भी एस.डी.ओ., फतेहपुर द्वारा भूमि का कब्जा प्रार्थी संस्थान को नहीं दिया जा रहा है ।

इस प्रकरण में मुख्य सचिव, प्रमुख शासन सचिव, राजस्व विभाग एवं जिला कलेक्टर, सीकर से तथ्यात्मक प्रतिवेदन मांगा गया । तत्पश्चात् दोनों पक्षों को सुन कर माननीय मुख्यमंत्री, मुख्य सचिव, प्रमुख शासन सचिव, राजस्व, जिला कलेक्टर, सीकर एवं पुलिस अधीक्षक, सीकर को यह अनुशंसा की गई कि अवाप्ति आदेश की पालना, यदि पुलिस की सहायता की आवश्यकता पड़े तो वह लेकर, तुरन्त की जावे । यह अनुशंसा पत्र क्रमांक: एफ.11(92)लोआस/2001/10877-10881 दिनांक 14.2.2003 द्वारा की गई ।

अनुशंसा की पालना में की गई अथवा प्रस्तावित कार्यवाही की सूचना अभी तक अपेक्षित है ।

## लोकायुक्त सचिवालय के हस्तक्षेप द्वारा परिवादीगण को प्रदान किये गये अनुतोष के प्रकरणों का संक्षिप्त विवरण ।

यहां मैं यह उल्लेख करना चाहूँगा कि मेरे लोकायुक्त के पद पर कार्यभार संभालने के पश्चात् इस सचिवालय द्वारा परिवादीगण को अनुतोष प्रदान करने में उल्लेखनीय कार्य किया गया है जो इस तथ्य से स्पष्ट है कि जहां वर्ष 1996-97 में 3, वर्ष 1997-98, 1998-99 व 1999-2000 में क्रमशः 5-5, वर्ष 2000-2001 में 33 व वर्ष 2001-2002 में 60 परिवादीगण को इस सचिवालय के हस्तक्षेप से अनुतोष प्रदान किया गया, वहीं वर्ष 2002-2003 की अवधि में 110 परिवादीगण को अनुतोष प्रदान किया गया है। इनमें से कुछ महत्वपूर्ण परिवादों का संक्षिप्त विवरण निम्नवत है ।

### एफ. 11(42)लोआस/2000

श्रीमती गीता देवी पत्नी स्व. श्री ओम प्रकाश शर्मा निवासी रघुनाथजी का मोहल्ला, गांधी चौक, दौसा ने दिनांक 21.6.2000 को यह परिवाद इन तथ्यों का प्रस्तुत किया कि उसके पति श्री ओम प्रकाश शर्मा की तहसील रूपबास में पटवारी के पद पर कार्यरत रहते हुए दिनांक 3.3.1983 को मृत्यु हो गई थी । उसने जिला प्रशासन से लेकर मुख्यमंत्री तक सभी को पेंशन दिलाने हेतु निवेदन किया, परन्तु उसे 17 वर्ष व्यतीत हो जाने के पश्चात् भी पेंशन नहीं दी जा रही है ।

इस संबंध में जिला कलेक्टर, भरतपुर से दिनांक 16.8.2000 को तथ्यात्मक प्रतिवेदन मांगा गया जिसके प्रत्युत्तर में जिला कलेक्टर, भरतपुर ने अपने पत्र दिनांक 30.9.2000 द्वारा सूचित किया कि परिवादिया श्रीमती गीता देवी अपनी ससुराल में शादी के बाद एक बार ही गई थी उसके पश्चात् वह अपने पिता के यहां रही रही थी और उसने अपने पति की मृत्यु के पश्चात् पेंशन हेतु 15-16 वर्ष बाद आवेदन किया । अतः पेंशन में विलम्ब के लिये प्रार्थिया स्वयं ही जिम्मेदार है । तत्पश्चात् उन्होंने अपने पत्र दिनांक 10.12.2001 द्वारा सूचित किया कि परिवादिया को पारिवारिक पेंशन स्वीकृत की जा चुकी है जिसका पी.पी.ओ. नम्बर 21788 है ।

इस प्रकार इस सचिवालय के हस्तक्षेप से परिवादिया को लगभग 18 वर्ष बाद पारिवारिक पेंशन दिलाई गई हालांकि इसमें हुई देरी के लिये वह स्वयं भी जिम्मेदार रही है ।

**एफ. 12(47)लोआस/2000**

परिवादिया श्रीमती शील कुमारी पत्नी स्व. श्री विरेन्द्र सिंह निवासी ग्राम मोरडा जिला करौली ने यह परिवाद दिनांक 11.4.2002 को इन तथ्यों का पेश किया कि उसके पति अध्यापक के पद पर राजकीय प्राथमिक विद्यालय, लुहारखेड़ा, पंचायत समिति, टोडाभीम में सेवारत थे। दिनांक 28.7.1985 से 6.6.1989 तक उक्त पंचायत समिति के अधीन थे तथा दिनांक 7.6.1989 को उनका स्वर्गवास हो गया, परन्तु आज तक भी उसे सेवापुस्तिका में 1.9.1986 एवं 1.9.1988 के संशोधित वेतनमान का निर्धारण कर पेंशन का भुगतान नहीं किया गया है।

परिवाद प्राप्त होने पर विकास अधिकारी, पंचायत समिति, टोडाभीम, जिला करौली से दिनांक 21.3.2001 को तथ्यात्मक प्रतिवेदन मांगा गया जिसके प्रत्युत्तर में उन्होंने अपने पत्र दिनांक 29.3.2001 द्वारा सूचित किया कि स्वर्गीय श्री विरेन्द्र सिंह, अध्यापक का पुनरीक्षित वेतनमान 1986 व 1988 में वेतन निर्धारण किया जाकर मूल सेवा पुस्तिका में इन्द्राज किया जा चुका है तथा पेंशन प्रकरण स्वीकृति हेतु दिनांक 20.2.2001 को संयुक्त निदेशक, पेंशन कार्यालय, कोटा को प्रेषित किया जा चुका है जिस पर परिवादिया को पेंशन स्वीकृत की जा चुकी है।

**एफ. 11(106)लोआस/2001**

परिवादिया श्रीमती माला विश्वा निवासी पारसी चाल, आबूरोड जिला सिरोही ने दिनांक 16.10.2001 को यह परिवाद इन तथ्यों का पेश किया कि उसे दिनांक 1.8.2001 को विधवा पेंशन स्वीकृत की गई थी, परन्तु दो माह व्यतीत हो जाने के बावजूद भी उसे पी.पी.ओ. जारी नहीं किया जा रहा है।

इस संबंध में जिला कलेक्टर, सिरोही से दिनांक 31.12.2001 को तथ्यात्मक प्रतिवेदन मांगा गया जिसके प्रत्युत्तर में उन्होंने अपने पत्र दिनांक 28.6.2002 24.9.2002 द्वारा सूचित किया कि प्रार्थिया को पी.पी.ओ. नं.634 दिनांक 8.1.2002 के अनुसार माह अगस्त, 2001 से फरवरी, 2002 तक का विधवा पेंशन का भुगतान किया जा चुका है व आगे नियमित भुगतान हर माह किया जा रहा है।

**एफ. 10(40)लोआस/2001**

श्री मोहन लाल शर्मा, निवासी झगडेश्वर मोहल्ला, दौसा ने दिनांक 31.3.2002 को यह परिवाद इन तथ्यों का पेश किया कि वह दिनांक 25.2.1975 को कार्यालय, सहायक अभियन्ता (प.व.स.), राजस्थान राज्य विद्युत मण्डल, दौसा से वरिष्ठ लिपिक के पद से सेवानिवृत्त हुआ था, परन्तु बार-बार आवेदन/निवेदन करने पर भी उसे आज तक पेंशन का भुगतान नहीं किया जा रहा है। उसकी उम्र 78 वर्ष की हो चुकी है।

परिवाद पर दिनांक 28.5.2002 को मुख्य प्रबन्ध निदेशक, जयपुर विद्युत वितरण निगम लिमिटेड, जयपुर से तथ्यात्मक प्रतिवेदन मांगा गया जिन्होंने अपने पत्र दिनांक 28.8.2002 द्वारा सूचित किया कि परिवादी के प्रकरण में डुप्लीकेट सेवापुस्तिका तैयार कर प्रकरण दिनांक 1.7.2002 को उप सचिव (पेंशन), राराविप्रनि, जयपुर को प्रेषित किया जा चुका है जिनके द्वारा दिनांक 24.8.2002 को परिवादी को पेंशन स्वीकृत की जा चुकी है तथा पत्र संख्या 4084 दिनांक 24.8.2002 द्वारा पीपीओ/जीपीओ जारी करने हेतु भेज दिया गया है ।

इस प्रकार इस सचिवालय के हस्तक्षेप से परिवादी को करीब 27 वर्ष बाद पेंशन दिलाई गई ।

**एफ. 11(53)लोआस/2001**

श्रीमती उगम देवी पत्नी स्व. श्री बलवन्त सिंह निवासी नया खेड़ा, आबू रोड ने दिनांक 16.7.2001 को यह परिवाद इन तथ्यों का पेश किया कि उसकी विधवा पेंशन माह जनवरी, 2001 में बिना सूचना दिये ही बंद करदी गई है, जिसे शीघ्र दिलवाया जावे ।

इस संबंध में जिला कलेक्टर, सिरोही से पत्र दिनांक 28.8.2001 द्वारा तथ्यात्मक रिपोर्ट मांगी गई जिसके प्रत्युत्तर में उन्होंने अपने पत्र दिनांक 5.11.2001 द्वारा सूचित किया कि परिवादिया को माह अगस्त, 2001 तक की विधवा पेंशन का भुगतान कर दिया गया है और उन्हें नियमित पेंशन का भुगतान किया जा रहा है ।

**एफ. 10(17)लोआस/2001**

परिवादिया श्रीमती गंगा देवी मीणा पत्नी स्व. श्री शंकर राम मीणा निवासी सिरोही ने दिनांक 27.9.2001 को यह परिवाद इन तथ्यों का पेश किया कि उसके पति श्री शंकर राम मीणा की कार्यालय सहायक अभियन्ता (ओ.एण्ड.एम.), विद्युत निगम, आबूपर्वत में सहायक द्वितीय के पद पर सेवारत रहते हुए दिनांक 17.6.1983 को मृत्यु हो गई थी, परन्तु आवश्यक कागजात भरकर कार्यालय में जमा कराने के बावजूद भी उसे विगत 18 वर्षों से पेंशन नहीं दी जा रही है ।

इस संबंध में सहायक आयुक्त (भविष्य निधि), चौपासनी रोड, जोधपुर एवं सचिव, सी.पी.एफ., विद्युत प्रसारण निगम, जोधपुर से दिनांक 12.12.2001 को तथ्यात्मक प्रतिवेदन मांगा गया जिसके प्रत्युत्तर में सचिव (भविष्य निधि न्यास), राज्य विद्युत प्रसारण निगम लिमिटेड, जयपुर ने अपने पत्र दिनांक 5.7.2002 द्वारा सूचित किया कि

श्रीमती गंगादेवी को दिनांक 18 जून, 1983 से 1 जनवरी, 2000 तक की बकाया पेंशन की राशि रूपये 77,735/- रूपये का भुगतान चैक संख्या 701234 दिनांक 15.2.2002 द्वारा किया जा चुका है तथा पी.पी.ओ.नं.79/79 भी जारी किया जा चुका है ।

इस प्रकार इस सचिवालय के हस्तक्षेप से परिवारिया को लगभग 19 वर्ष से लंबित पारिवारिक पेंशन का लाभ दिलाया गया ।

**एफ. 11(117)लोआस/2000**

परिवादी श्री भागीरथ पुत्र श्री तुलछाराम व अन्य निवासी मलसीसर, तहसील सुजानगढ़ जिला चूरू ने दिनांक 18.12.2000 को यह परिवार श्री शुभकरण, भू-अभिलेख निरीक्षक, छपर एवं श्री मांगी लाल, हलका पटवारी, दूंकर के विरुद्ध रिश्वत खाकर प्रार्थी की भूमि के संबंध में गलत रिपोर्ट तैयार करने का प्रस्तुत किया।

इस संबंध में संभागीय आयुक्त तथा जिला कलेक्टर बीकानेर से दिनांक 7.3.2001 को तथ्यात्मक प्रतिवेदन मांगा गया । जिला कलेक्टर, बीकानेर ने अपने पत्र दिनांक 6.8.2001 एवं संभागीय आयुक्त, बीकानेर ने अपने पत्र दिनांक 7.9.2001 द्वारा सूचित किया कि जांच किये जाने पर श्री शुभकरण, भू-अभिलेख निरीक्षक को निर्दोष पाया गया, परन्तु श्री मोहन लाल, पटवारी हलका मलसीसर को रिपोर्ट मौका के अनुसार नहीं बनाने का दोषी पाया गया जिसके विरुद्ध सी.सी.ए. नियमों के अन्तर्गत अलग से कार्यवाही की जा रही है ।

**एफ. 11(68)लोआस/2002**

श्री बृज मोहन, भूतपूर्व सैनिक, निवासी राजपुर, जिला करौली ने दिनांक 1.6.2002 को यह परिवार इन तथ्यों का पेश किया कि उसे आजारी खसरा नं. 498/4 व आराजी खसरा नं. 498/5 रकबा 25 बीघा वाके ग्राम राजपुर तहसील व जिला करौली उसे भूतपूर्व सैनिक होने के कारण दिनांक 6.8.69 को आवंटित हुई थी, परन्तु बार-बार आवेदन करने पर भी उसकी तरमीम आज दिन तक भी नहीं की गई है ।

इस संबंध में दिनांक 4.7.2002 को जिला कलेक्टर, करौली से तथ्यात्मक प्रतिवेदन मांगा गया, जिन्होंने अपने पत्र दिनांक 14.8.2002 द्वारा अवगत कराया कि परिवार को आवंटित भूमि खसरा नं.498 रकबा 15 बीघा की तरमीम करदी गई है ।

**एफ. 11(7)लोआस/2002**

श्रीमती पुष्पा देवी पत्नी स्व. श्री लिच्छमण गुप्ता निवासी कोलायत, जिला बीकानेर ने दिनांक 11.4.2002 को यह परिवार इन तथ्यों का पेश किया कि ग्राम रोही में खेत

खसरा नं. 191/13मिन तादादी 25 बीघा की पैमाइश करने हेतु तहसीलदार श्री ओम प्रकाश जांगिड़ द्वारा रिश्त मांगी जा रही है । अतः उसके खेत की नपती करवाई जावे व दोषी तहसीलदार के विरुद्ध कार्यवाही की जावे ।

इस प्रकरण में जिला कलेक्टर, बीकानेर से दिनांक 19.6.2002 को तथ्यात्मक प्रतिवेदन मांगा गया जिसके प्रत्युत्तर में उन्होंने अपने पत्र दिनांक 10.7.2002 द्वारा सूचित किया कि शिकायत की जांच अतिरिक्त कलेक्टर, बीकानेर से करवाई गई जिसमें तहसीलदार, कोलायत को दोषी नहीं पाया गया । उन्होंने यह भी सूचित किया कि पूर्व में परिवादिया द्वारा पैमाइश हेतु नियमानुसार शुल्क जमा नहीं करवाया गया, इसलिये पैमाइश नहीं करवाई जा सकी । अब नियमानुसार शुल्क जमा करवाने पर पैमाइश करवादी गई है ।

#### एफ. 12(38)लोआस/2001

ग्राम करनावर, तहसील बसवा, जिला दौसा के श्री पप्पू मीणा व अन्य ने दिनांक 7.8.2001 को यह परिवाद इन तथ्यों का पेश किया कि ग्राम करनावर में अकाल राहत के तहत किये गये निर्माण कार्यों में भारी अनियमितता की गई है ।

उक्त परिवाद प्राप्त होने पर जिला कलेक्टर, दौसा से दिनांक 18.10.2001 को तथ्यात्मक रिपोर्ट मांगी गई । जिला कलेक्टर, दौसा ने अपनी रिपोर्ट दिनांक 26.12.2001 द्वारा सूचित किया कि सीसी रोड ग्राम करनावर में मसाला अनुपात 1:3:6 की जगह 1:3:10 का उपयोग किया गया जो मापदण्ड के अनुसार सही नहीं है । राजीव पाठशाला, झण्डूका बास, करनावर के निर्माण कार्य की गुणवत्ता घटिया स्तर पर की गई व भवन मापदण्ड के अनुसार नहीं बनाया गया जिसके लिये कार्यपूर्णता प्रमाण पत्र जारी नहीं किया गया व 10 प्रतिशत राशि रोक ली गई तथा विकास अधिकारी, बांदीकुई को आवश्यक कार्यवाही करने हेतु निर्देशित किया गया। जांच रिपोर्ट के आधार पर सरपंच/सचिव, ग्राम पंचायत, करनावर के विरुद्ध नियमानुसार कार्यवाही हेतु संभागीय आयुक्त, जयपुर को मय जांच रिपोर्ट के आरोप पत्र भिजवा दिया गया है । तत्पश्चात् संभागीय आयुक्त, जयपुर ने अपने पृष्ठांकन दिनांक 9.9.2002 द्वारा सूचित किया कि मामले की जांच कराने पर सरपंच को अकाल राहत कार्यों में अनियमितता करने का दोषी पाया गया तथा पंचायत राज अधिनियम, 1994 की धारा 38 (1) (ख) के तहत दिनांक 18.4.2002 को उसे आरोप पत्र जारी कर दिया गया है ।

जांच में राजीव गांधी पाठशाला, झण्डू का बास , बावड़ी मरम्मत, सावंलिया जी का कार्य, सी.सी.ए. रोड के कार्य में घटिया स्तर की सामग्री का प्रयोग किया जाना पाये जाने पर सहायक अभियन्ता, जिला परिषद, दौसा द्वारा दिये गये सुझावों के अनुसार

कार्य को नये सिरे से पूर्ण करा दिया गया है तथा कार्यों पर हुए व्यय के मुकाबले मूल्यांकन राशि कम आने पर 5085/- एवं 25390/- कुल 31475/- कमशः दिनांक 25.2.2002 व 5.4.2002 को श्रीमती बोदी देवी, सरपंच द्वारा जमा करा दिया गया है।

**एफ. 12(41)लोआस/2001**

श्री राजेश अग्रवाल, सामाजिक कार्यकर्ता, 33 एन ब्लॉक, श्रीगंगानगर ने दिनांक 7.8.2001 को यह परिवाद इन तथ्यों का प्रस्तुत किया कि श्रीगंगानगर में पोषाहार योजना के गेहूँ में भारी अनियमितताएं बरती जा रही है।

इस संबंध में दिनांक 16.10.2001 को जिला कलेक्टर, श्रीगंगानगर से तथ्यात्मक रिपोर्ट मांगी गई जिन्होंने मामले की जांच करवा कर अपने पत्र दिनांक 1.3.2002 द्वारा सूचित किया कि जांच में ब्लॉक प्रारंभिक शिक्षा अधिकारी एवं अतिरिक्त ब्लॉक प्रारंभिक शिक्षा अधिकारी को भारतीय खाद्य निगम के गोदामों से गेहूँ उठा कर अपने कार्यालय में रखवाये जाने, 117 गेहूँ के कट्टे कम पाये जाने, गेहूँ का निर्देशानुसार वितरण नहीं किये जाने व स्टॉक रजिस्टर का सही रूप से संधारण नहीं किये जाने का दोषी पाया गया जिस पर उनके विरुद्ध आरोप पत्र एवं आरोप विवरण पत्र उनके नियुक्ति अधिकारी को अनुशासनात्मक कार्यवाही करने के लिये प्रेषित किये जा रहे हैं।

**एफ. 11(20)लोआस/2001**

श्री अहमद अली, अध्यक्ष, दमामियान सामुदायिक विकास संस्थान, नेहरू चौक, शीतला गेट, बीकानेर ने दिनांक 16.5.2000 को यह परिवाद इन तथ्यों का पेश किया कि श्री अब्दुल सत्तार, वाहन चालक, जिला पूल बीकानेर ने राजकीय सेवा में रहते हुए सउदी अरब में नौकरी की, अपने नाबालिक पुत्र के नाम कृषि भूमि का आवंटन करवा लिया व गलत सूचना व शपथ पत्र देकर पत्नी के नाम से ऋण प्राप्त कर लिया।

उक्त परिवाद के संबंध में संभागीय आयुक्त, बीकानेर से तथ्यात्मक रिपोर्ट मांगी गई जिसके प्रत्युत्तर में उन्होंने अपने पत्र दिनांक 19.12.2001 द्वारा सूचित किया कि प्रकरण की जांच अतिरिक्त जिला मजिस्ट्रेट (नगर), बीकानेर से करवाई गई जिसमें लोकसेवक श्री अब्दुल सत्तार को उक्त आरोपों का दोषी पाया गया जिसके लिये उसके विरुद्ध 16 सीसीए के अन्तर्गत कार्यवाही प्रारंभ की जा चुकी है।

**एफ. 11(116)लोआस/2001**

परिवादी श्री आर.एस.वर्मा निवासी 311 ए, विद्युत नगर, अजमेर रोड, जयपुर ने यह परिवाद दिनांक 16.10.2001 को इन तथ्यों का प्रस्तुत किया कि हनुमानगढ़ जंक्शन के सेक्टर 12/4 के पार्क पर अतिरिक्त कलेक्टर एवं मण्डी सचिव, विकास समिति,

हनुमानगढ़ जंक्शन के अधीनस्थ कार्यरत ओवरसियर श्री मोती राम एवं संबंधित तहसीलदार ने मिलीभगत करके कब्जा कर उस पर निर्माण कार्य करवा लिया है जिसे हटवाने हेतु संबंधित प्रशासनिक अधिकारियों को शिकायतें की, परन्तु अतिक्रमण नहीं हटाया जा रहा है ।

इस संबंध में परिवाद की प्रति जिला कलेक्टर, हनुमानगढ़ को प्रेषित कर तथ्यात्मक प्रतिवेदन मांगा गया जिस पर उन्होंने अपने पत्र दिनांक 2.3.2002 एवं 6.3.2002 द्वारा सूचित किया कि उक्त पार्क पर हुए नाजायज कब्जे को भौतिक रूप से दिनांक 6.3.2002 को पूर्ण रूप से हटा दिया गया है ।

**एफ. 10(2)लोआस/2002**

परिवादिया श्रीमती शांति देवी पत्नी स्व. श्री तुलसाराम निवासी रावतसर, जिला हनुमानगढ़ ने यह परिवाद दिनांक 11.4.2002 को इन तथ्यों का पेश किया कि वह अनुसूचित जाति की गरीब महिला है और एक कच्चे कमरे में रहती है । उसके द्वारा सात वर्ष पूर्व विद्युत कनेक्शन लिया गया था जिसके बिल वह लगातार जमा कराती आ रही है, परन्तु जोधपुर विद्युत वितरण निगम ने लापरवाहीपूर्वक उसे जुलाई, 2001 का रूपये 782.62, सितम्बर, 2001 का रूपये 8845.00, नवम्बर, 2001 का रूपये 13967.00 एवं जनवरी, 2002 का रूपये 19278.00 का भारी बिल बना कर भेज दिया और दीपावली के तीसरे दिन उसका विद्युत संबंध विच्छेद करके मीटर उतार ले गये ।

उपर्युक्तानुसार परिवाद प्राप्त होने पर अधीक्षण अभियन्ता, जोधपुर विद्युत वितरण निगम लि., रावतसर, जिला हनुमानगढ़ से दिनांक 27.6.2002 को तथ्यात्मक प्रतिवेदन मांगा गया जिन्होंने अपने पत्र दिनांक 6.7.2002 द्वारा सूचित किया कि जांच करने पर माह जुलाई, 2001 से जनवरी, 2002 तक के बिल विभागीय तौर पर गलत पाये गये तथा इन्हें संशोधित कर भुगतान योग्य राशि 1366/- का बिल परिवादिया को दिनांक 2.3.2002 को दिया गया, जो उसके द्वारा दिनांक 14.5.2002 को जमा करवा दिया गया है तथा दिनांक 15.5.2002 को पुनः विद्युत कनेक्शन चालू कर दिया गया है।

उन्होंने यह भी सूचित किया कि दोषी कर्मचारी को फरवरी, 2002 में ही जिले से बाहर स्थानान्तरित कर दिया गया है ।

**एफ. 12(50)लोआस/2002**

श्री अर्जुन सिंह राठौड व अन्य ग्रामवासी ग्राम हाजीवास, पंचायत समिति, रायपुर जिला पाली ने यह परिवाद दिनांक 29.7.2002 को इन तथ्यों का पेश किया कि ग्राम पंचायत, हाजीवास के सरपंच श्री मोहन लाल के दिनांक 2 मार्च, 2002 को तीसरी

संतान होने पर भी उसे अयोग्य घोषित नहीं किया जा रहा है । इस संबंध में विधानसभा में भी प्रश्न उठा था तथा संभागीय आयुक्त, जोधपुर को आवश्यक कार्यवाही हेतु लिखा गया था, परन्तु उनके द्वारा कोई कार्यवाही नहीं की गई है ।

परिवाद प्राप्त होने पर दिनांक 29.8.2002 मुख्य सचिव, राजस्थान सरकार, जयपुर से तथ्यात्मक प्रतिवेदन मांगा गया । मुख्य सचिव ने अपने पत्र दिनांक 1.10.2002 द्वारा सूचित किया कि प्रकरण में संभागीय आयुक्त, जोधपुर द्वारा दिनांक 25.9.2002 को निर्णय पारित करके श्री मोहन लाल चौधरी को सरपंच पद के अयोग्य घोषित कर दिया गया है ।

इस प्रकार लोकायुक्त सचिवालय के हस्तक्षेप से परिवादीगण को समुचित अनुतोष किया गया ।

#### एफ. 2(5)लोआस/2002

परिवादी श्री विरेन्द्र कुमार बी.जवेरिया, सेवानिवृत्त उप निदेशक (अभियांत्रिकी), कृषि विभाग, निवासी 429, शान्ता सदन, भूपालपुरा, उदयपुर ने दिनांक 3.7.2002 को यह परिवाद इन तथ्यों का पेश किया कि वह दिनांक 1.5.2002 को उप निदेशक, राज्य कृषि प्रबन्ध संस्थान, जयपुर के पद से सेवानिवृत्त हुए थे, परन्तु उनका अब तक भी पेंशन प्रकरण का निस्तारण नहीं हुआ है ।

इस संबंध में प्राचार्या, राज्य कृषि प्रबन्ध संस्थान, दुर्गापुरा से दिनांक 31.7.2002 को तथ्यात्मक प्रतिवेदन मांगा गया जिसके प्रत्युत्तर में उन्होंने अपने पृष्ठांकन दिनांक 20.8.2002 द्वारा सूचित किया कि परिवादी का पेंशन प्रकरण तैयार कर पेंशन विभाग को भिजवा दिया गया है।

#### एफ. 2(4)लोआस/1999

श्री रामचन्द्र शर्मा, सहायक कृषि अधिकारी, अकलेरा, जिला झालावाड़ ने दिनांक 11.8.1999 को यह परिवेदना प्रस्तुत की कि उसे दिनांक 20.7.1979 को कृषि विभाग द्वारा निलंबित किया गया तथा दफा 420, 467, 468, 419 तथा 471 के अन्तर्गत न्यायालय, बूंदी में मुकदमा चलाया गया जिसमें उसे दिनांक 27.8.1998 को बरी कर दिया गया, परन्तु उसे सेवा में बहाल नहीं किया जा रहा है तथा उसकी बीमा की रकम भी अदा नहीं की जा रही है ।

इस प्रकरण के संबंध में निदेशक, कृषि विभाग, राजस्थान, जयपुर से दिनांक 6.3.2000 को तथ्यात्मक प्रतिवेदन मांगा गया । काफी लम्बे पत्राचार के बाद उप

निदेशक, कृषि (प्रशासन), कृषि निदेशालय, जयपुर ने अपने अंतिम पत्र दिनांक 21.6.2002 द्वारा सूचित किया कि श्री रामचन्द्र शर्मा, सेवानिवृत्त सहायक कृषि अधिकारी के पेंशन स्वीकृति बाबत प्रकरण का निस्तारण कर दिया गया है ।

**एफ. 4(10)लोआस/2000**

अध्यक्ष तथा महामंत्री, गंगानगर डेयरी एम्पलाइज यूनियन, हनुमानगढ़ जंक्शन ने दिनांक 10.10.2000 को गंगमूल डेयरी में पनप रहे भ्रष्टाचार पर अंकुश लगाने व इसकी जांच कर भ्रष्ट अधिकारियों के विरुद्ध कार्यवाही करने हेतु यह परिवाद प्रस्तुत किया ।

उक्त परिवाद के संबंध में दिनांक 28.11.2000 को जिला कलेक्टर, हनुमानगढ़ से तथ्यात्मक रिपोर्ट मांगी गई जिन्होंने प्रकरण की जांच सहायक कलेक्टर (मुख्यालय), हनुमानगढ़ से करवाकर जांच रिपोर्ट इस सचिवालय को प्रेषित की जिसमें भारी अनियमितताएं उजागर हुईं। अतः जांच रिपोर्ट की प्रति प्रबन्ध संचालक, राजस्थान कॉ-ऑपरेटिव डेयरी फ़ैडरेशन, जयपुर को प्रेषित कर अपने स्तर पर जांच पूर्ण कर जांच रिपोर्ट भिजवाने हेतु दिनांक 26.11.2001 को लिखा गया जिन्होंने अपने पत्र दिनांक 30.6.2002 द्वारा सूचित किया कि मामले की जांच करने पर **सर्वश्री पी.के.शर्मा, क्रय अधिकारी एवं सुरेश चन्द शर्मा, कनिष्ठ लेखाकार को डुप्लिकेट बियरिंग क्रय करने, प्लान्ट एवं मशीनरी संबंधी सामान की खरीद में अनियमितता करने, दुग्ध पाउडर परिवहन के किराये के भुगतान में अनियमितता करने, खराब फरनेस ऑयल क्रय करने एवं प्राविडेन्ट फण्ड का फर्जी चालानों से भुगतान करने का दोषी पाया गया । तदुपरान्त गंगानगर जिला दुग्ध उत्पादक सहकारी संघ लिमिटेड, जिला हनुमानगढ़ ने अपने पत्र दिनांक 11.7.2002 द्वारा सूचित किया कि उक्त दोनों लोकसेवकों को दोषी पाये जाने पर संघ की सेवा से पृथक कर दिया गया है ।**

**एफ. 5(48)लोआस/2001**

श्री सोहन लाल सेवानिवृत्त प्रधानाध्यापक निवासी मकान नं. 360/26, बिहारी लाल के कुए की गली, रामगंज, अजमेर ने दिनांक 25.10.2001 को यह परिवाद इन तथ्यों का पेश किया कि वह राज्य सेवा से दिनांक 31.5.2001 को सेवानिवृत्त हुए थे, परन्तु उन्हें कई बार आवेदन करने पर पेंशन व अन्य देय परिलाभों का भुगतान नहीं किया जा रहा है ।

इस संबंध में निदेशक, प्रारंभिक शिक्षा, बीकानेर से दिनांक 20.4.2002 को तथ्यात्मक प्रतिवेदन मांगा गया जिसके प्रत्युत्तर में उन्होंने अपने पत्र दिनांक 22.6.2002 द्वारा सूचित किया कि परिवादी के पेंशन प्रकरण का निस्तारण माह फरवरी, 2002 में

निर्णीत किया जा चुका है और उसके पक्ष में पी.पी.ओ. व जी.पी.ओ. जारी किये जा चुके हैं ।

**एफ. 5(89)लोआस/2001**

श्रीमती सरला देवी पत्नी स्व. श्री उत्तम चन्द गुप्ता ने दिनांक 31.3.2002 को इन तथ्यों का परिवाद प्रस्तुत किया कि उसके पति श्री उत्तम चन्द गुप्ता का राजकीय मिडिल स्कूल, कलमंडा, जिला टोंक में सेवारत रहते हुए दिनांक 25.9.1963 को देहावसान हो गया था, परन्तु उसे आज दिनांक तक पेंशन का भुगतान नहीं किया गया है ।

परिवादिया की व्यथा को देखते हुए परिवाद की प्रति निदेशक, माध्यमिक शिक्षा, राजस्थान, बीकानेर को प्रेषित कर तथ्यात्मक रिपोर्ट मांगी गई जिसके प्रत्युत्तर में उन्होंने सूचित किया कि परिवादिया को दिनांक 1.9.88 से स्वीकृति संख्या 800524 दिनांक 10.4.2002 द्वारा पारिवारिक पेंशन स्वीकृत की जा चुकी है।

इस प्रकार परिवादिया को इस सचिवालय के हस्तक्षेप से 39 वर्ष से लंबित पारिवारिक पेंशन दिलाई गई ।

**एफ. 5(4)लोआस/2001**

परिवादिया राजकुमारी पाराशर, पूर्व अध्यापिका निवासी 11/1482, मालवीय नगर, जयपुर ने दिनांक 20.4.2001 को इन तथ्यों का परिवाद प्रस्तुत किया कि उसने दिनांक 17.1.2001 को कैंसर से पीड़ित होने के कारण ऐच्छिक सेवानिवृत्ति लेली थी, परन्तु उसे अभी तक पेंशन का भुगतान नहीं किया जा रहा है ।

इस संबंध में जिला शिक्षा अधिकारी, प्राथमिक शिक्षा, जयपुर से दिनांक 4.5.2001 को तथ्यात्मक प्रतिवेदन मांगा गया जिसके प्रत्युत्तर में उन्होंने अपने पत्र दिनांक 14.8.2002 द्वारा सूचित किया कि परिवादिया के पेंशन प्रकरण का निस्तारण कर दिनांक 27.7.2002 को उसके पक्ष में पी.पी.ओ. व जी.पी.ओ. जारी किये जा चुके हैं ।

**एफ. 5(12)लोआस/2001**

परिवादी श्री रूडमल वर्मा निवासी 6/37, देवजी भवन, श्रीमाधोपुर जिला सीकर ने दिनांक 2.6.2001 को यह परिवाद इन तथ्यों का प्रस्तुत किया कि वह दिनांक 28.2.2001 को प्राध्यापक (स्कूल शिक्षा), हिन्दी के पद से राजकीय उच्च माध्यमिक विद्यालय, श्रीमाधोपुर से सेवानिवृत्त हुए थे और पेंशन प्रकरण तैयार कर समय पर

भिजवा दिया गया था, परन्तु उसे आज दिनांक तक भी पेंशन व अन्य देय परिलाभों का भुगतान नहीं किया जा रहा है ।

अतः दिनांक 5.7.2001 को परिवार की प्रति निदेशक, माध्यमिक शिक्षा, बीकानेर एवं जिला शिक्षा अधिकारी (द्वितीय), सीकर को प्रेषित कर तथ्यात्मक प्रतिवेदन मांगा गया । काफी लम्बे पत्राचार के पश्चात् निदेशक, माध्यमिक शिक्षा, बीकानेर ने अपने अंतिम पत्र दिनांक 11.2.2002 द्वारा सूचित किया कि परिवादी को पेंशन निदेशालय द्वारा पी.पी.ओ. व जी.पी.ओ. जारी कर दिया गया है ।

#### एफ. 5(46)लोआस/2002

श्री ओम प्रकाश तिवाड़ी, निवासी वार्ड नं. 18, जोरावरपुरा, नोखा, जिला बीकानेर ने दिनांक 4.9.2002 को यह परिवार इन तथ्यों का प्रस्तुत किया कि श्री मनोज कुमार मान, अध्यापक, राजकीय गणेशमल खूमचन्द गट्टाणी बालिका उच्च प्राथमिक विद्यालय, नोखा विद्यालय में अनुपस्थित रहते हुए भी वेतन उठा रहा है जिसकी जांच श्री सत्यनारायण पारीक, अतिरिक्त शिक्षा अधिकारी ने की तो श्री मान को दोषी पाया, परन्तु श्री शिवजी राम चौधरी, जिला शिक्षा अधिकारी ने श्री मान को अपनी जाति को होने के कारण उल्टे श्री पारीक का ही स्पष्टीकरण मांग लिया । अतः उक्त दोनों लोकसेवकों के विरुद्ध कार्यवाही की जावे ।

अतः परिवार की प्रति प्रेषित करते हुए निदेशक, प्राथमिक शिक्षा, बीकानेर से दिनांक 23.9.2002 को तथ्यात्मक प्रतिवेदन मांगा गया जिन्होंने अपने पत्र दिनांक 3.1.2003 द्वारा सूचित किया कि श्री सत्य नारायण पारीक को जांच के आदेश श्री शिवजी राम चौधरी, जिला शिक्षा अधिकारी द्वारा ही दिये गये थे और उनकी जांच रिपोर्ट के आधार पर ही श्री मनोज कुमार मान को दोषी मानते हुए उसके विरुद्ध दिनांक 23.8.2002 को 17 सी.सी.ए. के अन्तर्गत अनुशासनात्मक कार्यवाही कर दण्डित किया जा चुका है ।

#### एफ. 6(2)लोआस/2002

श्रीमती सुदर्शन मेहता निवासी बीकानेर ने दिनांक 11.4.2002 को यह परिवार इन तथ्यों का पेश किया कि वह राजकीय सीनियर महारानी बालिका उच्च माध्यमिक विद्यालय से उप प्रधानाचार्य के पद से दिनांक 31.7.1999 को सेवानिवृत्त हुई थी, परन्तु उसके पेंशन प्रकरण का निस्तारण नहीं किया गया है ।

इस संबंध में निदेशक, माध्यमिक शिक्षा, बीकानेर से दिनांक 19.6.2002 को तथ्यात्मक प्रतिवेदन मांगा गया जिसके प्रत्युत्तर में उन्होंने अपने पत्र दिनांक 22.10.2002

द्वारा सूचित किया कि वित्तीय नियम संबंधी अस्पष्टता के कारण प्रकरण राज्य सरकार को प्रेषित किया गया है व पेंशन प्रकरण में हो रहे विलम्ब को मद्देनजर रखते हुए परिवादिया के पक्ष में प्रोवीजनल पेंशन की स्वीकृती की जा कर पी.पी.ओ. व जी.पी.ओ. जारी किये जा चुके हैं । उन्होंने अपने अंतिम पत्र दिनांक 20.2.2003 द्वारा सूचित किया कि राज्य सरकार को पूरी स्थिति से अवगत कराते हुए नियमों में आवश्यक संशोधन किये जाने हेतु प्रस्ताव भिजवाया गया है । आवश्यक संशोधन होने के पश्चात् ही प्रकरण में आगामी कार्यवाही किया जाना संभव हो सकेगा ।

**एफ. 9(3)लोआस/2001**

डा. धर्मवीर, मंत्री, परोपकारिणी सभा, केसरगंज, अजमेर ने दिनांक 18.5.2001 को यह परिवाद इन तथ्यों का प्रस्तुत किया कि ऋषि उद्यान, पुष्कर रोड, अजमेर में सांसद कोटा के तहत् सीमेंट-कंक्रीट की सड़क के निर्माण में मापदण्डों का पालन नहीं किया गया जिससे यह रोड पहली बार में ही बैठ गई है । अतः इसकी जांच करवा कर दोषियों के विरुद्ध आवश्यक कार्यवाही की जावे ।

इस संबंध में मुख्य अभियन्ता, सार्वजनिक निर्माण विभाग, राजस्थान, जयपुर से दिनांक 26.6.2001 को तथ्यात्मक प्रतिवेदन मांगा गया जिसके प्रत्युत्तर में उन्होंने अधीक्षण अभियन्ता, सार्वजनिक निर्माण विभाग, वृत्त-अजमेर से जांच करवा कर जांच रिपोर्ट इस सचिवालय को अपने पत्र दिनांक 27.10.2001 द्वारा प्रेषित की । जांच में यह तथ्य सामने आया कि पर्याप्त सीमेंट स्लरी के अभाव में हंगरी सरफेस उत्पन्न हो गया है व ऊपरी सतह की फिनिशिंग कहीं-कहीं सही प्रकार से नहीं की गई है । कार्य में मापदण्ड के अनुसार नहीं किया गया । उन्होंने अपने पत्र दिनांक 15.1.2002 द्वारा सूचित किया कि ठेकेदार से अंतिम बिल में राशि 26,739/- रूपये की वसूली करली गई है।

**एफ. 8(57)लोआस/2001**

परिवादिया श्रीमती सुशीला शर्मा पत्नी स्व. श्री महेश चन्द शर्मा निवासी मिश्र मोहल्ला, महवा, जिला दौसा ने दिनांक 31.12.2001 को यह परिवाद इन तथ्यों का प्रस्तुत किया कि उसके पति श्री महेश चन्द शर्मा का राजकीय सेवा में रहते हुए दिनांक 1.1.2001 को स्वर्गवास हो गया, परन्तु डा. अखिलेश श्रीवास्तव दुर्भाग्यवश उसे पारिवारिक पेंशन व अन्य देय परिलाभों का भुगतान नहीं होने दे रहे हैं ।

इस संबंध में निदेशक, चिकित्सा एवं स्वास्थ्य सेवाएं, राज., जयपुर से दिनांक 30.5.2002 को तथ्यात्मक प्रतिवेदन मांगा गया जिसके प्रत्युत्तर में निदेशक (एडस), चिकित्सा एवं स्वास्थ्य सेवाएं, जयपुर ने अपने पत्र दिनांक 24.7.2002 द्वारा सूचित किया कि स्व. श्री महेश चन्द शर्मा, कनिष्ठ लिपिक, सामुदायिक स्वास्थ्य केन्द्र, टोडाभीम के

बकाया अवकाश प्रकरण, फिक्सेशन एरियर, राज्य बीमा क्लेम एवं वेतन आदि का भुगतान परिवादिया को कर दिया गया है एवं पेंशन कुलक आक्षेपों की पूर्ति कर पेंशन विभाग को एवं जी.पी.एफ. क्लेम बीमा विभाग को स्वीकृति हेतु भिजवा दिया गया है।

**एफ. 8(3)लोआस/2001**

परिवादिया श्रीमती सुरजानी देवी पत्नी स्व. श्री रामेश्वर सिंह निवासी ग्राम दुल्हेपुरा, खण्डेला, जिला सीकर ने दिनांक 10.4.2001 को यह परिवाद इन तथ्यों का प्रस्तुत किया कि उसके पति श्री रामेश्वर सिंह का मेल नर्स के पद पर राजकीय सेवा में रहते हुए दिनांक 8.7.2000 को स्वर्गवास हो गया, परन्तु उसे अभी तक भी पारिवारिक पेंशन का भुगतान नहीं किया जा रहा है और केवल संबंधित कार्यालय द्वारा आश्वासन ही दिये जा रहे हैं ।

इस संबंध में मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी, जयपुर से दिनांक 15.5.2001 को तथ्यात्मक प्रतिवेदन मांगा गया जिसके प्रत्युत्तर में उन्होंने अपने पत्र दिनांक 8.8.2001 व दिनांक 17.11.2001 द्वारा सूचित किया कि परिवादिया को मृतक कर्मचारी के समस्त बकाया का भुगतान किया जा चुका है और उसके पक्ष में दिनांक 1.8.2001 को पी.पी.ओ. व जी.पी.ओ. जारी किया जा चुका है, पेंशन प्रकरण के निस्तारण में विलम्ब का कारण सेवापुस्तिका के अपूर्ण होना बताया गया ।

**एफ. 8(11)लोआस/1998**

श्रीमती कमलेश शर्मा निवासी मकान नं. 139/1, शास्त्री नगर, मेरठ, उत्तर प्रदेश ने दिनांक 15.9.98 को यह परिवाद इन तथ्यों का पेश किया कि उसके पति श्री रामकुमार शर्मा प्राथमिक स्वास्थ्य केन्द्र, भाण्डरेज, जिला दौसा में सहायक स्वास्थ्य कार्यकर्ता के पद पर कार्यरत थे । सेवाकाल में ही वे बिना पूर्व सूचना के कार्यालय से गायब हो गये और आज 24 वर्ष बाद भी वह वापिस लौट कर नहीं आये हैं । उसने पारिवारिक पेंशन व अन्य देय परिलाभ दिलाये जाने व उसके पुत्र को अनुकम्पा के आधार पर राज्य सेवा में नियुक्ति दिलाये जाने हेतु संबंधित विभाग को कई बार लिखा, परन्तु उसकी कोई सुनवाई नहीं हुई । अतः उसे राहत प्रदान की जावे ।

इस संबंध में चिकित्सा एवं स्वास्थ्य निदेशालय, जयपुर एवं राज्य सरकार से काफी लम्बा पत्राचार किया गया । इस सचिवालय के अथक प्रयासों के फलस्वरूप, जैसाकि अतिरिक्त निदेशक (प्रशासन), चिकित्सा एवं स्वास्थ्य सेवाएं, राजस्थान, जयपुर ने अपने पत्र दिनांक 5.6.2002 द्वारा सूचित किया, परिवादिया के पति को मृत मानते हुए उसके पक्ष में पी.पी.ओ. एवं जी.पी.ओ. जारी कर दिये गये व उसके पुत्र श्री दीपक शर्मा को अनुकम्पा के आधार पर कनिष्ठ लिपिक के पद पर नियुक्ति प्रदान करदी गई।

इस प्रकार परिवादिया को इस सचिवालय के हस्तक्षेप समुचित अनुतोष प्रदान किया गया।

**एफ. 9(6)लोआस/2002**

परिवादी श्री सेदूराम कुमावत दिनांक 4.6.2002 को यह परिवाद इन तथ्यों का प्रस्तुत किया कि वह दिनांक 30.4.2001 को उपखण्ड-9, सार्वजनिक निर्माण विभाग, दुर्गापुरा, जयपुर से मैसन के पद से सेवानिवृत्त हुआ था, परन्तु उसके वर्ष 1998 से रूपये 25,000/- के लगभग लंबित मेडिकल बिलों का भुगतान येन-केन-प्रकारेण नहीं किया जा रहा है ।

इस संबंध में मुख्य अभियन्ता, सार्वजनिक निर्माण विभाग, राजस्थान, जयपुर से दिनांक 29.6.2002 को तथ्यात्मक प्रतिवेदन मांगा गया जिसके प्रत्युत्तर में उन्होंने अपने पत्र दिनांक 28.8.2002 द्वारा सूचित किया कि परिवादी को बकाया मेडिकल बिलों की राशि रूपये 23,228/- का भुगतान दिनांक 22.7.2002 को कर दिया गया है । इस संबंध में परिवादी ने अपने पत्र दिनांक 28.8.2002 द्वारा इस सचिवालय के सहयोग के लिये आभार प्रकट किया ।

इस प्रकार इस सचिवालय के हस्तक्षेप से परिवादी को लगभग चार साल से बकाया मेडिकल बिलों का भुगतान दिलाया गया ।

**एफ. 8(31)लोआस/2001**

परिवादिया आशा रानी मैसी निवासी सिविल लाइन्स, अजमेर ने दिनांक 13.9.2001 को यह परिवाद इन तथ्यों का पेश किया कि उसने दिनांक 30.6.1999 को ऐच्छिक सेवानिवृत्ति ली थी, परन्तु उसे आज दिन तक भी पेंशन व अन्य देय परिलाभों का भुगतान नहीं किया जा रहा है ।

इस संबंध में मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी, अजमेर, मुख्यालय ब्यावर से तथ्यात्मक प्रतिवेदन मांगा गया जिसके प्रत्युत्तर में उन्होंने अपने पत्र दिनांक 16.1.2002 द्वारा सूचित किया कि परिवादिया का पेंशन एवं अन्य देय परिलाभों के प्रकरण का निपटारा कर दिया गया है ।

**एफ. 8(34)लोआस/2000**

परिवादिया पुष्पादेवी निवासी भरतपुर ने दिनांक 10.11.2000 को यह परिवाद इन तथ्यों का पेश किया कि उसने दिनांक 30.6.2000 को सामुदायिक स्वास्थ्य केन्द्र, रूपबास, भरतपुर में एल.एच.बी. के पद पर रहते हुए ऐच्छिक सेवानिवृत्ति ली थी, परन्तु उसे आज दिन तक भी चयनित वेतनमान तथा पेंशन व अन्य देय परिलाभों का भुगतान नहीं किया जा रहा है ।

इस संबंध में मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी, भरतपुर से तथ्यात्मक प्रतिवेदन मांगा गया जिसके प्रत्युत्तर में उन्होंने पत्र दिनांक 21.9.2001 द्वारा सूचित किया कि परिवादिया को पेंशन एवं अन्य बकाया देय परिलाभों भुगतान कर दिया गया है ।

**एफ. 8(15)लोआस/2001**

परिवादिया श्रीमती सुमन दयाल निवासी कोटा ने दिनांक 14.6.2001 को इय परिवाद इन तथ्यों का पेश किया कि उसके पति श्री ओस्टिन दयाल, मेल नर्स-2 का राजकीय चिकित्सालय, भीमगंज, कोटा में सेवारत रहते दिनांक 9.6.2000 को निधन हो गया था । उसने पारिवारिक पेंशन दिलाने हेतु मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी, कोटा को कई बार निवेदन किया, परन्तु 12 माह व्यतीत हो जाने के पश्चात् भी उसे आश्वासन के सिवाय कुछ नहीं मिला है । अतः उसे शीघ्र पेंशन दिलाई जावे ।

इस संबंध में मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी, कोटा से दिनांक 10.7.2001 को तथ्यात्मक प्रतिवेदन मांगा गया जिसके प्रत्युत्तर में उन्होंने अपने पत्र दिनांक 22.10.2001 द्वारा सूचित किया कि परिवादिया को दिनांक 31.8.2001 को पीपीओ व जीपीओ जारी किये जा चुके हैं ।

**एफ. 26(2)लोआस/2001**

परिवादी श्री प्रदीप कुमार भोजक, निवासी बीकानेर ने यह परिवाद दिनांक 12.4.2001 को इन तथ्यों का पेश किया कि श्री राजेश कुमार रंगा, जो कि नालन्दा स्कूल संस्था के प्रधानाध्यापक हैं, को नियम विरुद्ध तरीके से चक 5 पी.एस.एम. में भूमि का आवंटन कर दिया गया । उसने उक्त आवंटन को निरस्त करवाने हेतु उप निवेशन विभाग को कई बार शिकायतें की, परन्तु कोई कार्यवाही नहीं की गई । अतः उक्त नियम विरुद्ध आवंटन को निरस्त करवाया जावे ।

इस संबंध में उपायुक्त, उपनिवेशन विभाग, बीकानेर से दिनांक 15.5.2001 को तथ्यात्मक प्रतिवेदन मांगा गया जिसके प्रत्युत्तर में उनके कार्यालय के पत्र दिनांक 12.7.2002 द्वारा सूचित किया कि मामले की जांच करने पर आवंटन नियम विरुद्ध पाये

जाने पर निर्णय दिनांक 24.4.2002 द्वारा श्री राजेश कुमार रंगा के पक्ष में किया गया उक्त भूमि का आवंटन निरस्त कर दिया गया है ।

**एफ. 47(9)लोआस/2001**

श्रीमती रामप्यारी पत्नी श्री धनपतराम निवासी भादरा, जिला हनुमानगढ़ ने दिनांक 20.3.2002 को यह परिवाद इन तथ्यों का पेश किया कि उसके पुत्र श्री प्रहलाद सिंह की तृतीय श्रेणी के अध्यापक के पद पर सेवारत रहते दिनांक 2.11.1997 को मृत्यु हो गई । परिवादिया का यह भी कथन है कि वह और उसका पति शारिरिक रूप से अक्षम हैं, अतः उन्हें पारिवारिक पेंशन दिलाई जावे ।

इस संबंध में निदेशक, क्षेत्रीय कार्यालय, पेंशन विभाग, बीकानेर से दिनांक 26.4.2002 को तथ्यात्मक रिपोर्ट मांगी गई जिसके प्रत्युत्तर में उन्होंने अपने पत्र दिनांक 3.6.2002 द्वारा सूचित किया कि स्व. प्रहलाद सिंह का पेंशन प्रकरण उनके कार्यालय को दिनांक 29.8.2001 को प्राप्त हुआ था जिसमें दिनांक 22.9.2001 को पी.पी.ओ. जारी कर दिया गया, परन्तु भूलवश पारिवारिक पेंशन अधिकृति जारी होने से शेष रह गई जिसका निस्तारण दिनांक 29.5.2002 को कर पारिवारिक पेंशन जारी की जा चुकी है । उन्होंने प्रकरण के निस्तारण में हुए विलम्ब के लिये खेद भी प्रकट किया ।

**एफ. 42(2)लोआस/2000**

श्रीमती सुशीला बाई पत्नी स्व. श्री रामचन्द्र कीर्तनिया निवासी दादाबाड़ी, कोटा ने दिनांक 13.9.2000 को यह परिवाद इन तथ्यों का पेश किया कि उसके पति स्व. श्री रामचन्द्र कीर्तनिया सहायक आयुक्त, देवस्थान विभाग, कोटा के कार्यालय में चतुर्थ श्रेणी कर्मचारी के पद पर कार्यरत थे जो दिनांक 22.7.1977 को सेवानिवृत्त हुए । उसे विभाग द्वारा 100/- रूपये मासिक से पेंशन राशि स्वीकृत की गई थी । दिनांक 8.12.1978 को श्री कीर्तनिया की मृत्यु हो गई । श्री कीर्तनिया की मृत्यु से करीब 16 वर्ष पूर्व उनकी पत्नी का देहान्त हो गया जिसके उपरान्त उन्होंने परिवादिया से जाति के रस्मों के तहत् नाता किया था जिससे उसके तीन संताने हुई । श्री कीर्तनिया ने दिनांक 5 मई, 1977 को परिवादिया के हक में ग्रेच्युटी की राशि, फ़ैमिली पेंशन व राज्यबीमा राशि बाबत वसीयतनामा निष्पादित करवा दिया था। जिला एवं सेशन न्यायालय, कोटा ने उसके पक्ष में उत्तराधिकार प्रमाण पत्र भी जारी कर दिया तो भी उसे पारिवारिक पेंशन व देय परिलाभों का भुगतान नहीं किया जा रहा है ।

इस संबंध में संबंधित विभागों से काफी लम्बा पत्राचार किया गया और अंत में निदेशक, पेंशन निदेशालय, जयपुर ने अपने पत्र दिनांक 25.6.2001 द्वारा सूचित किया कि प्रकरण का परीक्षण कर पारिवारिक पेंशन भुगतान अधिकृति सं.701032 (आर)एसएफ एवं

उपादान भुगतान अधिकृति सं. 706282(आर)के टीएसएफ पत्रांक 2115-17 दिनांक 15.6.2001 द्वारा परिवारिया को दस्ती दे दी गई है ।

**एफ. 35(107)लोआस/2001**

श्रीमती कमला पत्नी स्व. श्री शंकर लाल भील, निवासी आबूरोड ने दिनांक 4.2.2002 को यह परिवार इन तथ्यों का पेश किया कि उसने विधवा पेंशन हेतु आवेदन पत्र दिनांक 1.6.2001 को जमा करवाया था, परन्तु आज तक भी विधवा पेंशन का भुगतान नहीं किया गया है जो दिलवाया जावे ।

इस संबंध में जिला कलेक्टर, सिरोही से दिनांक 19.4.2002 को तथ्यात्मक प्रतिवेदन मांगा गया जिसके प्रत्युत्तर में उन्होंने पत्र दिनांक 26.9.2002 द्वारा सूचित किया कि प्रार्थिया के हक में कोषाधिकारी, सिरोही द्वारा पी.पी.ओ. नं. 1235 जारी करके उप कोषाधिकारी, आबूरोड को भुगतान हेतु भेज दिया गया है।

**एफ. 35(29)लोआस/2002**

श्री राम अवतार निवासी आबूरोड ने दिनांक 25.5.2002 को यह परिवार इन तथ्यों का पेश किया कि उसने वृद्धावस्था पेंशन हेतु दिनांक 2 अक्टूबर, 2001 को आवेदन जमा करवाया था, परन्तु उसे आज दिनांक तक भी पेंशन का भुगतान नहीं किया जा रहा है ।

इस संबंध में जिला कलेक्टर, सिरोही से दिनांक 4.7.2002 को तथ्यात्मक प्रतिवेदन मांगा गया जिसके प्रत्युत्तर में उन्होंने अपने पत्र दिनांक 3.8.2002 द्वारा सूचित किया कि प्रार्थी के हक में दिनांक 11.6.2002 को पेंशन स्वीकृत की जाकर भुगतान किया जा रहा है ।

**एफ. 35(35)लोआस/2001**

श्री भजना निवासी राजाखेड़ा ने दिनांक 18.7.2001 को यह परिवार इन तथ्यों का पेश किया कि उसे दिनांक 15.9.1999 को ही पेंशन स्वीकृत हो चुकी थी, परन्तु उसका भुगतान आज तक भी नहीं किया गया है ।

इस संबंध में जिला कलेक्टर, धौलपुर से दिनांक 12.9.2001 को तथ्यात्मक प्रतिवेदन मांगा गया जिसके प्रत्युत्तर में उन्होंने अपने पत्र दिनांक 28.6.2002 द्वारा सूचित किया प्रार्थी के आवेदन पत्र में विरोधाभास होने से उसमें संशोधन करवाया जाकर दिनांक 25.6.02 को पी.पी.ओ. जारी कर पेंशन का प्रथम भुगतान कर दिया गया है।

एफ. 31(10)लोआस/1998

श्रीमती सरोज देवी पत्नी स्व. श्री बालकिशन शर्मा, निवासी बुद्ध विहार, दिल्ली ने दिनांक 17.11.1998 को यह परिवाद इन तथ्यों का पेश किया कि उसके पति स्व. श्री बालकिशन शर्मा जन स्वास्थ्य अभियांत्रिकी विभाग में सहायक अभियन्ता के पद पर कार्यरत थे जिनका दिनांक 24.11.1995 को देहान्त हो गया, परन्तु उसे तीन वर्ष व्यतीत हो जाने के पश्चात् भी पेंशन, ग्रेच्यूटी, जी.पी.एफ. तथा राज्य बीमा इत्यादि का भुगतान नहीं किया जा रहा है ।

इस संबंध में मुख्य अभियन्ता, जनस्वास्थ्य अभियांत्रिकी विभाग, राजस्थान, जयपुर एवं निदेशक, राज्य बीमा एवं प्रावधायी निधि विभाग, जयपुर से पत्राचार किया गया ।

मुख्य अभियन्ता, जनस्वास्थ्य अभियांत्रिकी विभाग, जयपुर ने अपने पत्र दिनांक 19.5.1999 द्वारा अवगत कराया कि स्व.श्री बाल किशन शर्मा के संबंध में पी.पी.ओ. नं.500364 दिनांक 31.7.1998 के द्वारा प्रोवीजनल पेंशन पत्रक और रूपये 48,676/- की ग्रेच्यूटी के संबंध में भी स्वीकृति आदेश जारी कर दिये गये हैं । चूँकि श्री बाल किशन शर्मा दिनांक 24.7.1991 से 23.11.1995 की अवधि में निलम्बित रहे थे और उनकी मृत्यु 24.11.1995 को हुई थी, अतः निलम्बन काल में वेतन तथा निर्वाह भत्ते के अन्तर की राशि रूपये 62,253/- का भुगतान जरिये डी.डी. दिनांक 3.4.1999 द्वारा कर दिया गया है ।

उन्होंने यह भी सूचित किया कि स्व. श्री बाल किशन शर्मा के पुत्र श्री दीपक कुमार को अनुकम्पा के आधार पर दिनांक 11.1.1996 को कनिष्ठ लिपिक के पद पर नियुक्ति दी जा चुकी है । निदेशक, राज्य बीमा एवं प्रावधायी निधि विभाग, जयपुर ने अपने पत्र दिनांक 13.12.2001 एवं 27.9.2002 द्वारा सूचित किया कि परिवारिया को दिनांक 12.9.2000 को अधिकार पत्र सं. 025429 द्वारा राशि 47,895/- का बीमा का भुगतान तथा अधिकार पत्र सं. 26811 दिनांक 17.9.2002 द्वारा जी.पी.एफ राशि रूपये 89,247/- का भुगतान किया चुका है । प्रकरण में देरी का कारण स्वत्व प्रपत्र में मृतक लोकसेवक के पदस्थापन का सम्पूर्ण विवरण अंकित न होना बताया गया।

इस प्रकार इस सचिवालय के अथक प्रयासों से व संबंधित विभागों के सहयोग से परिवारिया को काफी समय से लंबित पेंशन व अन्य बकाया देय परिलाभों का भुगतान किया गया ।

**एफ. 31(20)लोआस/2000**

परिवादी श्री रविन्द्र बोहरा, जिला अध्यक्ष एवं राज्य महामंत्री, राजस्थान मिनिस्ट्रियल सर्विसेज एसोसियेशन, जिला शाखा, जोधपुर ने दिनांक 18.3.2001 को यह परिवाद इन तथ्यों का पेश किया कि श्री उपेन्द्र सिंह सोलंकी, सहायक अभियन्ता, जनस्वास्थ्य अभियांत्रिकी विभाग, जोधपुर गलत सूचनाओं के आधार पर मकान किराया भत्ते का भुगतान उठा रहे हैं व इनके द्वारा निर्माण कार्यों में भारी भ्रष्टाचार किया जा रहा है जिसकी जांच करवाकर दण्डित किया जावे ।

इस संबंध में मुख्य अभियन्ता, जनस्वास्थ्य अभियांत्रिकी विभाग, राजस्थान, जयपुर से दिनांक 8.5.2001 को तथ्यात्मक प्रतिवेदन मांगा गया जिसके प्रत्युत्तर में उन्होंने अपने पत्र दिनांक 10.9.2001 द्वारा सूचित किया कि परिवाद में उठाये गये बिन्दुओं पर श्री उपेन्द्र सिंह सोलंकी, सहायक अभियन्ता के विरुद्ध की गई प्राथमिक जांच रिपोर्ट के आधार पर उनके कार्यालय के पत्र क्रमांक: 5879 दिनांक 13.8.2001 द्वारा नियम 16 सी.सी.ए. में आरोप पत्र प्रशासनिक विभाग को भेज दिये गये हैं और पत्र दिनांक 2.3.2002 द्वारा सूचित किया गया है कि कार्मिक विभाग, राजस्थान सरकार, जयपुर द्वारा श्री सोलंकी को दिनांक 14.2.2002 को नियम 16 सी.सी.ए. के अन्तर्गत आरोप पत्र जारी कर दिये गये हैं ।

**एफ. 15(5)लोआस/2001**

श्री राम प्रसाद भील, अनिवार्य सेवानिवृत्त वन रक्षक, नासी असनावर, जिला झालावाड़ ने दिनांक 11.5.2001 को यह परिवाद इन तथ्यों का पेश किया कि विभाग द्वारा दुर्भावनावश उससे 2750/- रुपये वसूली की जा रही है, जबकि वह इसके लिये जिम्मेदार नहीं है ।

इस संबंध में मुख्य वन संरक्षक, जयपुर से दिनांक 19.6.2001 को तथ्यात्मक प्रतिवेदन मांगा गया जिसके प्रत्युत्तर में उन्होंने अपने पत्र दिनांक 13.12.2001 द्वारा सूचित किया कि मामले का परीक्षण कर परिवादी से वसूली के आदेश को निरस्त कर दिया गया है व उससे वसूली की कार्यवाही समाप्त करदी गई है ।

**एफ. 15(24)लोआस/2001**

श्रीमती रकमी पत्नी स्व. श्री नाकू, निवासी खमेरा, जिला बांसवाड़ा ने दिनांक 28.11.2001 को यह परिवाद इन तथ्यों का पेश किया कि उसके पति श्री नाकू भूतपूर्व बेलदार का दिनांक 29.11.1995 में स्वर्गवास हो गया था, परन्तु न तो उसे मृतक के आश्रित होने के नाते नौकरी दी जा रही है और न ही पेंशन दी जा रही है।

इस संबंध में प्रधान मुख्य वन संरक्षक, राजस्थान, जयपुर से दिनांक 26.4.2002 को तथ्यात्मक प्रतिवेदन मांगा गया जिसके प्रत्युत्तर में उन्होंने अपने पत्र दिनांक 15.5.2002 द्वारा सूचित किया कि परिवारिया को एल.आई.सी की राशि 19596 एवं मृत्यु उपरान्त अंतिम भुगतान रूपये 23039 का भुगतान किया जा चुका है। चूंकि मृतक वर्कचार्ज कर्मचारी था, अतः नियमानुसार पेंशन आदि लाभ का हकदार नहीं होने से पेंशन स्वीकृत नहीं जा सकती। परन्तु उसे अनुकम्पा के आधार पर नियुक्ति प्रदान करने हेतु कार्मिक विभाग, राजस्थान सरकार, जयपुर द्वारा निदेशक, आयुर्वेद विभाग, अजमेर को दिनांक 28.2.2002 को लिखा जा चुका है।

**एफ. 28(18)लोआस/2001**

परिवादी श्री हरदीप सिंह निवासी रायसिंहनगर, जिला श्रीगंगानगर ने दिनांक 21.3.2002 को शिकायत प्रस्तुत कर यह आरोप लगाया कि चक 76 एन.पी. के मुरब्बा नं. 14 के 25 बीघा भूमि का बयनामा श्री मखन सिंह ने अपने लड़को बलदेव सिंह व हरबंश सिंह के पक्ष में करवा लिया जबकि मखनसिंह व उसके लड़के राजस्थान के मूल निवासी नहीं है। इस संबंध में शिकायत करने पर उप पंजीयक, रायसिंह नगर को दोषियों के विरुद्ध कार्यवाही करने के आदेश दिये गये परन्तु उन्होंने मखन सिंह से मिल कर अकेले मखन सिंह के विरुद्ध ही प्रथम सूचना रिपोर्ट दर्ज करवादी, उसके पुत्रों के विरुद्ध दर्ज नहीं करवाई। पुलिस ने भी केवल मखन सिंह के विरुद्ध ही चालान पेश किया, जबकि खरीददार श्री बलदेव सिंह व हरबंश सिंह के विरुद्ध भी चालान पेश करना चाहिए था। परिवादी ने न्यायालय अपर मुख्य न्यायिक मजिस्ट्रेट, रायसिंहनगर में चालान पेश होने पर बलदेवसिंह व हरबंस सिंह के विरुद्ध भी प्रसंज्ञान लेने हेतु प्रार्थना पत्र पेश किया परन्तु प्रार्थना पत्र की पैरवी श्री रतन सिंह नरूला, ए.पी.पी. ने नहीं की। अतः दोषियों को दण्डित किया जावे।

इस संबंध निदेशक एवं विशिष्ट शासन सचिव, अभियोजन विभाग, राजस्थान, जयपुर से दिनांक 19.4.2002 को तथ्यात्मक रिपोर्ट मांगी गई जिन्होंने अपने पत्र दिनांक 20.5.2002 में अनुसंधान अधिकारी एवं थानाधिकारी, पुलिस थाना रायसिंह नगरा, वृत्ताधिकारी, रायसिंह नगर तथा सहायक लोक अभियोजक श्री रतन सिंह नरूका को दोषी पाया जिसकी प्रति पुलिस अधीक्षक, श्रीगंगानगर को पत्र दिनांक 26.6.2002 द्वारा प्रेषित कर दोषियों के विरुद्ध आवश्यक कार्यवाही करने हेतु लिखा गया। पुलिस अधीक्षक, श्रीगंगानगर ने अपने पत्र दिनांक 25.7.2002 द्वारा सूचित किया कि दोषी लोकसेवक श्री जीरुद्दीन, सहायक उप निरीक्षक के विरुद्ध 17 सी.सी.ए. का आरोप पत्र जारी किया गया है व श्री योगेश गोयल, आर.पी.एस. वृत्ताधिकारी के विरुद्ध विभागीय कार्यवाही करने हेतु महानिदेशक, पुलिस को लिखा जा चुका है। श्री जगमाला राम, निरीक्षक तत्कालीन थाना प्रभारी सेवानिवृत्त हो चुके हैं। श्री रतन सिंह नरूका, सहायक

लोक अभियोजक व उप पंजीयक, रायसिंह नगर के विरुद्ध कार्यवाही किये जाने हेतु जिला कलेक्टर, श्रीगंगानगर व सहायक निदेशक, अभियोजन, श्रीगंगानगर को लिखा जा चुका है। पत्र दिनांक 28.10.2002 के अनुसार श्री नरूका को 17 सी.सी.ए. के अन्तर्गत आरोप पत्र दिनांक 20.8.2002 को जारी किये जा चुके हैं।

**एफ. 28(19)लोआस/2001**

श्रीमती वन्दना शर्मा निवासी जोधपुर रोड, पाली ने दिनांक 23.3.2002 को यह परिवाद इन तथ्यों का पेश किया कि उनके पति स्व. श्री कौशल किशोर, कनिष्ठ लिपिक, ए.डी.जे.कोर्ट, ब्यावर का देहान्त जुलाई, 2001 में हो गया था, परन्तु उसे पारिवारिक पेंशन व ग्रेच्युटी आदि का भुगतान नहीं किया जा रहा है।

इस संबंध में परिवादिया की शिकायत को आवश्यक कार्यवाही हेतु रजिस्ट्रार जनरल, राजस्थान उच्च न्यायालय, जोधपुर को भिजवाया गया। साथ ही संयुक्त निदेशक, पेंशन विभाग, अजमेर से दिनांक 27.6.2002 को तथ्यात्मक प्रतिवेदन मांगा गया जिसके प्रत्युत्तर में उन्होंने अपने पत्र दिनांक 6.7.2002 द्वारा सूचित किया कि श्रीमती वन्दना शर्मा पत्नी स्व. श्री कौशल किशोर शर्मा का पेंशन प्रकरण जिला एवं सत्र न्यायालय के कार्यालय से व्यक्तिगत प्रयास कर दिनांक 5.7.2002 को प्राप्त किया गया जो वहां लंबित था। प्रकरण प्राप्ति के पश्चात् दिनांक 6.7.2002 को पी.पी.ओ. व जी.पी.ओ. जारी कर दिये गये हैं।

**एफ. 16(78)लोआस/2002**

परिवादी श्री बालकृष्ण रावल निवासी सिरोही ने दिनांक 5.7.2002 को यह परिवाद इन तथ्यों का प्रस्तुत किया कि सिरोही नगर में सारणेश्वरजी दरवाजा के बाहर नीलकण्ठ तालाब की पाल पर राजपूत जाति के कुछ लोगों ने मिल कर अवैध रूप से जबरन रामदेवजी का मंदिर बना कर सार्वजनिक भूमि पर कब्जा कर रहे हैं। प्रशासन इसकी ओर ध्यान नहीं दे रहा है।

इस संबंध में जिला कलेक्टर, सिरोही से दिनांक 26.7.2002 को तथ्यात्मक प्रतिवेदन मांगा गया जिसके प्रत्युत्तर में उन्होंने अपने पत्र दिनांक 26.9.2002 द्वारा सूचित किया कि दिनांक 25.7.2002 को सम्पूर्ण अतिक्रमण को हटा दिया गया है।

**एफ. 16(193)लोआस/2001**

श्री धर्मराम पुत्र श्री धन्नाजी निवासी माउन्ट आबू रोड जिला सिरोही ने दिनांक 23.1.2002 को यह परिवाद इन तथ्यों का प्रस्तुत किया कि आबू रोड नगरपालिका क्षेत्र के वार्ड नं.5 में आबू रोड पर सार्वजनिक दरबार स्कूल की चार दिवारी के पास चुंगी

नाके के छज्जे को क्षतिग्रस्त करके बिना स्वीकृति के अतिक्रमण कर लिया गया है जिसे हटावाया जावे ।

इस संबंध में जिला कलेक्टर, सिरौही से दिनांक 26.4.2002 को तथ्यात्मक रिपोर्ट मांगी गई जिन्होंने अपने पत्र दिनांक 30.12.2002 द्वारा सूचित किया कि श्री राजेन्द्र कुमार द्वारा लगाये गये अवैध केबिन को हटा दिया गया है तथा मौके पर अवशेष रहे मलबे को भी जब्त कर नगरपालिका हाजा को सुपूँर्द किया जाकर पालिका सम्पत्ति का बोर्ड लगा दिया गया है ।

**एफ. 16(253)लोआस/2001**

परिवादिया श्रीमती फरजाना खां, अध्यक्ष, फरजाना महिला शिल्पकला प्रशिक्षण संस्थान, झालरापाटन, जिला झालावाड़ ने दिनांक 30.3.2002 को यह परिवाद इन तथ्यों का प्रस्तुत किया कि उक्त संस्था द्वारा नोडल अधिकारी के आदेशानुसार नगरपालिका, पिडावा में “स्वर्ण जयन्ती शहरी रोजगार योजना” के अन्तर्गत दिनांक 24.12.1999 से 23.3.2000 तक तीन माह प्रशिक्षण 30 प्रशिक्षणार्थियों को दिया गया जिसका कुल 55,000/- रूपये बनता है, परन्तु उक्त भुगतान नहीं किया जा रहा है जो दिलवाया जावे ।

इस संबंध में निदेशक, स्थानीय निकाय विभाग, जयपुर से तथ्यात्मक प्रतिवेदन मांगा गया जिन्होंने अपने अंतिम पत्र दिनांक 21.1.2003 द्वारा सूचित किया कि उक्त संस्था को सम्पूर्ण भुगतान कर दिया गया है और कोई भुगतान करना शेष नहीं है ।

**एफ. 16(17)लोआस/2001**

परिवादी श्री मुरारी लाल विजय, निवासी राजगढ, अलवर ने यह परिवाद इन तथ्यों का प्रस्तुत किया कि वह नगरपालिका, राजगढ से दिनांक 31.1.2001 को चुंगी गार्ड के पद से सेवानिवृत्त हुआ था परन्तु उसे अभी तक भी प्रावधायी निधि, ग्रेच्युटी व उपार्जित अवकाशों की राशि का भुगतान नहीं किया गया है ।

इस संबंध में अधिशाषी अधिकारी, नगरपालिका, राजगढ से तथ्यात्मक प्रतिवेदन मांगा गया । जिसके प्रत्युत्तर में उन्होंने अपने पत्र दिनांक 21.7.2001 व 30.4.2002 द्वारा सूचित किया कि परिवादी को समस्त बकाया का भुगतान कर दिया गया है ।

**एफ. 16(90)लोआस/2002**

परिवादी श्री शिवकुमार सिंह, निवासी खातीपुरा, जयपुर ने यह परिवाद इन तथ्यों का प्रस्तुत किया कि खातीपुरा स्थित परिवहन नगर कॉलोनी से होकर प्रस्तावित 160

फीट रोड पर श्री जैना द्वारा अवैध निर्माण कर अतिक्रमण कर लिया गया है । उसने जयपुर विकास प्राधिकरण में इस संबंध में शिकायत भी दर्ज करवाई परन्तु कोई कार्यवाही नहीं की गई ।

इस संबंध में सचिव, जयपुर विकास प्राधिकरण, जयपुर से तथ्यात्मक प्रतिवेदन मांगा गया, जिसके प्रत्युत्तर में उन्होंने अपने पत्र दिनांक 31.12.2002 द्वारा सूचित किया कि प्रश्नगत अतिक्रमण व अवैध निर्माण को सामूहिक अभियान में दिनांक 26.7.2002 को ध्वस्त कर दिया गया है ।

**एफ. 16(173)लोआस/2002**

परिवादी श्री मुरलीधर चांवला, निवासी नागौरी गेट, जोधपुर ने यह परिवाद इन तथ्यों का प्रस्तुत किया कि श्री ताराचन्द पुत्र श्री भगवान दास ने शहर की प्राचीन नहर के प्रवाह को रोककर, नहर पर एक पक्की दुकान का निर्माण अवैध रूप से करवा लिया है जिसे तुरन्त हटवाया जावे ।

इस संबंध में जिला कलेक्टर, जोधपुर से तथ्यात्मक प्रतिवेदन मांगा गया, जिसके प्रत्युत्तर में उन्होंने अपने पत्र दिनांक 21.2.2003 द्वारा सूचित किया कि प्रश्नगत अतिक्रमण व अवैध निर्माण को दिनांक 7.1.2003 को हटा दिया गया है ।

**एफ. 16(77)लोआस/2001**

परिवादी श्री निर्मल गंगवाल, सचिव, डॉ. नन्दलाल मार्ग व्यापारी ऐसोसियेशन, अजमेर ने यह परिवाद इन तथ्यों का प्रस्तुत किया कि 45 दुकानदारों द्वारा भूमि नियमन लीज के लिए राज्य सरकार के आदेश दिनांक 18.11.2000 के तहत पृथक-पृथक आवेदन जमा करवा दिये गये थे परन्तु समझौता समिति की बैठक नहीं होने के कारण उनके प्रकरणों का निस्तारण नहीं हो पा रहा है ।

इस संबंध में निदेशक, स्थानीय निकाय विभाग, राज0, जयपुर व अध्यक्ष, नगर परिषद, अजमेर से तथ्यात्मक प्रतिवेदन मांगा गया, जिसके प्रत्युत्तर में निदेशक ने अपने पत्र दिनांक 4.4.2002 द्वारा सूचित किया कि समझौता समिति की बैठक आयोजित करवाई जाकर 45 दुकानदारों में से 39 दुकानदारों द्वारा राशि जमा करवा दी गई है तथा इनके प्रकरणों का निस्तारण कर दिया गया है ।

## सांख्यिकी

प्रतिवेदन वर्ष के प्रथम दिन अर्थात् 1.4.2002 को लम्बित सभी प्रकार की 1491 शिकायतें लंबित थी, दिनांक 1.4.2002 से 31.3.2003 की अवधि में 1934 शिकायतें और प्राप्त हुईं। इस प्रकार कुल 3425 शिकायतों में से 2341 शिकायतों का निस्तारण कर दिया गया और दिनांक 31.3.2003 को 1084 शिकायतें लंबित रही। इसका विस्तृत विवरण सारणी "परिशिष्ट-1" में दिया गया है।

प्रतिवेदन अवधि 1.4.2002 से 31.3.2003 में लोकसेवकों के सेवानिवृत्त हो जाने के कारण 10, त्याग-पत्र दे देने के कारण 1 एवं लोकसेवक के परिवाद करने में सक्षम न होने के कारण 145 प्रकरणों को बंद करना पड़ा। इसका विवरण सारणी "परिशिष्ट-2" में दिया गया है।

दिनांक 1.4.2002 से 31.3.2003 की कालावधि के दौरान 110 मामलों में परिवादियों को उनकी संतुष्टि के अनुरूप अनुतोष प्रदान किया गया जिसका विवरण इस परिशिष्ट में दिया गया है। यह पिछले 6 वर्षों में प्रदान किये गये कुल 101 अनुतोष प्रकरणों के योग से भी कहीं अधिक है। इसका विस्तृत विवरण सारणी "परिशिष्ट-3" में दिया गया है।

पिछले 6 वर्ष में प्रदान किये गये अनुतोष प्रकरणों का तुलनात्मक विवरण चार्ट "परिशिष्ट-4" में दिया गया है।

दिनांक 26.11.1999 को पदभार संभालने से लेकर 31.3.2003 की अवधि में प्रदान किये गये अनुतोष के प्रकरणों का विवरण चार्ट "परिशिष्ट-5" में दिया गया है।

प्रतिवेदन वर्ष के दौरान लम्बित, संस्थित एवं निपटाये गये प्रारम्भिक जांच प्रकरणों का विवरण दिया गया है जिसके अनुसार दिनांक 1.4.2002 को 54 प्रकरण लम्बित थे और दिनांक 1.4.2002 से 31.3.2003 तक की कालावधि में 26 मामलों में प्रारंभिक जांच संस्थित की गई। इस प्रकार कुल 80 मामलों में से 30 मामलों का निस्तारण कर दिया गया। इस प्रकार दिनांक 31.3.2003 को 50 प्रकरणों में प्रारंभिक जांच लम्बित रही। इसका विस्तृत विवरण सारणी "परिशिष्ट-6" में दिया गया है।

प्रतिवेदन वर्ष के दौरान लम्बित, संस्थित एवं निपटाये गये अन्वेषण प्रकरणों का विवरण दिया गया है जिसके अनुसार दिनांक 1.4.2002 को 20 अन्वेषण प्रकरण लम्बित थे और दिनांक 1.4.2002 से 31.3.2003 तक की कालावधि में 12 प्रकरणों में और अन्वेषण प्रारंभ किया गया। इस प्रकार कुल 31 मामलों में से 3 मामलों में दोषी

लोकसेवकों के विरुद्ध सक्षम प्राधिकारी को धारा 12(1) के अन्तर्गत सिफारिशें भेजी गईं और विभिन्न कारणों से कुल 12 मामलों में अन्वेषण बन्द कर दिया गया। इस प्रकार दिनांक 31.3.2003 को कुल 18 अन्वेषण के प्रकरण लम्बित रहे। इसका विस्तृत विवरण सारणी 'परिशिष्ट-7' में दिया गया है।

दिनांक 1.4.2002 से 31.3.2003 तक की कालावधि में कुल 5 प्रकरणों (3 प्रकरणों में अन्वेषण के पश्चात्, 1 प्रकरण में प्रारंभिक जांच के पश्चात् व 1 प्रकरण में तथ्यात्मक प्रतिवेदन प्राप्त होने के पश्चात्) में धारा-12(1) के अधीन सक्षम अधिकारियों को प्रतिवेदन प्रेषित किये गये। इसका विस्तृत विवरण 'परिशिष्ट-8' सारणी में दिया गया है।

वित्तीय वर्ष 2002-2003 में आवंटित बजट एवं व्यय का विवरण सारणी 'परिशिष्ट-9' में दिया गया है।

## परिशिष्ट-1

1.4.2002 से 31.3.2003 तक की कालावधि के दौरान लंबित, प्राप्त शिकायतों, निपटाई गई शिकायतों एवं 31.3.2003 को लम्बित रही शिकायतों को दर्शित करने वाला विवरण

शीर्ष सं.	विभाग का नाम	1.4.2002 को लंबित शिकायतें	1.4.2002 से 31.3.2003 तक प्राप्त शिकायतें	योग कॉलम 3 व 4	1.4.2002 से 31.3.2003 तक की शिकायतों का निपटारा	31.3.2003 को लंबित रही शिकायतें (5-6)
1.	2.	3.	4.	5.	6.	7.
2	कृषि	18	23	41	28	13
3	पुलिस	175	247	422	302	120
4	सहकारिता	46	41	87	72	15
5	शिक्षा	76	105	181	131	50
6	कॉलेज शिक्षा	8	12	20	11	9
7	खाद्य एवं आपूर्ति	16	10	26	17	9
8	चिकि. एवं स्वा.	74	85	159	108	51
9	सा.नि.वि.	22	25	47	38	9
10	रा.रा.वि.मण्डल	34	58	92	64	28
11	राजस्व	236	334	570	354	216
12	ग्रामीण विकास एवं पंचायतीराज	111	192	303	230	73
13	अकाल एव राहत	1	0	1	1	0
14	यातायात	15	9	24	18	6
15	वन	34	48	82	55	27
16	यूडीएच/जविप्रा /एलएसजी	315	294	609	378	231
17	जनसम्पर्क	1	1	2	2	0
18	आबकारी	12	8	20	13	7
19	उद्योग	9	8	17	9	8
20	मुद्रण एवं लेखन	-	0	0	0	0
21	पशुपालन	-	10	10	7	3
22	भेड़ एवं ऊन	-	1	1	1	0
23	सिंचाई	38	30	68	49	19
24	इं.गा.नहर परि.	3	7	10	6	4

शीर्ष सं.	विभाग का नाम	1.4.2002 को लंबित शिकायतें	1.4.2002 से 31.3.2003 तक प्राप्त शिकायतें	योग कॉलम 3 व 4	1.4.2002 से 31.3.2003 तक की शिकायतों का निपटारा	31.3.2003 को लंबित रही शिकायतें (5-6)
1.	2.	3.	4.	5.	6.	7.
25	राणा प्र. सागर/ जवाहर सागर	-	2	2	1	1
26	उपनिवेशन	6	3	9	5	4
28	न्याय	11	18	29	25	4
29	जेल	2	7	9	5	4
30	श्रम	2	5	7	4	3
31	पी.एच.ई.डी.	27	49	76	51	25
32	समाज कल्याण	6	5	11	11	0
33	भू-प्रबन्ध	6	4	10	5	5
34	सचिवालय	38	26	64	41	23
35	विविध	87	165	252	193	59
40	भ्रष्टाचार निरोधक ब्यूरो	-	4	4	2	2
41	आयुर्वेद	8	12	20	14	6
42	देवस्थान	11	12	23	14	9
43	रा.रा.प.प.निगम	12	14	26	17	9
44	वाणिज्यिक कर	9	22	31	21	10
45	खान एव भूविज्ञान	13	19	32	24	8
46	संस्कृत शिक्षा	1	1	2	1	1
47	बीमा एवं प्रा.निधि	8	18	26	13	13
48	तकनीकी शिक्षा	-	0	0	0	0
योग:-		1491	1934	3425	2341	1084

## परिशिष्ट-2

1.4.2002 से 31.3.2003 की कालावधि के दौरान लोकसेवकों के सेवानिवृत्त हो जाने, त्याग-पत्र दे देने एवं लोकसेवक के परिवाद करने में सक्षम न होने कारण नस्तीबद्ध किये गये प्रकरणों को दर्शाने वाला विवरण

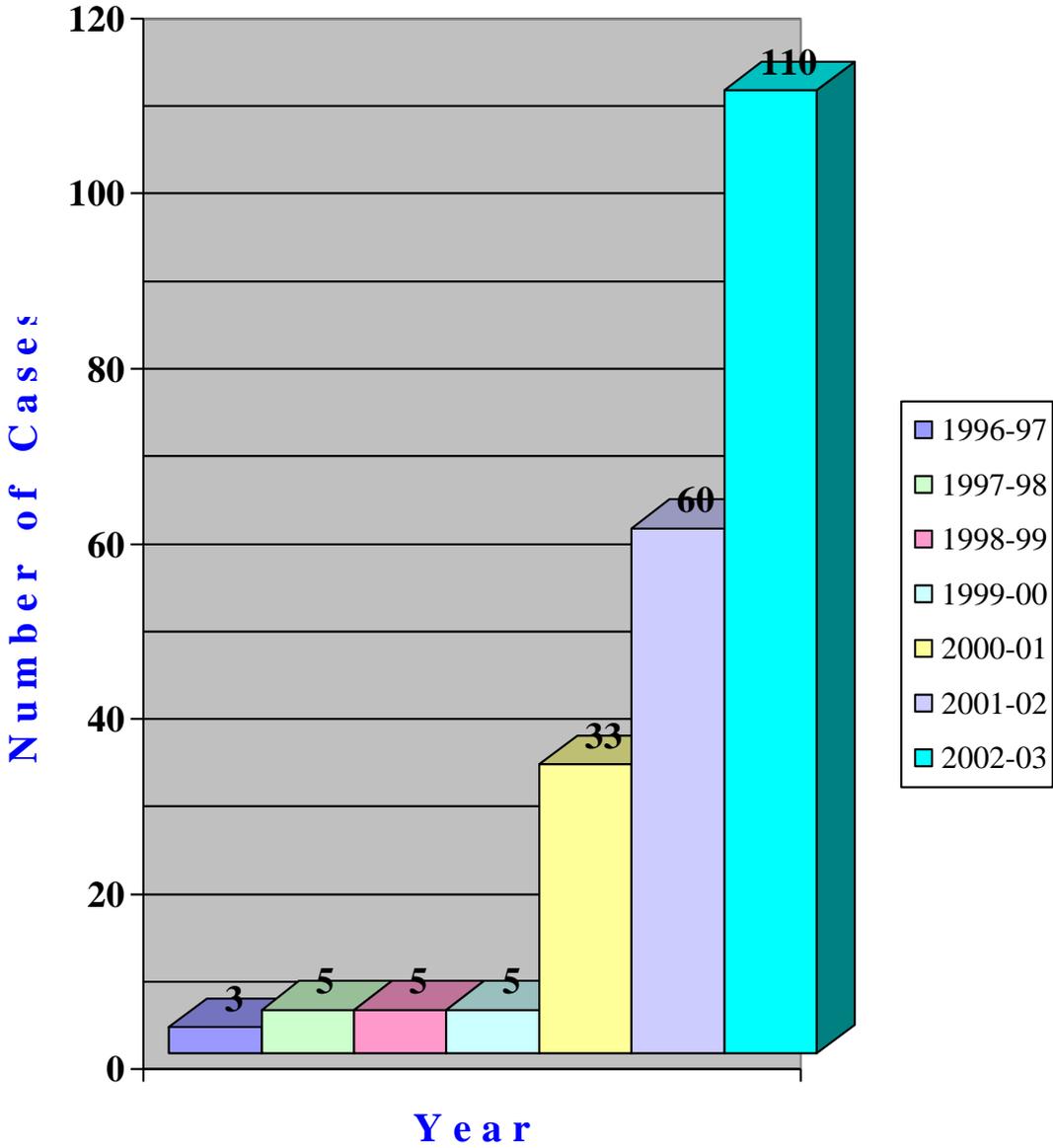
क्रम संख्या	कारण	संख्या
1.	लोकसेवक के सेवानिवृत्त हो जाने के कारण	10
2.	लोकसेवक के त्याग-पत्र दे देने के कारण	1
3.	लोकसेवक के परिवाद करने में सक्षम न होने के कारण	145
	<b>योग:-</b>	<b>156</b>

## परिशिष्ट-3

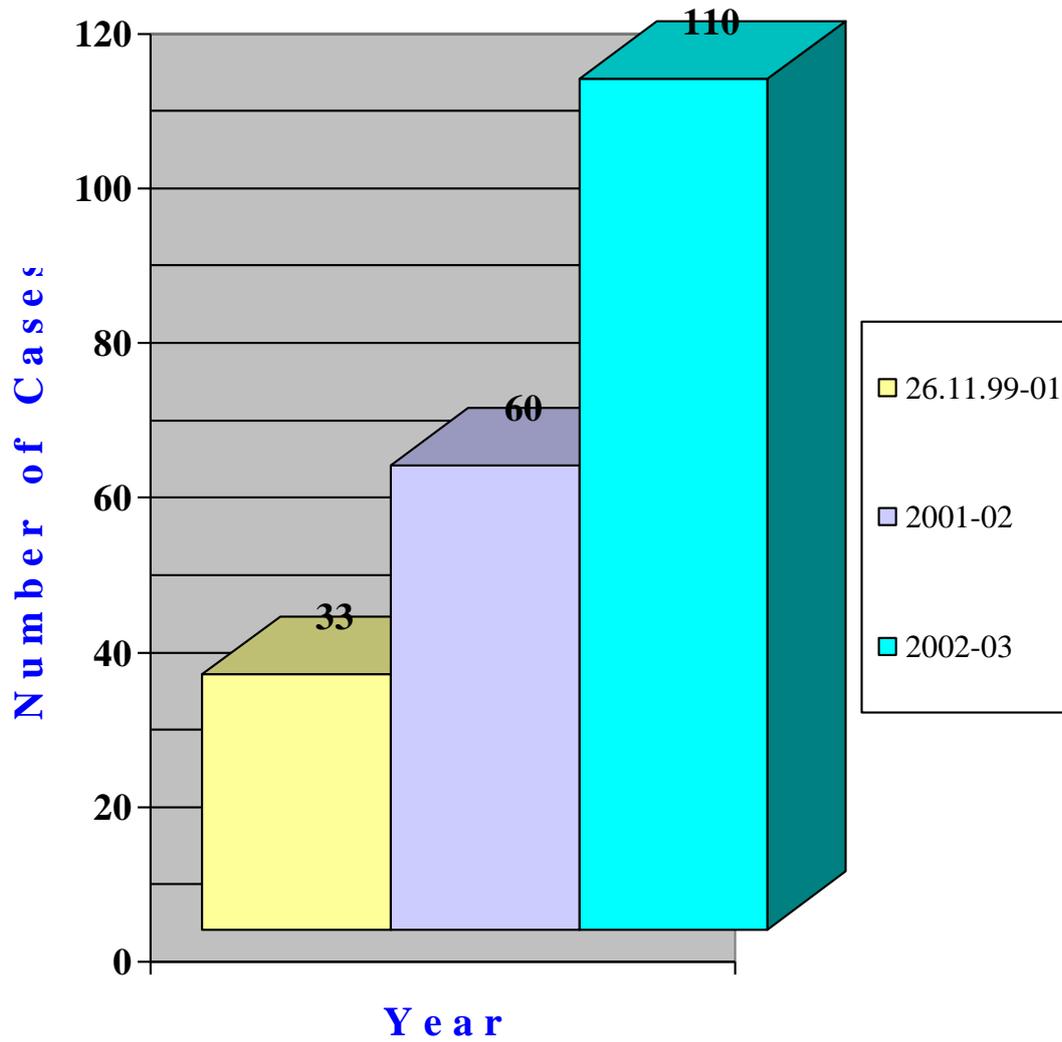
1.4.2002 से 31.3.2003 तक की कालावधि के दौरान परिवादीगण को लोकायुक्त सचिवालय के हस्तक्षेप से प्रदान किये गये विभागवार अनुतोष वाले प्रकरण

शीर्ष संख्या	विभाग का नाम	संख्या	शीर्ष संख्या	विभाग का नाम	संख्या
2	कृषि	3	23	सिंचाई	3
3	पुलिस	1	24	इन्दिरा गांधी नहर परियोजना	1
4	सहकारिता	3	25	राणा प्र. सागर/जवाहर सागर	-
5	शिक्षा	10	26	उपनिवेशन	1
6	कॉलेज शिक्षा	1	28	न्याय	2
7	खाद्य एवं आपूर्ति	-	29	जेल विभाग	-
8	चिकित्सा एवं स्वास्थ्य	13	30	श्रम विभाग	-
9	सार्वजनिक निर्माण विभाग	2	31	जनस्वा. अभियांत्रिकी विभाग	3
10	रा.रा.वि.मण्डल	7	32	समाज कल्याण विभाग	-
11	राजस्व	22	33	भू-प्रबन्ध विभाग	-
12	ग्रा. वि. एवं पंचायतीराज	8	34	सचिवालय	-
13	अकाल एव राहत	-	35	विविध	6
14	यातायात	1	40	भ्रष्टाचार निरोधक ब्यूरो	-
15	वन	3	41	आयुर्वेद	1
16	यूडीएच/जविप्रा/एलएसजी	13	42	देवस्थान	1
17	जनसम्पर्क	-	43	राज. राज्य पथ परिवहन निगम	1
18	आबकारी	-	44	वाणिज्यिक कर	-
19	उद्योग	-	45	खान एव भूविज्ञान	-
20	मुद्रण एवं लेखन	-	46	संस्कृत शिक्षा	-
21	पशुपालन	-	47	राज्य बीमा एवं प्रावधायीनिधि	4
22	भेड़ एवं ऊन	-	48	तकनीकी शिक्षा	-
योग:					110

### Comparative Chart of Grievances Redressed



**Chart of Grievances Redressed during the period from 26.11.1999 to 31.3.2003**



## परिशिष्ट-6

1.4.2002 से 31.3.2003 की कालावधि के दौरान लम्बित, संस्थित एवं निपटाई गई प्रारंभिक जांचों की संख्या दर्शाने का विवरण

क्र.सं.	विवरण	संख्या
1	1.4.2002 को लम्बित प्रारंभिक जांच	54
2	1.4.2002 से 31.3.2003 की कालावधि के दौरान संस्थित की गई प्रारंभिक जांच	26
3	योग (पंक्ति संख्या 1 व 2)	80
4	जिनमें अभिकथन सिद्ध नहीं हो सके ।	4
5	जिनमें विभाग द्वारा पहले ही कार्यवाही प्रारंभ कर दी गई ।	1
6	लोकसेवक सेवानिवृत्त हो गया ।	-
7	जिनमें अन्वेषण के पर्याप्त आधार विनिर्मित होना नहीं पाये गये।	3
8	अनुतोष प्राप्त हो गया ।	2
9	मामला न्यायालय में विचाराधीन होने के कारण	8
10	अभियोजन की आवश्यकता होने के कारण	2
11	अन्य उपचार उपलब्ध होने के कारण	3
12	निपटायी गई प्रारंभिक जांच की संख्या (4 से 11)	23
13	जिन्हें अन्वेषण प्रारंभ किये जाने के कारण स्थानांतरित किया गया।	6
14	जिनमें सक्षम प्राधिकारी को धारा 12(1) में सिफारिशों की गई ।	1
15	31.3.2003 को लम्बित प्रारंभिक जांच	50

## परिशिष्ट-7

1.4.2002 से 31.3.2003 की कालावधि के दौरान लम्बित, संस्थित एवं निपटाये गये अन्वेषण प्रकरणों की संख्या दर्शाने का विवरण

क्र.सं.	विवरण	संख्या
1	1.4.2002 को लम्बित अन्वेषण प्रकरण	20
2	1.4.2002 से 31.3.2003 की कालावधि के दौरान संस्थित किये गये	12
3	योग (पंक्ति संख्या 1 व 2)	32
4	अन्वेषण के पश्चात अभिकथन सिद्ध न होने से नस्तीबद्ध किये गये प्रकरण	6
5	मामला न्यायालय में विचाराधीन होने के कारण	2
6	अनुतोष प्रदान कर दिये जाने के कारण	2
7	लोकसेवक के त्यागपत्र देने के कारण लोकसेवक न रहने के कारण	1
8	जिनमें अभिकथन सिद्ध होने पर दोषी लोकसेवक के विरुद्ध संबंधित सक्षम प्राधिकारी को अधिनियम की धारा-12(1) के अन्तर्गत सिफारिशें भेजी गई ।	3
9	कुल निपटाये गये अन्वेषण प्रकरण योग (पंक्ति संख्या 4 से 8)	14
10	31.3.2003 को लम्बित अन्वेषण प्रकरण	18

1.4.2002 से 31.3.2003 तक की कालावधि में अधिनियम की धारा 12(1) के अधीन प्रेषित किये गये प्रतिवेदनों का विवरण

क्र. सं.	पत्रावली संख्या	लोकसेवक का नाम एवं पदनाम/विषयवस्तु, जिसके विरुद्ध/संबंध में अनुशंसा की गई	सक्षम प्राधिकारी, जिसे प्रतिवेदन प्रेषित किया गया	प्रेषित किये जाने की दिनांक	विशेष विवरण
1.	3(25)2000	डा. आर. एल. बेनीवाल, चिकित्सा अधिकारी राजकीय चिकित्सालय, भादरा, जिला हनुमानगढ़ डा. ललिता स्वामी, चिकित्सा अधिकारी, राजकीय चिकित्सालय, भादरा, जिला हनुमानगढ़	माननीय मंत्री, चिकित्सा एवं स्वास्थ्य विभाग, राज० सरकार, जयपुर	3.6.2002	अनुशंसा की पालना में की गई अथवा प्रस्तावित कार्यवाही की सूचना अपेक्षित है ।
2.	15(19)2000	श्री गोपाल सैन, तत्कालीन उप वन संरक्षक, आबूरोड, दांतीवाड़ा हाल उप वन संरक्षक, नागौर	माननीय मंत्री, कार्मिक विभाग, राज० सरकार, जयपुर	5.12.2002	अनुशंसा की पालना में की गई अथवा प्रस्तावित कार्यवाही की सूचना अपेक्षित है ।
3.	24(10)2000	श्री बी.एम.जालान, तत्कालीन अधीक्षण अभियन्ता, सिद्धमुख परियोजना, वात भादरा, जिला हनुमानगढ़	माननीय मंत्री, कार्मिक विभाग, राज० सरकार, जयपुर	16.12.2002	अनुशंसा की पालना में की गई अथवा प्रस्तावित कार्यवाही की सूचना अपेक्षित है ।
4.	19(2)1999	श्री सुभाष गर्ग, आई.ए.एस., तत्कालीन मुख्य अधिशाषी अधिकारी एवं निदेशक, रेडा, जयपुर ।	माननीय मंत्री, कार्मिक विभाग, राज० सरकार, जयपुर मुख्य सचिव, राज. सरकार, जयपुर ।	21.12.2002	अनुशंसा की पालना में की गई अथवा प्रस्तावित कार्यवाही की सूचना अपेक्षित है ।
5.	11(92)2001	मोदी इन्स्टीट्यूट आफ एडुकेशन एण्ड रिसर्च, लक्ष्मणगढ़, जिला सीकर के पक्ष में अवाप्ति आदेश की पालना बाबत ।	माननीय मुख्यमंत्री, राज.सरकार, जयपुर। मुख्य सचिव, राज. सरकार, जयपुर । प्रमुख शासन सचिव, राजस्व विभाग, राज. सरकार, जयपुर । जिला कलेक्टर, सीकर । पुलिस अधीक्षक, सीकर ।	14.2.2003	अनुशंसा की पालना में की गई अथवा प्रस्तावित कार्यवाही की सूचना अपेक्षित है ।

नोट:- क्र.सं. 1, 3 व 4 में अन्वेषण के पश्चात् एवं क्र.सं. 5 में तथ्यात्मक प्रतिवेदन प्राप्त होने के पश्चात् व क्र.सं. 2में प्रारंभिक जांच के पश्चात् सक्षम प्राधिकारियों को अनुशंसा की गई ।

## परिशिष्ट-9

वित्तीय वर्ष 2002-2003 में आवंटित बजट एवं व्यय का विवरण

क्रम संख्या	बजट शीर्ष	मूल अनुदान (लाखों में)	संशोधित अनुदान (लाखों में)	वास्तविक व्यय
1.	संवेतन	55.00	49.00	47,56,879
2.	यात्रा व्यय	1.00	1.00	93,803
3.	चिकित्सा व्यय	0.75	0.80	80,000
4.	कार्यालय व्यय	7.65	6.00	6,00,000
5.	साक्षियों का व्यय	0.40	0.40	19,242
6.	सत्कार व आतिथ्य	0.03	0.03	2,790
7.	लेखन सामग्री	0.50	0.50	50,000
8.	मुद्रण	0.50	0.50	50,000
कुल योग:-		65.83	58.23	56,52,714

## Extract From Second Annual Report For The Year 1974-75

Corruption, broadly stated, includes in its wider concept, improper or selfish use of power and influence attached to public office, due to special position one happens to occupy in public life. It implies violation of law and utter disregard of the recognised norms of an orderly civilised society, connoting an element of depravity of character. It is a product of socially unhealthy, diseased and indisciplined mind, totally ignorant of and indifferent to, the rule of law. Corruption is twice cursed: it cursed the corruptor as well as the corrupted. It reflects on the part of both a regrettable unawareness of their solemn duty and obligation to the society of which they have the proud privilege of being members. In a society which has chosen "सत्यमेव जयते" (Truth alone triumphs) as guiding motto, both, the corruptor and the corrupted, must be considered to be its enemies, for they practice falsehood and not truth. Corruption, admittedly, hurts the public directly: the more lamentable tragedy being that it penalises the honest, and benefits the dishonest. It gives birth to black money and sustains its circulation: indeed, corruption and black-money feed and thrive on each other. As corrupt transactions usually yield fairly quick benefits to both" sides, they easily allure people with weak conscience. Unless, therefore, this vice is ruthlessly nipped in the bud, it may tend to become all consuming spreading its poisonous ramifications into the entire body politic. Being secret and beneficial to both sides, it poses a colossal problem.

The Welfare of the people is, undeniably, the supreme purpose of the Government. This welfare basically postulates fair and honest dealings by the Government administration with the people at all levels. In fact, except perhaps preservation of their liberties, no people can have any higher interest, than integrity in the administration of their Government in all its departments. In a modern Welfare State, attempt is made for social service to reach into every area of life and this inevitably requires wide discretionary powers to be vested in the Government administration. But these discretionary powers are by no means uncontrolled and ungripped by law and cannot be equated with a sort of prerogative or a sovereign right of the ruler which is above the law. Our State is, indeed, a legal State, created and controlled by law and wedded to the cause of welfare of the people without hostile or unjust discrimination. With the expansion of the welfare activities of the State, the public servants have, necessarily, to come into frequent and close contact with the citizen, concerning matters vitally affecting his daily life. Absence of utmost honesty, integrity and fair play on the part of the public servant in his dealings with the citizen, must, in the circumstances, tend to lead to disastrous consequences alike, both, for the administration, and the people. Public services are, in fact, the backbone of the Government administration. Their ability, loyalty to the Constitution and the laws, dedication to the promotion of welfare of the people, and above all, their honesty and integrity, must be of the highest order. In

fact, they must not only be honest and men of integrity, but they must also be seen to be so: their reputation in this respect being of no less importance. As experience shows, some abuse and misuse of discretionary power, in face of the common infirmities and frailties of human nature, may be difficult to be completely ruled out. And in some cases it may be subtle and, perhaps, imperceptible, only to be felt. The extent of such abuse and misuse, depending, as it does, on various factors historical psychological, educational and social can, without doubt, be controlled and contained. Proper education and disciplined training with respect to social and moral values, and, above all, watchful eye of vigilant public can go a long way in insulating public service from the vice of corruption. It is, therefore, necessary that the watchful eye of the people should remain constantly vigilant, if corruption is to be successfully eliminated from the public services. Basically, it is to satisfy the urge of the people to control the abuse and misuse of power by the public servant and to provide justice to the common man (the "little" man without official or political pull) that the institution of Lokayukta and Up-Lokayuktas has been created by legislative enactment. This institution is, indeed, a friend, both, of the people and of the public services, for it is solemnly committed to be fair and just to all concerned, and to hold the scales even rule of law being its guiding principle. The inspiration for creating this institution is traceable to the western institution of "Parliamentary Ombudsman". But it has to be remembered that our organisation is a creature of Statute and is bound by the statutory provision creating it and regulating its functions. It is unnecessary to re-examine the Statute in this Report, the legal position having already been explained in the last year's Report.

In the Consolidated Annual Report under Section 12(4) of the Rajasthan Lokayukta and Up-Lokayuktas Act, No. 9 of 1973 (hereafter called the Act), for the year ending 31st March, 1974, it had been pointed out in the concluding portion of my report that "if the problem of effectively combating corruption is to be fruitfully tackled through the instrumentality of this organisation, then extensive powers of supervisory nature over all agencies, authorities or Officers set up, constituted or appointed by the State for the eradication of corruption, must be conferred on the Lokayukta and the Up-Lokayukta. This supervisory power should be real and effective and not, illusory. Corruption and mal-administration, which, as a rule, go together, necessarily impose a great strain on democracy. The smoldering discontent in a body politic, may, after reaching a certain stage, come to the surface in the form of open indignation, thereby denigrating democracy and the democratic way of life itself. Corruption, therefore, requires to be effectively combated before the discontent reaches that stage. This raised an important question of policy whether it is intended to confer on the institution of Lokayukta and Up-Lokayukta the necessary general supervisory power as indicated, in order to give it the requisite vigour and vitality for fruitfully combating and controlling corruption and mal-administration. No such power having been conferred during the year under Report, this serious, but easily removable, handicap continues, rendering it difficult for this organisation to effectively gear-up and expand anti-corruption strategy.

The Report for the year 1973-74 was presented to the Governor on 17th July, 1974. The Governor, under Section 12 (5) of the Act, is required to cause a copy thereof, together with an Explanatory Memorandum, to be placed before the House of the State Legislature. The object and purpose of causing a copy of the Report, with the Explanatory Memorandum, to be placed before the House of the State Legislature, clearly seems to be to afford an opportunity to the elected representatives of the people, more particularly, the members of the opposition, of informing themselves of the contents of the Report and of the Governor's Explanatory Memorandum, so as to be able to consider, inter alia, the question of further action by way of legislation or otherwise, for fully and effectively achieving the real purpose and object underlying the Act. Section 12 (5) of the Act also illustrates the autonomous status of the office of the Lokayukta and of the Up-Lokayukta, which is even otherwise abundantly clear from the statutory scheme. The Consolidated Report goes to the Legislature through the Governor, without the State Cabinet expressly coming into the picture and, keeping in view, the statutory functions of the Lokayukta, rightly so. A copy of the Statement of Objects and Reasons of the Rajasthan Lokayukta and Up-Lokayuktas Bill, is appended herewith as Annexure 'A'.

In the last year's Report, I tried to examine, analyse and explain the object, scope and purpose of the Act. I may now only observe that in view of the language of Section 12 (5) of the Act, and the important object it is designed to serve, the Report, with the Governor's Explanatory Memorandum, should be caused to be laid before the House of the State Legislature within reasonable time of its presentation to the Governor, which, in the context, should mean without avoidable delay.

In the Explanatory Memorandum which, along with the Annual Report for 1973-74, was laid before the House of the State Legislature on March 31, 1975, it is observed:-

"The Lokayukta has given his views on the scope and interpretation of the various provisions of the Act, he has also given a suggestion for improvement of this Institution. The Government will carefully consider the suggestion and take final decision after a more detailed examination by the Home Department and discussions with the Lokayukta."

I am not aware of the result of the examination, if any, by the Home Department.

Confidential

K.P.U.Menon

D.O.No.PA/ULA/73/21 Jaipur, the 20th December, 1973

Dear Shri Dua,

I have been giving a great deal of thought to the working of our new organization in the light of the Rajasthan Lokayukta and Up-Lokayukta Act, and more than once you had also spoken to me on the subject, particularly emphasising the need to adhere strictly to the provisions of the Act in anything that we do. I have been feeling somewhat frustrate; during the last few months because of a sense of uncertainty whether I should intervene - as I used to do quite effectively as Vigilance Commissioner - even in cases in which the allegations or grievances are obviously well founded. For, if the provisions of the present law are to be strictly observed prompt and effective action will be extremely difficult if not impossible. I have put down my thoughts on the subject in the form of a note, of which a copy is attached for your perusal, during the last four months I have not been able to do as much work as I used to do in less than as many weeks as Vigilance Commissioner; and I believe no case intended to be dealt with by the Lokayukta under this law has come before you. I am convinced that without some radical amendment it will not be possible to fulfil the object with which this law was enacted. I think it will be only right that Government should be apprised of this position so that necessary action to remove the defects and deficiencies in the law and make it an effective instrument to combat corruption can be initiated if Government so desires.

Needless to say that what is stated in this letter and the attached note are my own personal views and do not reflect the views of any one else.

I would have preferred to discuss the matter with you, but for reasons which it is unnecessary for me to go into but which I am sure you will understand, I thought it better to write to you. If you think worth while I shall welcome any indication you would like to give of your own thinking on this - to my mind - important matter.

Encl:-1 Note.

Yours sincerely,  
Sd/-  
(K.P.U.Menon)

**Shri I.D.Dua,  
Lokayukta, Rajasthan,JAIPUR.**

### **Some Points About The Working Of The New Institution Of Lokayukta And Up-Lokayukta**

I have been giving thought to the problems thrown up or likely to be confronted, in the working of the new scheme of vigilance as envisaged in the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973. That the intention of the legislature was to combat corruption even more effectively and in areas so far outside the purview of the previous organisation (the State Vigilance Commission) by giving it a statutory basis is clear beyond doubt. The extent to which this object is achieved will be the touchstone on which the performance of the new organisation will have to be tested.

The law as enacted, with all its exclusions and restrictions and rigid and inflexible procedures, has created an organisation, which is likely to be comparatively less effective in combating corruption; and I cannot help feeling that it had been drafted hastily and had received less than the attention and scrutiny that such an important piece of legislation deserved. This opinion is based on my personal experience of the working of the Vigilance Commission for over four and a half years and of the new organisation during the last nearly four months. During this latter period hardly any new case of a serious nature has come before me as Up-Lokayukta though action is being continued on a number of pending cases. It is my impression that during this period there has been no such case as is intended to be dealt with by the Lokayukta under Section 7 of the Act.

The Vigilance Commission here and at the Centre, and possibly elsewhere, have functioned comparatively more effectively, and unless some radical amendments are made to the present law main purpose which the Administrative Reforms Commission and the Legislature had in view would not be achieved. These Commissions were discharging various quasi-administrative, consultative and supervisory functions following procedures, which had stood the test of time. But nowhere in the Act has any provision been made to enable the new organisation to continue these functions; and the procedure envisaged in the Act will, I feel, make prompt and effective action difficult. Various points in this connection had been discussed by me with the Law Department and brought to Government's notice. This problem would seem to have been appreciated also by the Union Government, since there is a great deal of re-thinking about the adequacy of the Lokpal and Lokayuktas Bill as now before the Parliament. In fact, this matter was the subject of a discussion between the Central Vigilance Commission and me, when it was felt that the Bill as drafted will need amendments to remove certain deficiencies and defects, if it is to be an effective instrument to combat corruption. The Union Government is re-examining the provisions of the Bill in consultation with the Central Vigilance Commission. One of the specific points already accepted in this connection is the need to have a saving clause in the Bill providing for the new organisation to continue to deal with the cases that will

be pending with the Central Vigilance Commission when the new law comes into force. Such a 'saving clause' in respect of pending matters is ordinarily a common feature of all such enactments creating successor organisations or authorities but surprisingly does not find a place in the Rajasthan Act; and the absence of such a provision is already creating difficulties in dealing with a large number of cases pending at various stages when the Vigilance Commission ceased to exist as such on the 5th June, 1973. The Lokayukta too had after he joined, more than once in discussions with me, expressed doubts about the legality of continuing action on these cases. At the same time, it is for consideration whether it will be right or proper to drop all such complaints in many of which clear cases have been prima-facie established against a number of even senior public servants. Moreover, if further action on the pending cases is suspended, as at present there will be hardly any work to justify the very existence of this organisation or the considerable expenditure thereon.

Some of the provisions calling for reconsideration and amendments to my mind are:-

- (1) Exclusion of "grievance" from the preamble and definitions in the Rajasthan Lokayukta and Up-Lokayuktas Act-Preamble & Section 2.
- (2) Exclusion of Sarpanchas and Co-operative Societies from the purview of the Act - 2.
- (3) Limitation of five years of the commission of the offence or misconduct for making a complaint against even public servants other than Ministers - Section 8(3).
- (4) Provision that public servants cannot be complainants - Section 9(1).
- (5) Mandatory provision regarding affidavits without leaving any discretion to the Lokayukta/Up-Lokayuktas -Section 9(2).
- (6) Mandatory provision that a copy or the substance of the allegations should be communicated to the delinquent officer and the competent authority even before starting investigation - Section 10(a).
- (7) Need for provision empowering Lokayukta/Up-Lokayukta to follow up cases till final disposal by competent authority even after the action taken or proposed to be taken is intimated to the Lokayukta/Up-Lokayukta -Section 12(2).
- (8) Desirability of simpler and more flexible procedures for dealing with allegations against public servants other than Ministers.

**Point (1)**

"Grievances" have been excluded from the purview of the Rajasthan Act perhaps for the reason that there is a separate organisation for removal of public grievances in Rajasthan. In the Bill before the Parliament both 'allegations' and 'grievances' are within the purview of the Lokpal/Lokayuktas. The dividing line between allegations and grievances is often so thin as to make them almost indistinguishable, and most grievances result from maladministration; and the

exclusion of grievances from the purview of this law will to my mind greatly limit not only the scope but also the usefulness of the organisation.

**Point (2)**

The reason for exclusion of Sarpanchas and Co-operative Societies is not clear. Government have a substantial stake in the proper working of Co-operative Societies. Apart from the sizeable investment of public funds in the shape of share capital, loans and grants, the role the co-operatives are expected to play in the development of the State is important. They are no less concerned with public funds than public sector undertakings and Government companies, which are within the purview of this law. So are Chairman and Vice-Chairman of Municipalities and Zila Parishads, who are included within the definition of public servants. There would seem to be no reason why elected office bearers and staff of co-operative societies should not also be so included. Similar is the case of Sarpanchas of Gram Panchayats. It is they more than the Pramukhs and Pradhans, who have a direct role to play in the execution of works including handling of cash. Pramukhs and Pradhans do not handle cash because the Zila Parishads and Panchayat Samitis have qualified and well paid officers as Chief Executives in the shape of Secretaries and Vikas Adhikaris, who are ordinarily officers of the Government whose services are made available to them.

**Point (3)**

With regard to the time limit, the limit of five years would seem to have some rationale in the case of Ministers since they occupy their positions on political sanctions of the electorate and the respective legislature, to whom they are fully answerable, and the term of their office is ordinarily five years and they are liable to removal from office if their work and conduct have failed to satisfy the electorate. In other words, they have to obtain so to say a 'quinquennial certificate of satisfactory service' from the electorate. Even so it is only natural that there should be hesitation to lodge complaints against a Minister while he is actually in office. In the case of Ministers, therefore, it may be more logical to fix a period, say three or two years or even one year, after they cease to be Ministers within which period complaints must be made. But so far as the other public servants are concerned, while all possible protection should be extended to them against malicious complaints, it will not be correct to condone corruption only because of lapse of time. Unlike Ministers they are expected to be in continuous service for 30 years or more and often their actions or omissions amounting to criminal misconduct come to light several years later. In a large number of cases dealt with in the Vigilance Commission, this was actually the position; and I am definitely of the view that there should be no such time limit for complaints in the case of public servants other than Ministers, and even if there is a limit it should not be less than 15 years.

**Point (4)**

The provision barring public servants from lodging complaints calls for reconsideration. In a large number of serious cases of corruption dealt with by the Vigilance Commission, the complainants were public servants; and but for them those cases might never have come to light. There would seem to be no justification for such a bar, since they will be as much liable to penal action as any other person if they make false complaints; and while cognisance can be taken of specific and verifiable allegations even in anonymous or pseudonymous complaints, this bar on public servants would seem to be also illogical.

**Point (5)**

So far as affidavits are concerned, often the complainants are illiterate villagers or unsophisticated persons and their ignorance is exploited. It might be desirable to allow discretion to the Lokayukta/Up-Lokayukta to dispense with affidavits by means of a proviso even while retaining the present provision.

**Point (6)**

The provision for a preliminary enquiry before starting formal investigation is a salutary one; but furnishing copies or substances of the allegations even before investigations start, and to afford the public servant concerned an opportunity to offer his comments at that stage, could often render the subsequent investigation infructuous, since the possibility of the public servant concerned attempting to temper or do away altogether with incriminating records and to influence witnesses cannot be ruled out. Such opportunity should be afforded to the public servant during the investigations and in any case before the Lokayukta/Up-Lokayukta takes a final view and formulates the recommendation. The least that is necessary is to leave the discretion in this matter to the Lokayukta/Up-Lokayukta. In cases investigated at the instance of the Vigilance Commission, the public servant had to be invariably examined and given full opportunity to offer whatever comments or statements, he might wish to make on the matters under investigation. Again the public servant will have the fullest opportunity to put forward his defence during the departmental enquiry or prosecution as the case may be.

The provisions in Section 10(a) and (b) should, I feel, be deleted or at least a proviso added leaving the discretion to the Lokayukta/Up-Lokayukta. In the case of the Ministers, whose cases can be enquired into only by Lokayukta, the law as it stands permits the Lokayukta himself to undertake the enquiry or investigation if he likes, and I do not think there can be any objection to a copy or substance of the complaint being given to the accused Minister and to his being afforded an opportunity to offer his comments before starting formal investigations. In fact, this procedure may be preferable in the case of Ministers, complaints against who are often liable to be the outcome of political rivalries.

**Point (7).**

According to Section 12(2) of the Act, the competent authority has to intimate to the Lokayukta/Up-Lokayukta, within three months of the date of the receipt of the findings and recommendations of the Lokayukta/Up-Lokayukta, the action taken or proposed to be taken thereon by the competent authority. This intimation will ordinarily only indicate whether the recommendation is being accepted or not. In actual practice action on the decision so taken, whether in the way of initiating departmental enquiry or launching prosecution as the case may be follows much later; and the experience often has been that unless the Vigilance organisation keeps on pursuing the case with the competent authority long delays occur in implementing even decisions taken on files; and cases have not been wanting where nothing further happened until the Vigilance Commission took up the matter again with the competent authority. This lacuna deserves to be covered by some suitable provision.

**Point (8).**

There is need to re-examine the provisions for treating Ministers and other public servants in the same manner in the matter of procedure. It do not think it will be an act of 'discrimination' to treat these two definitely different categories of public servants differently. In actual practice, though the Minister is a 'public servant' in the strict legal sense of the term, his lapses or misconduct are not even now dealt with in the same manner as those of other public servants. The several Commissions of Enquiry set up under the Commissions of Enquiry Act, 1952, to enquire into such lapses and misconduct on the part of Ministers in various States are to my mind a clear recognition of this position. Public servants other than Ministers are of four categories (Class I to Class IV) whose number is very large indeed (I think about two and a half lakhs in Rajasthan); and to deal with every such case applying the same elaborate procedure will make quick and effective action even in clear and known cases of corruption on the part of such public servants extremely difficult and protracted. The number of Ministers at any one time will be very limited, and even out of them it is unlikely that enquiries will be going on against all of them all the time. The elaborate and rigid procedures envisaged in the new Act will be one of the greatest hurdles in the way of effective and quick action against erring public servants other than Ministers. Even while retaining many of the present provisions in the Act, a charge of 'discrimination' in dealing with Ministers and other public servants can be easily avoided by allowing discretion to the Lokayukta/Up-Lokayukta by means of suitable provisos to the Sections of the law; and considering the eminence of the persons who would ordinarily be selected for these high officers there should be no risk of such discretion being misused in any way.

Certain other important provisions in the scheme of the Vigilance Commissions, enabling the Commission to ensure that improperly motivated actions or omissions or corrupt practices on the part of public servants are not

condoned, do not find a place in the Bill before the Parliament or in the laws enacted by some of the States including Rajasthan. If the new organisation is to be at least as effective as the Vigilance Commissions, provisions similar to those contained in the scheme of the Vigilance Commissions as mentioned below, should be made in the new law.

- (1) The Lokayukta/Up-Lokayuktas can-
  - (a) undertake an enquiry or investigation into any transaction in which a public servant is suspected or alleged to have acted for an improper purpose or in a corrupt manner.
  - (b) cause an enquiry or investigation to be made into any complaint specially entrusted by the Government in which a public servant may or may not be involved.
  - (c) take over under his direct control such complaints, information or cases as he may consider necessary for further enquiry or investigation.

In all cases referred to above the report of the enquiry or investigation shall be forwarded to the Lokayukta/Up-Lokayukta for further action.

- (2)
  - (a) In all cases investigated by the Anti-Corruption Department in which prosecution is recommended, where the Governor or the President of India is the authority competent to sanction prosecution, the Anti-Corruption Department shall forward the report to the Lokayukta/Up-Lokayukta for further action.
  - (b) In cases where an authority other than the Governor or the President of India is competent to sanction prosecution and that authority does not propose to accord the sanction sought by the Anti-Corruption Department, the case shall be reported to the Lokayukta/Up-Lokayukta and the authority will take further action after considering the advice of the Lokayukta/Up-Lokayukta.

(3) The Lokayukta/Up-Lokayukta shall have power to require that the oral enquiry in any departmental proceedings should be entrusted to the Commissioner for Departmental Enquiries or any of his Additional, Joint, Deputy or Assistant Commissioners; and the report of such enquiry shall be submitted to the Lokayukta/Up-Lokayukta, who will forward the record of the case to the competent authority with his recommendations.

In order to avoid dislocation of work, it will also be advisable to continue in force the procedures, orders and instructions of Government that were being followed by Departments and officers and particularly the enquiring or investigating agencies while dealing with matters relating to the Vigilance

Commission, subject to whatever changes may be called for from time to time. This could, I think, be done by issue of necessary executive orders by Government.

The Vigilance Commission with its informality and flexibility was in a position to deal with cases as they arose, and did not necessarily have to wait for complaints to be formally brought before it, but could act on its own initiative wherever there was reason to suspect corruption, while ensuring that the zeal to combat corruption was not allowed to outrun considerations of natural justice. Over the years, the Central Vigilance Commission, and I would claim with all modesty the Commission in this State, have created an image in the public mind, and a recognition on the part of the Government, of its fairness, objectivity and, above all, determination to refuse to be swayed from well known principles of natural justice.

The organisation envisaged by the new law is neither a 'court' nor has it the powers or authority of a court except in certain procedural matters. Its conclusions and findings are only advisory or recommendatory and it is for the 'competent authority' to take decisions on the recommendations in its unfettered discretion, subject of course to the right of the Lokayukta/Up-Lokayukta to make a report to the Governor when such decisions are at variance with the recommendations. The 'competent authority' will in such cases be answerable to the Legislature, before whom the Governor will have the report placed. It has no powers to punish the delinquent or accused public servant even in cases in which the alleged misconduct, criminal or otherwise, is clearly established as result of the investigation, but must make a recommendation to the 'competent authority', who alone can take the decision as to the further action; and it is the disciplinary authority in the case of departmental proceedings, and the competent court after due trial and conviction in the case of prosecution, that will award appropriate punishment. Certain powers of judicial courts have been vested in the Lokayukta/Up-Lokayukta by this Act. They do not, however, give him powers to award any punishment, but only empower him to take judicial notice of matters like perjury or contempt or failure to comply with any orders in the course of the proceedings before him as in the case of courts during judicial proceedings. The law has created a machinery more akin to a permanent Commission of Enquiry, which will be adequate and should, I feel, be eminently suited to deal with cases against Ministers; but if every complaint against the large number of other public servants from Class IV to Class I have to be dealt with in the same manner, this Institution will be reduced to importance and will not be able to tackle corruption seriously or effectively.

I do not think the intention of the legislature, or of the Administrative Reforms Commission, who recommended the establishment of an organisation independent of the executive administration to devote exclusive attention to the eradication of corruption or lack of integrity in public services, was to add one more judicial 'court' for this purpose. This recommendation was in itself

recognition of the inadequacy or the unsuitability of the existing hierarchy of judicial courts to curb corruption. As is well known the judiciary is inert until it is invoked, whereas a vigilance organisation has to combine in itself what could appear to be mutually incompatible roles of detecting corruption, ensuring prompt and careful investigation and tendering advice to the competent authority as to the appropriate action to be taken in an objective and judicial manner. To satisfactorily discharge these functions, the new organisation will necessarily have to be given, as in the case of the Vigilance Commission, certain quasi-administrative, consultative and supervisory powers and functions, enabling it to exercise the necessary directional and supervisory authority over the departments and officers of Government, without which the work of the vigilance machinery will be extremely difficult as I can vouch from my own personal experience. If the organisation set up for this purpose has to function with all the fetters of a judicial court, the very purpose of such an organisation will be defeated.

What is stated above does not represent an opinion formed on the spur of the moment or on ad-hoc consideration of the present situation? I had occasion to express more or less similar views on some of these points on more than one occasion; once in June, 1967 on a reference of the proposal of the Union Government to establish the institution of Lokpal and Lokayukta to me as Chief Secretary when I was in no way connected with the Vigilance Commission, and again in May, 1972 as Vigilance Commissioner on a reference by the Government, and are contained in two notes dated the 7th June, 1967 and the 6th May, 1972. If the intention is not merely to satisfy the forms and formalities of the law in the hope that corruption will thereby be laid to rest, but to attack this cancer in the public services with determination to eradicate it to the utmost extent possible, this law will need radical amendments; and it is my considered opinion that unless these defects and deficiencies are removed the maintenance of such an organisation will be a waste of public funds. Since the Legislative Assembly is not at present in session, this can be done by the issue of an amending ordinance covering these suggestions after obtaining the concurrence of the Central Government, which I believe will be necessary.

These are my own personal views and do not reflect the views of the organisation or of the Lokayukta.

Extract From Third Annual Report For The Year 1975-76

In my report for the year 1973-74 (August 28, 1973 to March 31, 1974), I had observed, in its concluding portion as follows:-

"Before closing I may state that according to my experience during the short period of my office, there appears to be a general misapprehension prevailing in most quarters about the real object and purpose of creating this high-powered judicial organisation. It is generally believed that this organisation performs the same functions as the erstwhile Vigilance Commission (a non-statutory body) did, or as the institutions like those created for the removal of public grievances perform, and not, unoften, this organisation is equated with a Police Station which moves into action even on suspicion of the commission of an offence. This is not as explained by me while analysing the Act. Further, complaints addressed to various authorities are very frequently endorsed to this organisation with the expectation that this organisation must also start a parallel enquiry, though the grievances are actually brought to the notice of the Departments directly or more appropriately concerned. This only shows unawareness on the part of the complainants that several simultaneous parallel enquiries into the same matter by different authorities and at different levels are highly undesirable, because, more often than not, they tend to give rise to confusing and embarrassing situations, defeating, rather than promoting fruitful enquiries. Where alternative remedies are more appropriate, or have been properly sought, those complaints are, as a matter of policy generally filed by me. In a good many cases, when affidavits or further particulars are required to be furnished, the letters addressed by this Sachivalaya in this behalf, have been returned by the Postal authorities as 'unclaimed', which would indicate that those complainants were not inclined to pursue their complaints. It is, however, hoped that in due course, things would improve.

In the end, I may also point out that if the problem of effectively combating corruption is to be fruitfully tackled through the instrumentality of this organisation, then extensive powers of supervisory nature over all agencies, authorities or Officers set-up, constituted or appointed by the State for the eradication of corruption, must be conferred on the Lokayukta and the Up-Lokayukta. This supervisory power should be real and effective and not illusory. Corruption and maladministration, which, as a rule, go together, necessarily impose a great strain on democracy. The smoldering discontent in a body politic, may, after reaching a certain stage, come to the surface in the form of open indignation, thereby denigrating democracy and the democratic way of life itself. Corruption, therefore, requires to be effectively combated before the discontent reaches that stage."

My report for the year 1973-74 was placed on the table of the House of the State Legislature on 31st March, 1975, with the following Explanatory

Memorandum as contemplated by Section 12 (5) of the Rajasthan Lokayukta and Up-Lokayuktas Act, No. 9 of 1973:

"The first report for the year 1973-74 of the Lokayukta and Up-Lokayukta on the performance of their functions submitted to the Governor under subsection (4) to Section 12 of the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973 has been laid on the table of the House of the State Legislature. The Lokayukta was sworn in on August 28, 1973 and he, therefore, functioned for a period of nearly 7 months during the period under report. He received 180 complaints relating to his jurisdiction under the Act Out of these, 166 were filed because in terms of the provisions of the Act no action could be taken on them. Out of the remaining 20 complaints, 9 were still under scrutiny at the close of the reporting period, while on remaining 11 complaints action was taken by the Lokayukta by way of preliminary enquiry, calling for affidavits etc. However, there was no case in which Lokayukta had to make a report under the provisions of sub-section (1) to Section 12 of the Act, and, therefore, there was no occasion for the Government to take decision on the reports.

The Lokayukta has given his views on the scope and interpretation of the various provisions of the Act, he has also given a suggestion for improvement of this institution. The Government will carefully consider the suggestion and take a final decision after a more detailed examination by the Home Department and discussions with the Lokayukta.

The Up-Lokayukta was sworn in on June 5, 1973 and, therefore, he functioned for 10 months during the period under report. 1596 complaints were received by him, out of which action was taken in as many as 1212, while the remaining 384 were pending at the close of the reporting period for scrutiny. 1102 had to be filed because no action could be taken on them, under the provisions of the Act, affidavits were called for from the complainants in 56 complaints and in none of them the affidavit was received. 54 complaints were sent for preliminary enquiry and preliminary enquiry reports were received in respect of 11: all the 11 were closed because no substance was found in them. No report was, therefore, made by the Up-Lokayukta also under the provisions of sub-section (1) to Section 12 of the Act. Consequently there was no occasion for the Government to take any action on the reports.

The Up-Lokayukta has also made a suggestion in his report; he is of the view that the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973 suffers from jurisdictional and procedural constraints and, therefore, the provisions of the Act should be amended. The Government have considered this suggestion and found that the Act, in fact does not call for any amendment. On the contrary, the Maharashtra Lokayukta has commended the provisions of the Rajasthan Act No. 9 of 1973 in his report and suggested amendments in the Maharashtra Act in the light of the provisions, of the Rajasthan Act. We have also not received any advice from

the Lokayukta calling for the amendment of the Act. The Government would, however, be prepared to give serious thought to any suggestion of this nature as and when received from the Lokayukta. Another observation made by the Up-Lokayukta in his report is that the Act did not contain a provision under which the Up-Lokayukta could continue to deal with the pending cases of the former Rajasthan Vigilance Commission. After considering this matter in all its aspects, the Government has already taken a decision in respect of the pending cases of the former Rajasthan Vigilance Commission and in conformity with the advice of the Lokayukta, all such cases were withdrawn from the Up-Lokayukta and they are being appropriately dealt with in the administrative departments and the Department of Personnel."

I am not aware if there has been any detailed examination by the Home Department on the suggestions given by me in my report for the year 1973-74 for improvement of the institution of Lokayukta and Up-Lokayuktas. So far, there has been no discussion with me by the Government in this connection.

In my report for the year ending 31st March, 1975, I observed as follows:-

"Before concluding, I consider it proper to point out that when corruption (including nepotism amongst administrative officers and those invested with power to govern, takes deep roots, it leads to frustration, which, after some time, erodes in a contemptuous revolt by the people against the system which breeds such vices. In the interest of preservation of efficient, honest and orderly society, therefore, anti-corruption strategy must be effectively geared up and given the needed priority. This anti-corruption strategy requires serious consideration of a well thought out plan centralising the activities of all organisations specifically designed to combat corruption amongst public servants. In my last year's Report, I had suggested grant of supervisory powers to the Lokayukta and the Up-Lokayukta over all agencies, authorities and officers set up, constituted and appointed, for the eradication of corruption. To those agencies may usefully be added the District Vigilance Committees and also the Department for Removal of Public Grievances set up by the State. All these suggestions can now be considered for formulating a comprehensive scheme. It may be remembered that Section 18(2) of the Act empowers the Governor to confer such supervisory powers on the Lokayukta and the Up-Lokayukta.

As experience of this Sachivalaya during the year under Report shows, in quite a few cases requests have been made for inspection of sites and even for the "spot" enquiry into allegations of corruption against some public servants far away from Jaipur. In a number of cases, the grievances ventilated pertaining to allegations of demand of bribery improperly motivated harassment during the investigation of offences reported to the Police. Undoubtedly, some of the complaints may be inspired by a desire to obstruct, delay, defeat or frustrate full and fair investigations into crimes by the Police, but there may certainly also be

cases in which Police investigating agency may be purposely and with the ulterior motive, harassing, or threatening to harass, innocent persons, or attempting to extract illegal gratification or seeking unduly to gain some personal benefit from the guilty parties on promise to favour them. Deliberate and studied lethargy and indifference on the part of the investigating agency may not infrequently be prompted by questionable motives. There is little doubt that the above category of cases are not imaginary but are common enough to provide reason for anxiety and vigilance and do cause concern in this Sachivalaya, requiring earnest efforts to find an effective remedy for them. Occasional surprise visits in appropriate cases to the sites of investigation where the delinquent or suspected investigating agencies are believed to be operating, would certainly serve the purpose of alerting the investigating agency as a whole in this State and would also drive them to improve their image with respect to honesty, integrity and efficiency. Even in complaint of corruption against other public servants, occasional, sudden and surprise visits to the sites would be of great importance yielding fruitful results. Absence of proper transport for urgent and emergent use, without leakage of the proposed plan has proved a grave handicap on such occasions, and it is a matter for serious consideration whether it would not be worthwhile providing this Sachivalaya with proper independent transport arrangement for successfully meeting such contingencies in order to combat and eliminate corruption. The necessary paraphernalia for such steps, seem to be eminently desirable if, apart from facilitating prompt action against corruption generally, the standard of investigation by appropriate authorities into reported crimes., and the image of integrity of the investigating authorities in the public estimation, is to be fruitfully improved."

Since there has been no change in the situation, the same position continues during the year under report. The result is that the handicaps indicated by me in my two earlier reports continue to serve as hurdles in personally enquiring and investigating into the complaints of corruption and improper conduct against public servants in an effective manner. I can only express my hope that some concrete step would be taken with respect of those matters without more delay so as to enable this institution to function purposefully with greater facility.

I consider it appropriate, in this connection, to observe that the remarkable spread of the Ombudsman movement (the source of inspiration for creating the institution of Lokayukta and Un-Lokayuktas) throughout the liberally democratic world in recent years, persuades me to hopefully think, as at present advised, that if the institution of Lokayukta and Up-Lokayuktas in Rajasthan is fully organised, and properly equipped with all the essential requisites, it can contribute, no mean degree, towards effectively checkmating, substantially eliminating, corruption and improper conduct from amongst public services. The ultimate is objective undoubtedly, its complete eradication, as far as humanly possible. I am, of course, not unmindful of the general belief that in developing countries, there is a strong likelihood favourable climate and fertile soil for corruption to thrive unless those in

power are determined to resist the temptation of personal benefit through this vice and they do not fail to recognise the paramount social necessity for its elimination. The existence of this institution, if given well planned due publicity, is expected with a fair degree of hope and certainty, to promote consciousness, and realisation of benefits, of disciplined and honest behaviour in all segments of the society, whether official or unofficial, public or private. Discipline needless to point out, is generally considered as an essential fundamental pre-requisite; or a sine-qua-non, for proper civilised behaviour and orderly progress. Want of proper discipline, not unoften, is the beginning of lapses leading improper conduct, from which, positive corruption may not be very far, and, indeed, may soon emerge.

The report for the year 1974-75 was presented to the Governor on 13th July, 1975. In that report, I had also expressed my views on the scope of Section 12(5) of the Rajasthan Lokayukta and Up-Lokayuktas Act, No. 9 of 1973, hereinafter called the Act, which requires a copy of the annual report together with an explanatory memorandum, to be laid before the House of the State Legislature. This provision as I observed last year, is intended to enable the elected representatives of the people to have an effective opportunity of informing themselves of the contents of the report so as to be in a position to consider, inter alia, the question of further action by way of Legislation or otherwise, for effectively achieving the purpose and object underlying the Act. Undue delay in laying the report before the House of the State Legislature, after it is presented to the Governor, is likely to dilute (at times, it may defeat) this important purpose: it may further tend to give rise to an apprehension (which may not be correct) in the minds of the elected representatives of the people that their right to know the contents of the report at the earliest possible opportunity, is not being fully honoured in letter and spirit. Such an impression may not be very healthy: it may even be liable to be construed as somewhat derogatory of, or inconsistent with, our democratic traditions. In spite of the foregoing clear observation made by me, the report for the year 1974-75 again does not seem to have been laid before the House of the State Legislature up to the 31st March, 1976. I should like to express my earnest wish and hope that in future, in the absence of very compelling reasons beyond reasonable control, such delay would be avoided.

I may also appropriately point out that I had all this time been waiting for the Explanatory Memorandum required by Section 12(5) of the Rajasthan Lokayukta and Up-Lokayuktas Act, No. 9 of 1973, to be annexed to my previous year's report, so as to be able to know the views stated therein before finalising the present report. However, after having waited all this time, I am now inclined to finalise it without waiting for that Memorandum any longer.

Before giving the details of the complaints received and dealt with by me during the year under report, I should like to observe that corruption and venality in administration, undoubtedly, exist in different forms in different countries, depending, inter-alia, on the general standard of education (not mere literacy),

stages of economic, social and political development, and healthy consciousness of the value of ethical behaviour and sense of duty, amongst the members of the society, both, public servants and the public. The growth of welfare State has magnified its activities, and recently the State has assumed a multitude of functions encroaching into private life of citizens; so much so, that an average citizen, at times, feels somewhat baffled at the power yielded by the State with respect to his very physical existence. Controls, I may, unhesitatingly, observe, without any fear of contradictions, have, in many cases, proved a prolific source of corruption at the instance of the unscrupulous dealers with the suspected connivance or inefficiency of the controlling public servants concerned. Improper involvement of public servants concerned with controls, are not unknown. Human nature being what it is, man is generally supposed to have an inner urge to possess and exercise power over his fellow beings. Officials may, not unoften, have a tendency to exert to have more power than they need for discharging their functions in a democratic way. A decent society, however, expects every citizen to treat others, as he wishes to be treated by, in similar circumstances, undue excessive exercise of power, as also unjustified forbearance to exercise power in the performance of vital duty towards citizens, by officials, being considered as unjustified irritants. It is to fulfil this expectation that in all civilised States effective steps are taken, both, preventive and punitive, to checkmate the vice of corruption and venality in administration, so as to create feelings of aversion and scorn towards tendencies and allurements which promote such anti-national and anti-social behaviour by power-conscious bureaucratic authorities.

The institution of Ombudsman has been designed, in the interest of safeguarding the legal rights of the individuals, in egalitarian and liberally democratic countries in the West, as one of the effective steps just mentioned. This seems to have yielded good fruit in Western countries, and the Ombudsman movement has penetrated into the democratic systems all over the world.

We, in our country, also started realising usefulness of this institution, quite some time ago. As far back as 1964, the 'Santhanam Committee' had observed:

"It is a matter of serious concern that at present education is thought of merely as a process of sharpening the human brain with a view to utilising it for materialistic ends. For a country like India, development of her material resources and of raising of the standard of life of all classes are, indeed, imperative. At the same time, the deterioration in the standards of public life has to be arrested. Ways and means have to be found to ensure that idealism and patriotism have their proper place in the ambitions of our youths. The lack of moral earnestness, which has been a conspicuous feature of recent years, is perhaps the greatest single factor which hampers the growth of strong traditions of integrity and efficiency."

These observations are still fully relevant.

The creation of the Office of the Lokayukta and the Up-Lokayuktas in Rajasthan has to be appreciated in the above background.

The institution of Lokayukta, I may again appropriately clarify and explain in plain terms, is not to be looked upon with suspicion or disfavour by public servants. Such an outlook may defeat, and it would certainly obstruct, the basic purpose for which this institution has been set up. The Lokayukta is an impartial independent Officer, who merely enquires, with an objective and detached judicial approach, into the complaints by aggrieved citizens with respect to allegations of corruption, etc., against public servants; in other words, broadly understood, with respect to maladministration. The Lokayukta, in short, is not only a friend, helper and rescuer of the aggrieved citizen in his suggested difficulties with allegedly corrupt or dishonestly motivated public servants, but he is also a friend, well-wisher and helper of honest and well-meaning public servants. This institution, in the ultimate analysis, truly serves to function, if I may say so as a 'safety-valve' to protect violent eruption as a result of frustration, or persisting feelings of dissatisfaction, with, what may sometimes appear to be blatant and continued maladministration. The public servant is, in fact, generally believed, in all countries where similar institutions are in vogue, to exercise his power more justly, more promptly and with the fairest methods, when there is an authority like a Lokayukta (an Ombudsman as known in Western Countries) watching him. Indeed, when the Lokayukta files a complaint considering it as devoid of merit, he suggests that the public servant concerned has not defaulted and has discharged his functions rightly and properly. This is considered as a vindication of the public servant concerned. The concept of integrity amongst the public servants in the sense that they should not use their official position to obtain any kind of undue financial or other benefit, gain or advantage, for themselves, their families or friends, and that they should discharge their duty with scrupulous care, is thus strengthened by this institution through the rule of law as enacted in the Act.

Extract From Fourth Annual Report For The Year 1976-77

The appointment of the staff of this organisation rests with the Lokayukta, as is clear from Section 14 of the Rajasthan Lokayukta and Up-Lokayuktas Act, No. 9 of 1973, which, so far as relevant, provides as under :-

"14. Staff of Lokayukta and Up-Lokayuktas.-(1) The Lokayukta may appoint, or authorise an Up-Lokayukta or any officer subordinate to the Lokayukta or an Up-Lokayukta to appoint, officers and other employees to assist the Lokayukta and the Up-Lokayukta in the discharge of their functions under this Act.

(2) The categories of officers and employees who may be appointed under subsection (1) their salaries, allowances and other conditions of service and the administrative powers of the Lokayukta and Up-Lokayuktas shall be such as may be prescribed, after consultation with the Lokayukta."

This complete autonomy for this organisation, and its freedom from the control of the State administration, is a guarantee of its judicious independence. It is further calculated to promote and inspire confidence in the minds, both, of the complainants and the public servants complained against. This autonomy should never be diluted.

During the course of my tenure, so far, it is heartening to note, that on certain occasions, the suggestions made by the Lokayukta Sachivalaya to certain departments to help humanise the remoteness and occasional harshness of the governmental side of our vast modern society, which is fast becoming more and more complex, proved fruitful to the satisfaction of the poor complaining citizens, some of whom even conveyed to this Sachivalaya their thanks, and expressed their gratefulness. This has encouraged me to entertain a bright hope for a purposeful future for this organisation, as useful to the society as are its counterparts in the Western democracies.

I also consider it desirable at this stage to reiterate with some emphasis that like the Western institution of Ombudsman, this Sachivalaya is a friend, helper and guide of both, the aggrieved public and the honest public servants. The interest of the Lokayukta Sachivalaya lies only in combating corruption and checking/exposing, whenever possible, mal-administration, and in promoting and encouraging honesty, integrity and responsiveness in the Government departments, and, additionally, in ensuring (and, if necessary, in improving) their credibility: to this end, this Sachivalaya expects full realistic cooperation and fruitful assistance from all concerned, viz. the Government and the public.

There is one aspect to which I may now usefully make a reference. Quite often, I consider it proper to seek factual reports for securing more details of relevant facts in order to be able to have a clearer picture of the complainant's

viewpoint. The fact that the public servant requested to supply the factual position may have to explain his own acts, or behaviour etc., can never be considered to be a good or just excuse for declining or even hesitating to furnish the factual report. Indeed, he is expected to welcome this opportunity, so that the true position may be disclosed at the earliest occasion, and appropriate decision taken. To withhold such assistance from this Sachivalaya in such cases, can only mean avoidable prolongation of proceedings. It may also tend to give rise to a feeling of suspicion, which may not be justified on the true facts.

In my first Annual Report for the period ending 31st March 1974, I had, in brief, referred to the background, which prompted the enactment of the Rajasthan Lokayukta and Up-Lokayuktas Act, No. 9 of 1973 and also briefly analysed the broad features of the said Act. In the concluding portion of the Report, I had observed: -

"In the end I may also point out that if the problem of effectively combating corruption is to be fruitfully tackled through the instrumentality of this organisation, then extensive powers of supervisory nature over all agencies, authorities or officers set-up, constituted or appointed by the State for the eradication of corruption must be conferred on the Lokayukta and the Up-Lokayukta. This supervisory power should be real and effective and not illusory. Corruption and mal-administration, which, as a rule, go together, necessarily impose a great strain on democracy. The smoldering discontent in a body politic, may, after reaching a certain stage, come to the surface in the form of open indignation, thereby denigrating democracy and the democratic way of life itself. Corruption, therefore, requires to be effectively combated before the discontent reaches that stage "

While laying the First Annual Report before the House of the State Legislature, an Explanatory Memorandum, was annexed to it, as required by Section 12 (5) of the Rajasthan Lokayukta and Up-Lokayuktas Act, No. 9 of 1973. This Explanatory Memorandum bore the signatures of Shri S. L. Khurana, the then Chief Secretary to the Government of Rajasthan Section 12(5) of the said Act requires the Governor, to whom the Annual Report is to be presented, to cause a copy of that report, together with an Explanatory Memorandum, to be laid before the House of the State Legislature, It is really for the Governor, and not solely for the State Government, to perform the duty laid-down by Section 12 (5) of the said Act. The views of the Governor would have been instructive and useful to the members of the Legislative Assembly.

Apparently, the real underlying spirit, scope, purpose and object of the relevant statutory provisions, were, perhaps, not fully appreciated. I may, in passing, state that in my view the Governor is expected in this context to act in his discretion and not on the advice of the council of Ministers- in other words, of the State Government. He may, if necessary, secure the relevant information from the

Government but the explanatory memorandum should purposefully contain his comments. The Annual report is not intended by the Act to go to the State Government. It is only to be caused to be laid by the Governor before the State Legislature. A different view may give rise to some anomalies and contradiction not easy to impute to the Legislature.

In my Second Annual Report (April 1, 1974 to March 31, 1975) at the very outset, I again pointed out the baneful effect of Corruption, directly on both, the corrupter and the corrupted. I also observed that Corruption hurts the public directly and the more lamentable tragedy was stated to be, that it penalises the honest, and benefits the dishonest. I drew the attention of the administration to the observation made by me in the concluding portion of my First Annual Report, and observed that no supervisory power, as indicated, having been conferred, this serious, but easily removable, handicap under which this institution had been functioning, continued, rendering it difficult for the Lokayukta organisation to effectively gear-up and expand anti-corruption strategy. How, I wish, these handicaps had been removed with a realistic sense of urgency.

In the Second Report, I also brought to the notice of the administration that, absence of proper transport for urgent and emergent use, without leakage of the proposed plan, had proved a grave handicap on occasions when sudden and surprise visits on behalf of the Lokayukta organisation, to sites of reported corrupt activities, were considered to be of importance, likely to yield fruitful results, and I suggested to the administration to seriously consider whether it would not be worthwhile providing this institution with proper independent transport arrangement or successfully meeting such contingencies in order to combat and eliminate corruption. I plainly stated my views that the necessary paraphernalia, as suggested, was eminently desirable if, apart from facilitating prompt action against corruption generally, the standard of investigation by appropriate authorities into reported crimes, and the image of integrity of the investigating authorities in the public estimation was to be fruitfully improved.

In my Third Annual Report (April 1, 1975 to March 31, 1976), I considered it my duty to reproduce my observations made in the two earlier Reports referred to above, pertaining to both, the supervisory powers of the Lokayukta institution over all agencies, authorities and officers set up constituted and appointed, for the eradication of corruption, including in the District Vigilance Committees and the Department for Removal of Public Grievances, and also to the desirability of providing this institution with proper independent transport arrangement.

I need hardly state that all these observations have, so far, remained unheeded, indicating thereby, what may appear to be disinclination on part of the State Administration to make the functioning of the Lokayukta institution purposeful and effective in its efforts to successfully combat corruption and mal-practices from amongst public servants in the State which is commonly understood

by the people at large, to be somewhat, on the increase, rather than on the decline. The Emergency, which mostly shut out publicity of grievances, and, perhaps, to some extent, is supposed to have discouraged the general public from complaining against the powerful public servants, as a result of a fear-complex, merely added to the impetus on the part of the dishonest, the corrupt and the unscrupulous amongst the public servants, who, of course, thrived with the connivance, of similar discreditable but resourceful elements amongst the public. It has generally been suspected (and, perhaps, believed in some quarters), that the Officers in key positions and the Ministers could not be unaware of the existence and extent of corruption, and mal-practices etc. The need for dispelling such suspicious cannot be over emphasised in a democratic set-up like ours.

In a democracy, the Opposition is always expected in the interests the common-man, to be vigilant, watchful and constructively critical the administration, for its lapses and errors, whether due to ignorance otherwise. This aspect is reflected even in the scheme of the Rajasthan Lokayukta and Up-Lokayuktas Act, No.9 of 1973. Apparently, it partly for this reason that the Annual Reports on the functioning of the Lokayukta and the Up-Lokayukta are laid before the House of the State Legislature. The Opposition can, if consider necessary, plead the cause of the public by impressing on the Government, whatever is consider proper, on the basis of the Annual Report, for the eradication of corruption etc.

I hope, every effort would now be made to help the people, in securing to them a clean and just administration by combating corruption etc., through effective and purposeful functioning of the institution of Lokayukta, if necessary, by even suitably amending or broadening some of the provisions of the Rajasthan Lokayukta and Up-Lokayuktas Act. No. 9 of 1973, so as to make it an effective bulwark against corrupt elements, both, in the public services and the public.

In my First Annual Report, I had briefly analysed the Rajasthan Lokayukta and Up-Lokayuktas Act No.9 of 1973. This was considered necessary mainly because the Up-Lokayukta was continuing to deal with old cases pending with him in his capacity as Vigilance Commissioner. Dealing of such cases by the Up-Lokayukta, as if he was a successor of the office of the Vigilance Commissioner, had been considered by me to be contrary to the scope, effect and provisions of the aforesaid Act, and therefore without jurisdiction.

In certain quarters, there seems to be an apprehension (not quite correct, in my view) that the 'factual reports' sought by this Sachivalaya from certain Government departments, in connection with the complaints received, or, in respect of matters reflecting corruption, etc., otherwise coming to the notice of this Sachivalaya, are not covered by the provisions of the aforesaid Act. To remove this erroneous impression, I consider it necessary to point out that these factual reports do not constitute a preliminary enquiry or investigation as contemplated by the

above Act. These factual reports are indeed sought for the purpose of proper judicious and purposeful appreciation and understanding of the facts alleged in the complaints so as to be able to determine whether or not the requisite statutory preliminary enquiry or investigation is called for. On occasions, simultaneously, more detailed information is sought even from the complainants. This is, in effect, supplementary to the allegations contained in the complaint and if, after perusal of the factual report, and due consideration of all the relevant facts and circumstances, it is felt that the complaint is either false or frivolous, or is not such as would warrant an enquiry or investigation under the provisions of the aforesaid Act, the complaint may have to be filed and the case closed. This procedure which is, both, satisfactory and judicious, has been adopted in exercise of the wide judicial discretion vested in the Lokayukta and there can, by no stretch, be any question of considering this procedure to be either, contrary to law, or unjust, or without jurisdiction. Indeed, it only serves to advance and promote the cause of substantial justice, and is resorted to because a large number of the complainants are, generally, illiterate and ignorant, and they send their inartistically drafted complaints by post from far off places. Not to ask for factual reports, would only defeat the cause of justice, and frustrate the ignorant complainants. Needless to point out, this only serves to further safeguard the just interests of the public servants concerned, and to inspire the requisite confidence in them.

Incidentally, it may be pointed out that these factual reports have been sought as a matter of compulsion and necessity, because, in spite of my repeated positive suggestion during the year, proper adequate staff for the purpose of carrying out my own investigations and enquiries has not yet been made available. If factual reports are stopped, of whole functioning of this Sachivalaya may run the risk of becoming an exercise in futility, and it would remain, virtually, a paper organisation. Such a consequence could hardly have been intended. I do not think, I need further elaborate this point.

Extract From Fifth Annual Report For The Year 1977-78

The next essential requisite which everyone, who has the privilege of wielding power and authority in the State, must remember, is that the State exists for the people and not that the people exist for the State. The end of the Government is to accomplish good office of the community, which necessarily connotes good of the individuals constituting the society. Man is a member of the society, and without the good of the society, his own good cannot be achieved. The State, rightly analysed, is indeed a machine, which the citizens create for their general good, and run it to achieve this end. It would be unnecessary, as indeed it would be dangerous; to speak of some supposed mystical good of the State or the country, independent of the lives of the individual citizens. In a true State, man acknowledges the rule of law, because there can be no political liberty if a man is subject to the inconstant, uncertain, unknown arbitrary will of another human being. The Government must, therefore, be by established standing laws, promulgated and known to the people, and not by extemporary decrees. It has truly been said, "Where the law ends, tyranny begins".

True, State is a limited one and not absolute. It is limited, because it derives power from the people, and because it holds power in trust for the people, depending on their consent, and should, therefore, be constitutional and limited in its authority. A good State is a tolerant State and, in that sense, a negative State. It does not seek to forcibly manage the lives of its citizens. It transforms self-interest in public good and it creates mechanism whereby men act to bring about public happiness. In contrast, in tyranny, power is exercised without right. In a liberal civil society, men understand that the end of the law is not to abolish or to restrain, but to preserve and enlarge the civic freedom.

In a society where liberty is a guiding rule, the individual should, broadly speaking, not be confused with the group of which he forms a part, and his identity and individuality must never be enslaved, for that would be the beginning of the end of true liberalism and dawn of authoritarianism.

It is to ensure the identity, individuality and the freedom of the individual citizen that the democratic thinking has hit upon the institution of Ombudsman, which in our country has taken the shape of Lokayukta or Lok Pal.

An experienced judicial mind in a Western democracy, described the Ombudsman as one "who can bring the lamp of scrutiny to the otherwise dark places, even over the resistance of those who would draw the blinds". If such is the state of affairs in Western democracies, where there is reportedly higher standard of education and awareness, and a better sense of social discipline, one can well imagine the usefulness of a similar organisation for improving the lot of common ignorant villagers in our country with more dark places.

At this stage, I should like to point out that in certain countries, provision for an Ombudsman has been included in their Constitutions. My experience as Lokayukta in the State of Rajasthan during my tenure of office, has induced me to affirm that in India there is greater need for the inclusion in our Constitution of a provision for the creation of institutions of Lok Pal and Lokayuktas, so that these institutions become an integral part of the administrative set-up, in order to enable the citizens to have speedy redressal of their grievances against administrative corruption etc., through institutions created and recognised by the Constitution itself. Since people are now getting more and more conscious of the requirements of a clean, efficient, objective and responsive State administration, such a Constitutional provision would, both enhance the prestige of these institutions, and ensure their creation.

I have already developed the various aspects of the need of the institution of Lokayukta and Up-Lokayukta in my earlier reports. One aspect, which cannot be over-emphasised, is that our contemporary society is still, by and large, a bureaucratic society. When the Government proceeds to assume the responsibility for expanding array of social functions, the size of the bureaucracy necessarily increases. Where the hierarchy gets taller or flatter or is elongated, the rule governing the pattern of authority and communication between and amongst the bureaucratic units becomes complicated. From the citizens' perspective, the red tape gets longer and more intricate. Even in developed countries, the bureaucracy is so large that an individual, without a pull, is often lost in the shuffle. The civil servants or administrators normally bear no malice towards citizens caught in the bureaucratic machinery they just feel helpless unless they pick out a given case for special treatment, even though only to give justice rightly due.

It is in this background that I have to repeat my feeling of unhappiness with the disheartening continued powerlessness of this organisation as an effective instrument in affording the desired satisfactory and fruitful assistance to the common man by way of relief against alleged corruption and mal-administration. Direct control over the investigating agencies, which this organisation has all long been consistently seeking through the Annual Reports, has not been given, with the result that it has to helplessly request and wait for long periods for factual reports, which are, on some occasions, expedited only by the keen interest taken by the Chief Minister and the Chief Secretary.

Some of the handicaps under which this organisation has been functioning ever since its inception about five years ago, have been repeatedly highlighted, but without any fruitful result. The Up-Lokayukta, who is an integral part of this organisation, as contemplated by the legislative scheme of the Rajasthan Lokayukta and Up-Lokayuktas Act, No.9 of 1973, and the Rules framed there under, has not been appointed for nearly four years. If this office is considered unnecessary, then the above Act could have been amended, so as to avoid the inevitable impression of disregard of one of the integral provisions of law. Ignoring

it, in practice, tends to illustrate an attitude of dominance of administrative convenience over the statutory mandate.

The term of appointment of Shri H.S.Rawat, Secretary of this Sachivalaya, expired in July 1977. Till the end of the financial year 1977-78, this post was not filled, despite several requests to depute a very senior experienced member of the I.A.S. (Selection Scale) for filling this prestigious office, which is vitally concerned with enquiries against very high placed public servants, as mentioned in Section 7 of the aforesaid Act. Even till today, it is lying vacant.

Happily, of late, some change for the better is noticeable in the approach of the administration in securing to this organisation the greatly needed cooperation in securing tactual reports from the district and Police authorities. In the absence of an independent agency for enquiries and investigations, this organisation has, perforce, to depend on the aforesaid agencies which are, presumably for understandable reasons, not as prompt and speedy as is essential in making available the desired information to this organisation, and instances are not wanting when the complainants entertain, and sometimes openly express, lack of faith in these agencies, which feeling may not always be considered to be wholly without some prima facie justification. Let me hope, in future this organisation gets more meaningful and fruitful cooperation in affording redress to the ignorant common people (not only villagers but also town men) seeking redress against injustice and also against wrongful bureaucratic indifference towards the rights of the citizens in the lower rungs of society: such indifference may not unoften boomerang and recoil on the administration by generating in the general public, an unhappy feeling of suspicion regarding their efficiency.

Corruption and mal-administration have their roots in an indisciplined mind; a mind, which does not realise the public servant's obligation to the public, to serve whom is his primary duty as the expression "public servant" itself literally connotes.

Since some of the high-placed public servants are elected representatives of the people, it is worth recalling that in a democratic set-up where the Government is formed by persons elected to the legislatures through adult franchise, it is of the utmost importance that the elections must be absolutely fair, honest, untainted with falsehood, reasonably free from suspicion of unfair practices, and completely in accordance with law. If the elective process is tainted, (or suspected or believed to be tainted) with dishonesty, untruth or falsehood, then, obviously, the persons who succeed in these elections would be suspect and may rightly fail to command the required esteem from the honest public. Only such legislators as have been elected by honest and fair processes, can inspire faith in the minds of the people. I have made this passing observation, because, sometimes, grievances regarding misuse of position by Members of Legislative Assembly have been received, but they could not be gone into for want of jurisdiction.

Excessive power, whether founded on wealth, official status, or political position, has an intoxicating influence, which tend to give birth to ego as a result of imbalance in mental thinking. Power thinks of security and not progress. Being evil by nature, it is a lust and not stability. This is supposed to pave the way to improper or even corrupt behaviour. A system of checks and balances and a proper disciplined mind help to overcome and control these tendencies, which I believe, are found in a true democratic set-up.

We, in modern India, because of historical reasons, have, during the years, sought inspiration from the pledge of the Magna Carta, extract by the British Barons out of King John of England as far back as the year 1215. This inspiration is reflected in the insertion of the high ideals of securing to all citizens justice, liberty, equality and fraternity as mentioned in the Preamble of our Constitution. These are not mere words, but the sentiments expressed therein serve, as they also served in days of yore as a real solid basis for our social structure. These sentiments have their deep roots in our own far more ancient heritage, which has always been a guiding principle in the State administration. It is to ensure that these inalienable rights of the individual are not destroyed, unduly diminished or diluted that our democratic instinct has attempted to devise various means for controlling the possible excesses on the part of those in power in the administration. The institution of Lokayukta, as already indicated, is one of such means, intended to afford relief to the citizens against corrupt, improper and malevolent activities of the misguided public servants.

## LOKAYUKTA, RAJASTHAN.

Lokayukta Sachivalaya,  
Jaipur-302005.

D.O.No.D.18/LA/77  
August 25, 1977

My dear Shri Shekhawatji,

As desired by you on the morning of the 15th August, at the Independence Day Ceremony at the S.M.S. Stadium, I am enclosing herewith some broad suggestions about the proposed amendments in the Rajasthan Lokayukta and Up-Lokayuktas Act No.9 of 1973.

I am sorry for the delay in doing so, which has been mainly due to the want of experienced and trained higher officers in my Sachivalaya, possessing the requisite sense of background, maturity, objectivity and the required knowledge of the essential basic legal principles on which this Sachivalaya functions.

It would not be out of place to point out that the administrative wing of the State has not been purposefully aiding and co-operating at times, they appear to be non-cooperative in rendering the needed assistance in the functioning of this Sachivalaya, in the highly important task of securing factual information and finding facts relating to grave allegations of corruption, and in further successfully processing them. It is not possible to enter into details on this occasion, but I feel, I should, in passing, indicate to you the serious handicaps under which this Sachivalaya is functioning.

With best wishes and regards,

Encl: 10 leaves.

Yours sincerely,  
Sd/-  
( I. D. Dua )

Shri Bhairon Singh Shekhawat,  
Chief Minister,  
Rajasthan, Jaipur.

Suggestions For More Effective And Fruitful Functioning Of The Lokayukta Sachivalaya For Prevention/Eradiation Of Corruption In Public Services.

The Rajasthan Lokayukta and Up-Lokayuktas Act No.9 of 1973 (hereinafter called 'the Act') was enacted with the object and purpose of making provisions for the appointment and functions of certain authorities for the investigation of allegations against Ministers and public servants in certain cases and for matters connected therewith.

The Lokayukta/Up-Lokayukta are empowered to take up investigation of allegations against public servants as defined in section 2(i) of the Act, arising out of their actions (including failure to act) expected of them, indicating affirmations of abuse of official position so as to obtain any gain or favour to themselves, or to any other person, or to cause undue harm or hardship to any other person, or of their being actuated in the discharge of their functions, as such public servants, by personal interest or improper or corrupt motives or of their being guilty of corruption, or lack of integrity in their capacity as such public servants.

The Madhya Pradesh Bill (18 of 1974) also provides for investigation of allegation of a public servant being in possession of pecuniary resources or property disproportionate to his known sources of income and such pecuniary resource or property is held by the public servant personally or by any member of his family or by some other person on his behalf.

The Lokayukta/Up-Lokayukta in Maharashtra and Bihar also seem to have the power to investigate actions of mal-administration purporting to have been taken in the exercise of their administrative functions by the public servants where such actions or administrative procedures or practice governing such actions are unreasonable, unjust, oppressive or improperly discriminatory or where there has been negligence or undue delay in taking such action or the administrative procedure or practice governing such action involves undue delay. Similar provision is included in the Madhya Pradesh Bill. The absence of such provision in the Rajasthan Act perhaps may be for the reason that in Rajasthan, a separate machinery for looking into the grievances connected with mal-administration has been established and is already functioning under a Commissioner designated as 'Commissioner for Removal of Public Grievances'.

It is for consideration whether the Rajasthan Act be so amended as to empower the Lokayukta/Up-Lokayukta to take up investigation of allegations against public servants of (i) grievances/mal-administration and (ii) owning properties etc., disproportionate to the known sources of income.

The provision of investigation of allegations of mal-administration by the Lokayukta Organisation will obviously result in crating much greater public

confidence and the existing machinery of the Commissioner for Removal of Public Grievances may appropriately have to be placed under the Lokayukta Organisation.

It is a matter of common knowledge that on the plea of collections being made for recognised public funds, the collections made are allegedly misappropriated and the amounts collected reportedly remain unaccounted. It cannot be denied that under the ordinary criminal law, it may be possible to proceed against public servants committing such embezzlements and appropriating the funds illegally to themselves, but it is for consideration whether it would not be expedient if a specific provision in the Act is made by adding an explanation in the following or some other form under Section 2(b):-

Explanation:- Collection of money towards funds otherwise than by cheques not being immediately accounted for and official receipts issued therefor will be presumed as acceptance of illegal gratification by the public servants concerned.

As per the Act, investigation of allegations can be taken only against public servants in position.

It is for consideration whether Ex-Ministers and other categories of public servants as have held their offices up to a period of five years before the date of receipt of the complaint be also brought within the purview of the Lokayukta Organisation and suitable amendment made in Section 2(i) of the Act. A delinquent public servant should not escape merely by resigning or retiring, or ceasing to hold office.

#### **M.L.As. To Be Brought Within The Purview Of The Lokayukta Sachivalaya.**

The public servants against whom allegations can be investigated by Lokayukta/Up-Lokayukta are as indicated in Section 2(i) of the Act. The Members of the Legislative Assembly are not included in the definition of the public servants within the purview of Lokayukta.

#### **The point for consideration is whether the Lokayukta in Rajasthan may have the M.L.As., within his purview.**

'Public servants' as defined in Section 2(i) of the Act are within the purview of the Lokayukta/Up-Lokayukta. Allegations of misuse of official position and the like by the spouses of public servants have been openly levelled through newspaper reports etc., reflecting on the public servants' integrity, and brought to the notice of this Sachivalaya. It will, therefore, be for consideration whether a suitable amendment be made in the Act so as to enable the allegations of misuse of official position or the like against the spouses of the public servants and their close blood relations residing with them, may be investigated as if the allegations were virtually against the public servants themselves. Such a provision will serve to have a deterrent effect on the spouses of the public servants and the public servants would also be induced to persuade their spouses to desist from resorting to act activities for which they may be held responsible. Such reputed activities

undoubtedly damage the fair image not only of the public servant concerned but also tend to cast an unhappy reflection on the public services as a whole.

### **Supervisory Powers Of The Lokayukta.**

Under Section 18(2) of the Act, the Governor may, by order in writing and after consultation with the Lokayukta, confer on the Lokayukta or an Up-Lokayukta such powers of a supervisory nature over agencies, authorities or officers set up, constituted or appointed by State Government for the eradication of corruption. In the First Consolidated Report presented to the Governor on July 17, 1974 as required under Section 12(5) of the Act, and the Second Annual Report for the period April 1, 1974 to 31st March, 1975, the Lokayukta suggested that if the problem of effectively combating corruption is to be fruitfully tackled through the instrumentality of this organisation, then extensive powers of supervisory nature over all agencies, authorities or officers set-up, constituted or appointed by the State, for the eradication of corruption, (*including Anti-Corruption Department, Commissioner for Removal of Public Grievances, District Vigilance Committees, and Heads of Departments as well as officers subordinate to them*) must be conferred on the Lokayukta and the Up-Lokayukta not only in respect of corruption cases pending before them but also in respect of such cases which may not be before the Lokayukta/Up-Lokayukta, by may be with these officers for consideration in connection with all allied matters. The State Government by issue of a notification/order may confer supervisory powers on the Lokayukta/Up-Lokayukta, but it may perhaps be more appropriate to vest supervisory power by making a suitable amendment in the Act so as to give it a statutory sanction. Its desirability is rationally beyond doubt.

### **Public Servants May Be Allowed To Make Complaints To The Lokayukta/Up-Lokayukta.**

Under Section 9(1) of the Act, a complaint may be made to the Lokayukta or an Up-Lokayukta in the case of an allegation, by any person other than a public servant. Perhaps, a person simply for the reason that he is a public servant should not be debarred from getting his allegations (they may at times be very serious) looked into, even if such allegations may not be directly connected with the Department in which he may be serving at that point of time. A public servant can, for example, have allegations against the police for not attending to a matter, as a result of questionable motives, which he is entitled to get attended to as an ordinary citizen and simply for the reason that he is a public servant; he is deprived of the privilege of taking advantage of this organisation. It will only serve the cause of eradication of corruption if public servants as a whole are not debarred from making complaints and taking benefit from this organisation. Perhaps, this mandatory provision needs to be qualified with the proviso that a complaint, keeping in view the allegations contained therein and the peculiar circumstances, may be entertained and proceeded with by the Lokayukta/Up-Lokayukta at his discretion.

### **Affidavit**

Under Section 9(2) of the Act read with Rule 4 of the Rajasthan Lokayukta and Up-Lokayuktas (Proceedings) Rules, 1974, every complaint is to be accompanied by an affidavit. The Madhya Pradesh Bill, however, does not make it mandatory that a complaint should be accompanied by an affidavit.

It is for consideration whether amendment may be effected that in a complaint, keeping in view the allegations contained therein and the peculiar circumstances, the Lokayukta/Up-Lokayukta may dispense with the necessity of supporting it by an affidavit. Now it is done by taking suo-motu action, which is extremely useful but action on the complaint with the complainant being a formal party would, undoubtedly, be more satisfactory.

### **Matters Not Subject To Investigation.**

Under Section 8(3) of the Act, the Lokayukta/Up-Lokayukta shall not investigate any complaint involving an allegation, if the complaint is made after the expiry of five years from the date on which the action complained against is alleged to have taken place.

It is for consideration whether a proviso be added to the effect that the Lokayukta/Up-Lokayukta may, in his discretion, investigate any complaint even after expiry of five years for reasons to be recorded.

### **Suggestions For Improvements, Practices Or Procedure.**

As per the Madhya Pradesh Bill, the Lokayukta, if in the discharge of his functions under the Act, notices a practice or procedure, which in his opinion, affords an opportunity for corruption or mal-administration, he may bring it to the notice of the Government and may suggest such improvements in the said practice or procedure as he may deem fit.

It may perhaps be advantageous if an amendment to this effect in Rajasthan act is proposed so that the Government and other competent authorities may be benefited by the advice as may be tendered by this organisation, as a result of consideration of the various facts/position of the various laws/rules coming to its notice. The amendment may be for enabling the Lokayukta/Up-Lokayukta to tender advice, but the same for obvious reasons should not be obligatory for him.

### **Nucleus Staff.**

At present factual reports so as to take a decision whether cogent reasons exist for proceedings with the complaints are sought by this Sachivalaya from the Secretaries to Government/Heads of Departments/Offices and the Anti-Corruption Department in view of sub-section (3) of Section 10 of the Act. The actual experience is that factual reports, are not being promptly furnished, the reports furnished in respect of a number of complaints do not inspire judicious confidence, they do not cover all the allegations and, not unoften, smack of departmental

leanings. It is unfortunate that even very highly placed officers have at times avoided, on untenable grounds, the furnishing of factual reports, with the result that complaints are inordinately delayed harming the cause of justice. This Sachivalaya, for this reason as well, has been seriously handicapped in giving justice to the aggrieved complainants. There may be complaints before the Lokayukta/Up-Lokayukta in which they may like, urgently, to get the allegations ascertained/examined at the spot or may require local enquiries to be made on definite given issues by an agency other than the existing agencies already working in the State and for this purpose, it is highly necessary that an independent investigating agency be provided to help the Lokayukta/Up-Lokayukta, and the entire establishment of this agency should be under the Lokayukta's administrative control and not exclusively subject to discipline and control of the Government.

### **Officers And Servants Of Courts Other Than Those Under The High Court Should Be Within The Purview Of The Lokayukta.**

Under Section 22 of the Act, the Lokayukta/Up-Lokayukta are not authorised to investigate any allegation against any officer or servant of any court in India. The words 'any court in India' may even imply the 'revenue courts' and also the officers/servants working as courts in connection with legislations of commercial taxes etc., which are not directly subordinate to the High Court. It may be correct that in the case of courts directly under the High Court, the judiciary being independent, the Lokayukta/Up-Lokayukta should not be authorised to take up investigation of allegations/grievances but in respect of the officers and the servants of courts other than the courts not directly subordinate to High Court, and for which the Registrar, Vigilance of the High Court does not have any jurisdiction, a clarification may be useful to allay all doubts. It may be pointed out that almost all officers of the Revenue, Taxes/Excise and Jagir Departments, etc., have some type of judicial work and if all of them are excluded from the jurisdiction of the Lokayukta Sachivalaya, there will be no agency to keep a watch on them and the same may not be in public interest as corruption in these departments is rampant and the Registrar, Vigilance of the High court has no jurisdiction over them.

### **Universities.**

According to the Madhya Pradesh Bill, any University established by or under any Madhya Pradesh Act, will be within the purview of the Lokayukta Organisation. It will not only be useful but may also be an act in consonance with the objects of the Rajasthan Lokayukta and Up-Lokayuktas Bill, 1973, if the Universities in Rajasthan are brought within the purview of the Lokayukta Organisation by suitable amendment in the Act.

### **Non-Officials Of State And District Level Co-Operative Bodies.**

Under Section 2(i)(iv)(d) of the Act, every person in the service or pay of any society registered under the Rajasthan Societies Registration Act, 1958 for which notification has been issued by the Government is under the purview of the

Lokayukta Organisation. The functionaries of the State and the District Level Cooperative organisations, like the Central/District Cooperative Banks etc., are not within the purview of the Lokayukta organisation. It is a matter of common knowledge that corruption is rampant in the cooperative sector. It would, therefore, be useful to bring the non-official functionaries having executive functions in cooperative organisations up to the District Level under the purview of the Lokayukta Sachivalaya by making suitable amendment in the Act.

### **Employees Of Local Bodies Of Areas Having Population Of 25000 And Above.**

Besides the amendments on the lines suggested hereinabove, Government orders as indicated below may have to be issued so as to enable steps to be taken towards eradication of corruption amongst the office bearers/employees of the local bodies.

Under Section 2(i)(iv)(a) of the Rajasthan Lokayukta and Up-Lokayuktas Act No.9 of 1973, every person in the service or pay of any local authority in the State which is notified by the State Government in this behalf in the official gazette is within the purview of the Act. The State Government have so far issued notification for the local bodies of Jaipur, Ajmer, Jodhpur, Kota, Udaipur, Bikaner, Ganganagar and Alwar only. A notification in respect of all types of local authorities (Municipal Boards, Urban Improvement Trusts, etc.) of all towns having population of 25000 and above could perhaps be fruitfully issued to bring employees of such categories of local bodies and improvement trusts within the purview of this Sachivalaya.

### **Cadre Services Of Municipalities.**

Under the Rajasthan Municipalities Act, certain services have been constituted to man the offices of Municipal Commissioners, Executive Officers, Secretaries of the Municipalities, Accounts Officers, Health Officers and others holding responsible positions. The members of these services at present if posted in the local bodies of any eight of the places for which a notification has been issued are under the purview of the Lokayukta Sachivalaya, while if the same incumbents are posted in a local body other than those for which notification has not been issued, will not be within the purview of this organisation. This anomaly could perhaps be removed by issue of a notification that this category of public servants irrespective of their postings in any local body would be within the fold of the Act.

### **Rajasthan Housing Board**

While the employees of the Rajasthan State Electricity Board and other State undertakings are in the fold of the Lokayukta Sachivalaya in Rajasthan, for the reason that Section 4(3) of the Rajasthan Housing Board act, 1970 provides that the Board is to be considered a local authority, a notification for bringing the employees of the Board within the fold of the Lokayukta Sachivalaya is necessary. It has to be remembered that even in the Statement of Objects and Reasons of the

Rajasthan Lokayukta and Up-Lokayuktas Act, 1973, it has clearly been specified that although a separate machinery called the Department of Removal of Public Grievances already exists in the State for attending to the grievances of the public, the existing machinery of the Government does not provide for a system in which Ministers and Executives drawn from public life to head the public corporations, local bodies and other autonomous institutions can be asked to explain their administrative acts and omissions of questionable validity and character. In the Housing Board, there are even highly placed functionaries and it will obviously be fruitful to bring the employees of the Board within the fold of the Lokayukta Sachivalaya as is the case with regard to the employees of other similar bodies.

There can always be complaints and circumstances contained therein which may not be fully covered by the provisions of the Act and to meet the ends of justice the allegations contained therein have to be investigated. Legislature can only foresee the most natural and ordinary events and for purposes of covering special circumstances and with a view to impart justice, it would be expedient to provide a saving clause on the lines of Section 151 of the Code of Civil Procedure, at the end of the Act in the following or in some other appropriate form:-

"Nothing in this Act shall be deemed to limit or otherwise affect the inherent power of the Lokayukta/Up-Lokayuktas to make such orders as may be necessary for the proper enquiry or investigation of the allegations contained in a complaint so as to meet the ends of justice or to prevent abuse of the orders etc., of the Lokayukta/Up-Lokayukta."

This would be useful.

**Confidential/Urgent**

I.D.DUA  
Lokayukta

Lokayukta Sachivalaya,  
Jaipur-302005.

D.O. No.D.20/LA/77

August 29, 1977

My dear Shri Shekhawatji,

In continuation of my D.O.letter No.D.19/LA/77, dated, August 25, 1977, I am enclosing herewith some supplementary suggestions about the proposed amendments in the Rajasthan Lokayukta and Up-Lokayuktas Act No.9 of 1973, for the more effective and fruitful functioning of the Lokayukta Sachivalaya for preventing/eradicating corruption from amongst the public servants. These suggestions have struck me after going through the provisions of the Central Lokpal Bill, a copy of which has since come to my notice.

I am extremely anxious to see that this Sachivalaya is enabled to function more purposefully and more effectively in combating corruption, which is believed to be widespread.

With best wishes and regard,

Yours sincerely,  
Sd/-  
( I. D. Dua )

Encl:3

Shri Bhairon Singh Shekhawat,  
Chief Minister,  
Rajasthan,  
Jaipur.

## **Some Additional Suggestions For More Effective And Fruitful Functioning Of The Lokayukta Sachivalaya.**

### **Allegations Vis-A-Vis 'Associates' Of Public Servants.**

In one of the suggestions made in the note sent by me earlier, on 25.6.77, it was indicated for consideration whether a suitable amendment be made in the Rajasthan Lokayukta and Up-Lokayuktas Act, No.9 of 1973 (hereinafter referred to as 'the Rajasthan Act'), so as to enable the allegations of misuse of official position or the like, on the part of the spouses of the public servants and their close blood relations, residing with them, to be investigated as if the allegations were virtually against the public servants themselves.

It appears from the Lokpal Bill (a copy of which has since come to my notice), that actions even of the 'associates' of the publicmen are proposed to be investigated by the Lokpal. It is, therefore, for consideration whether the Rajasthan Act be also not similarly amended so as to empower the Lokayukta/Up-Lokayukta to investigate allegations vis-à-vis the 'associates' of the public servants.

### **Certificates For Non-Production Of Documents/ Information.**

Under sub-section (5) of Section 11 of the Rajasthan Act, no person shall be required to furnish any information, or answer any question, or produce any document as might involve the disclosure of the proceedings of the Cabinet of the State Government, or any Committee of the Cabinet, and for this purpose, a certificate issued by the Chief Secretary, certifying that any information or answer or portion of a document, is of the nature as indicated above, shall be binding and conclusive.

According to the Lokpal Bill, in connection with any certificate issued by a Secretary to Government, the Lokpal may require any information or answer or portion of a document in respect of which a certificate is issued, to be disclosed to him in private for scrutiny, and if, on such scrutiny, the Lokpal is satisfied that such certificate ought not to have been issued, he shall declare the certificate to be of no effect. Similar provision in the Rajasthan Act may also be fair and just for an impartial and fruitful investigation.

### **Search And Seizure Of Documents.**

According to Section 11(2)(b) of the Rajasthan Act, the Lokayukta/Up-Lokayukta has all the powers of a Civil Court, while trying a suit under Civil Procedure Code, in connection with discovery and production of any document.

In the Lokpal Bill, specific provision has been made in Section 16 of the Bill, for search and seizure of the documents required to be produced/secured by the Lokpal.

It will be in the interest of a fruitful enquiry, and will more purposefully meet the ends of justice, if a specific provision like the one in the Lokpal Bill is also made in the Rajasthan Act.

### **Intimation Of Filing Of A Complaint Also To The Competent Authority.**

Under Section 10(5) of the Rajasthan Act, in any case where the Lokayukta/Up-Lokayukta decides not to entertain a complaint, or to discontinue any investigation, in respect of a complaint for reasons referred to in clauses (a), (b) or (c) of sub-section (4) of

Section 10 of the Act, he shall record his reasons therefor and communicate the same to the complainant and the public servant concerned.

Similarly, under Section 12(i) of the Rajasthan Act, where the allegations, as a result of investigation, are substantiated either wholly or partly against any particular public servant, the Lokayukta/Up-Lokayukta is required to report in writing and communicate his findings and recommendations to the competent authority of the public servant concerned. Where, as a result of investigation, if the allegations are not proved, there is no provision for sending intimation to the competent authority.

On the lines of the Central Lokpal Bill, it will, perhaps, be advisable that intimation is also sent to the competent authority of the public servant complained against, of filing of the complaint, not only as a result of investigation, but also, when the same is filed under sub-section (5) of Section 10 of the said Act. Similar provision will keep the competent authorities of the public servants complained against, informed up to date with respect to their integrity and behaviour.

#### **Summary Trial In Certain Cases.**

Under Section 22(1) of the Lokpal Bill, the Lokpal has the power to try offences summarily when it appears to him that any person appearing in proceedings before him had knowingly or wilfully given false evidence, or had fabricated false evidence, and to sentence the offender to imprisonment for a term which may extend to 3 months or fine, which may extend to Rs.500/-, or to both.

Similarly, for offences described in Sections 175, 178, 179 and Section 180 of the Indian Penal Code, committed in the presence of the Lokpal, he may summarily try and sentence the offender to simple imprisonment for a term which may extend to one month, or to fine, which may extend to Rs.500/-, or to both.

It may be advisable to make a similar provision in the Rajasthan Act, for similar reasons as have necessitated these provisions in the Lokpal Bill.

## Extract From Sixth Annual Report For The Year 1978-79

The institution of Ombudsmen has spread over in recent years with remarkable speed throughout the democratic world. It has been firmly established, now as a mechanism to enquire into and deal effectively with complaints into the working of the administrative agencies. The organizations working in this direction, in the various countries have favoured the constitution of a coordinating committee for research and documentation of Ombudsman's functions and activities in their various forms on a worldwide basis under the International Ombudsman Institute. It is expected that the Institution of Lokayukta in Rajasthan, which has sought inspiration from the Ombudsman movement will be well organized and properly equipped so that it can contribute substantially in eliminating corruption in all its forms in Rajasthan. My predecessor in office, Shri I.D.Dua has expressed concern in the last Report that without proper avenues for their future promotions, a feeling of frustration may grow among the members of staff of this Organisation. However, I am glad to say that after the matter was seriously taken-up by me with the State administration, they realized that without efficient and capable staff, this Sachivalaya may not be able to deliver the goods. Therefore, a post of Assistant Secretary has now been created in this Sachivalaya to allow the Section Officers a reasonable opportunity for promotion. Similarly, a post of Office Assistant has also been created to inspire the Upper Division Clerks to improve their working with future chances of promotion. Similarly, the post of Private Secretary to Lokayukta has also been upgraded and has been placed in the grade of Assistant Secretary, which will give added impetus, to the Section Officers and Selection Grade Stenographer as an additional opening providing scope for promotion to them. A post of Selection Grade Stenographer has also been created by upgrading one of the posts of Senior Grade Stenographers. It need not be emphasised that borrowing a few officials on deputation from other Departments or the Secretariat cannot help in maintaining the high standard of efficiency and integrity which is so essential for this Sachivalaya looking to the requirement of secrecy in its enquiries, and investigations and the sensitive and delicate nature of the duties, which the staff of this Sachivalaya are required to perform. With the opening of new avenues for promotion, I have no-doubt that, the members of staff of this Sachivalaya will work with greater devotion, dedication and loyalty and would maintain high degree of efficiency, which is essential in the proper working of this Sachivalaya.

In the Fifth Annual Report submitted by my predecessor, he has repeatedly emphasised that corruption in public life has posed a colossal problem in this country, as during the years it has spread its tentacles in various aspects of public life in multifarious forms. In order to effectively tackle the problem of combating corruption in all its forms and affording redress to the people, it is of utmost necessity that the Lokayukta should be provided with an effective machinery to make enquiries and investigations in all matters of alleged or suspected corruption whenever and wherever it is brought to its notice. The existence of an independent investigating agency to be placed at the disposal of the Lokayukta would make this organisation more effective and purposeful.

Moreover, as suggested during, the earlier years, I have also felt that this Organisation shall be strengthened if powers of supervision are given over all other

agencies, authorities and committees, which are setup or constituted or appointed by the State Government for the eradication corruption.

There should be close association and cooperation between the departments for Removal of Public Grievances and the Commissioner for Departmental Enquiries set up by the State Government and this organisation. Similarly liaison with the Anti-Corruption Organisation, which now forms part of the set up of the Police Department, is also an imperative necessity, as without its close cooperation and active assistance, the Lokayukta Organisation cannot be as effective as desired. In my considered opinion, the desired cooperation and coordination of the activities of the various official agencies and organisations working in this area can best be achieved by placing them under the Lokayukta.

I also felt that because of lack of proper publicity, this Sachivalaya has not been able to attract the attention and confidence of the people, which it deserves. A proper publicity regarding the existence and functioning of this institution may be able to promote consciousness in the people at large about the utility of this organisation and the benefits which may be realised if all complaints about the existence of corruption, misuse of official position or misbehaviors by persons in authority are brought to its notice. My experience during the short period of my office as Lokayukta shows that the people at large have generally no knowledge or consciousness about the object and purpose of creating this organisation. On the other hand, there is a general misapprehension or apathy, which is more often than not justified by the long duration which is taken in the disposal of grievances. The common man should be made aware of the object and purpose of this Institution so that it may be fully made use of by them, whenever a question of graft or corruption in other forms, such as misuse of authority comes to their knowledge. What is of utmost importance is that matters of corruption and misuse of authority should be brought to the notice of this Organisation at the earliest possible moment and we should also be able to deal with them not only effectively but also speedily, as delay in dealing with such matters often results in loss of public confidence. The complaints, which are received by us, display the gross unawareness on the part of the complainants about the utility and functioning of this Organisation. Many times copies of complaints, which are addressed to other authorities, are also endorsed to this Organisation, which results in simultaneous and parallel enquiries in the same matter by different authorities and agencies at their levels, including this Organisation. It is also not infrequent that the complaints are not supported by an affidavit and the communications issued by this Organisation demanding further particulars or affidavits from the complainants are so many times not attended to and on many occasions they are returned by the postal authorities undelivered. This is sometimes taken to depict a picture as if the complainants are not inclined to pursue their complaints. But it appears that the lack of communication on the part of the complainants arises out of gross ignorance or unawareness with the mode of working of this institution. This is the direct result of lack of proper publicity in respect of the purpose and working of the Organisation.

It is difficult to visualize the reasons, which may desist a person from pursuing his complaint by sending the requisite affidavit even after he was once prompted to forward a complaint to this Organisation. However, I have followed a uniform practice that in those matters in which sufficient particulars are furnished by the complainant either initially in the complaint or subsequently when requisitioned from this Sachivalaya, the matters have

been pursued suo-motu even in the absence of a proper affidavit. In my view, the requirement of an affidavit in support of a complaint and the provision contained in Section 13 providing for prosecution have acted as a deterrent to people bringing complaints and pursuing them. It has also resulted from lack of publicity and the public has to be assured that this Organisation shall make enquiries and investigations in confidence, secretly and the information supplied by any person in the course of or for the purpose of any investigation under the Act shall be treated strictly as confidential.

Utmost secrecy should be maintained so as to remove the fear complex, which is prevalent in the common man in making and pursuing complaints against persons in authority and positions of power.

## Extract From Seventh Annual Report For The Year 1979-80

This problem of delay in sending factual report was also felt by the former Lokayukta Mr. Justice I.D. Dua, who brought this matter to the notice of the then Chief Minister vide his demi-official letter dated 20th February, 1978, which is reproduced below:

"My dear Shri Shekhawatji,

I am conscious of your pre-occupations with important matters of State administration. But, I feel, and I am sure, you will agree, that eradication of corruption and mal-administration is of no less importance, being vital to a healthy civilized society. This cause, I assume, is as dear to you as any other. It is for this reason that I am seeking your assistance in a matter, which seems to be of prime importance.

While dealing with complaints containing allegations of corruption, etc. against public servants, this Sachivalaya being seriously handicapped as it is for want of its own dependable independent qualified staff for holding its own enquiries, etc., has, as a matter of necessity, to depend on factual reports sought from various Government departments, etc. But it is my sad experience that these factual reports are not being furnished with the requisite dispatch and speed, which is essential if the complaints are to be fruitfully processed, without avoidable delay. Instances are not wanting when these factual reports have taken years, and what is distressing, is that those who are responsible for the delay, at times, treat the matter so lightly that they give an impression that delay even of several years (three or four years) is of no consequence. I often ask myself: can corruption be effectively combated with this approach.

Considering that I have no other course open, except to request you to kindly use your good offices to see that factual reports sought by this Sachivalaya from various departments, etc., are furnished without delay, I am giving you this trouble, even though I know, you are extremely busy these days. In view of the high importance of the cause, however, I hope, you will be able to spare time to see that something tangible and fruitful is done in this matter, whether by issuing firm directions to all departments, etc., or, otherwise, as you deem proper.

With best wishes and regards.

Yours sincerely,  
Sd/  
(I. D. DUA)"

The then Chief Minister vide his D.O. letter dated 17.3.78 while enclosing a copy of circular letter, dated 4/6.3.78 issued by the Chief Secretary for promptly attending to the references received from the Lokayukta Sachivalaya felt sorry for the, delay occurring in getting factual reports from various departments. He also desired to bring to the notice of the Government cases where abnormal delays have been caused in sending a reply or where inadequate replies have been sent. Contents of this D.O. letter and the circular dated 4/6.3.78 of the Chief Secretary are reproduced below :

"My dear Shri Dua,

I am thankful to you for your D.O. letter No. 50/LA/78 dated 20th February 1978. I am sorry to note that delays are occurring in getting factual reports by you from various departments. The Government had issued a Circular on 24th December 1978 requesting all Heads of Departments to attend promptly to the references received from your Sachivalaya. The Chief Secretary has again issued instructions to all Secretaries to the Government and Heads of Departments for furnishing information desired by you without any avoidable delay. A copy of this circular is enclosed. I would be grateful if you could bring to the notice of the Government cases where abnormal delays have been caused in sending a reply or where inadequate replies have been sent.

Yours sincerely,  
Sd/ -  
(BHAIRON SINGH)"

Copy of Circular No. 2140/CS/I, dated March 4/6,1978 issued by the Chief Secretary to all Secretaries/All Heads of Deptts.

"Complaints containing allegations of corruption etc. against public servants are received by the Lokayukta Sachivalaya. These complaints are sent by the Lokayukta Sachivalaya for obtaining factual report from the concerned Administrative Department of the Government or the Heads of Department It has been brought to the notice of the Government that factual reports are not being sent promptly to the Lokayukta Sachivalaya, All Heads of Departments were requested vide Circular of even number dated the 24th December, 1976 to attend promptly to such references from the Lokayukta Sachivalaya. It is, necessary that any information or factual report called for by the Lokayukta Sachivalaya in connection with the complaints received by the Lokayukta Sachivalaya are attended to without delay and the required information sent to the Lokayukta Sachivalaya immediately. The Lokayukta Sachivalaya is being

requested to bring abnormal delay in reply, or inadequate reply, to the notice of the Government so that action could be taken against the defaulting officers. It is enjoined on all Secretaries & Heads of Departments, therefore, that references received from Lokayukta Sachivalaya be replied to promptly.

Sd/ -  
(G. K. BHANOT)  
Chief Secretary."

Despite the steps taken by the Chief Minister and the Chief Secretary, there was, however, no improvement till the expiry of the term of the former Lokayukta, Mr. Justice I.D. Dua and so Mr. Justice D.P. Gupta, a Judge of the Rajasthan High Court, who was performing the functions of Lokayukta in addition to his own duties, who had to face the problem inordinate delay in the matter of receipt of factual reports, took up the matter with the then Chief Secretary, Mr. G.K. Bhanot for making arrangement for expeditious dispatch of the factual reports. In support of this suggestions, he particularly gave the list of as many as 129 matters highlighting the fact that despite the reminders ranging from 10 to 28, the factual reports had not been received in these cases and thus leaving the old cases of the years 1974, 1975 and 1976, kept lingering. The Chief Secretary thereupon addressed D.O. letters to all the concerned Heads of Departments as well as the concerned Secretaries to the Government, expressing concern for the delay in dispatching the factual reports and according; emphasized upon all the concerned to take this matter at their personal level and arrange for the dispatch of factual reports. This too did not bring the marked improvement in the despatch of factual reports and the position was none better than prevailing earlier.

When I assumed the charge of the Office of the Lokayukta, I was also confronted the same problem and I gave serious consideration to this problem. I improved upon the practice prevailing in this Sachivalaya in the matter of issuing in a routine manner with a view to keep an effective check on the departments which were committing lapses in the matter of sending the factual reports or the information sought from them. Formerly all the correspondence relating to calling of the factual reports was being dealt with at the level of the Secretary of this Sachivalaya who used to pass the orders for the issue of reminders and filing the interim replies. Such cases were not put up before the Lokayukta. Obviously, the Secretary could not effectively deal with the Secretaries to the Government by issuing emphatic reminders and he generally used to issue letters or D.O letters in a routine manner. This did not have any desired effect on the concerned, departments. I issued directions that the records relating to the enquiries should be placed before the Lokayukta even in the matter of issuing letters or demi-official letters. I also issued orders on 14th December, 1979 that no reminders should be issued by the office at its own

level but the orders should be taken from the Lokayukta. Similarly instructions were issued to the office on 27.12.79/1.1.1980 that all the interim replies should be submitted to the Lokayukta with a view to have a firm grip over the cases and have a check against the inordinate delay in the matter of getting factual reports. The introduction of this new procedure obviating the practice of dealing cases in a routine way at the office level has, of course, reduced the number of letters and reminders. But to my regret, I may say that the position in getting the early factual reports has not at all improved despite serious efforts of the former Lokayukta and myself. I, therefore, seriously felt that the delay in getting factual reports was a great impediment in the efficient working of this institution as I was convinced that the same led to inordinate delays in the disposal of the complaints by this Sachivalaya. It need hardly be emphasized that in order to effectively combat and check the corruption, expeditious disposal of complaints is very necessary as the delay in such cases defeats the very purpose for which the Act has been enacted. Apart from the fact that the complaints linger on, the delay in disposal of cases further undermines the confidence of people, in the institution of Lokayukta as it naturally creates impression in the minds of the people that no useful purpose would be served to approach the Lokayukta institution. This, in turn, tends to discourage other persons from bringing complaints before the Lokayukta. Looking to the intendment with which the Act was passed, expeditious disposal of complaints, relating to corruption under the Act, is rather a prime necessity. Indeed, I feel, the complaints under the Act should ordinarily be disposed of within a period of six months and latest by one year. But, that is not possible when the factual reports are not received for one year and in some cases for two years and even more. The delay in disposal of cases having regard to the object with which the Lokayukta institution was set up, was causing a great anxiety in my mind and I, therefore, thought it proper to discuss the problem with the then Chief Minister, Shri Bhairon Singh Shekhawat personally. The then Chief Minister was kind enough to grant time for discussions and the same were held on 26th October, 1979. In the course of my discussions, I explained to him the problem of delay and emphasized the fact that if these effective measures are not taken in the matter of dispatching factual reports at a very early date, the usefulness of this institution is likely to be eroded. To remedy this malady of delayed receipt of factual reports, I suggested for providing an independent investigating agency under the direct control of the Lokayukta so that the Lokayukta could himself deal with the problems effectively at his own. The then Chief Minister appreciated my suggestions and observed that he himself was seriously thinking to place the Anti-Corruption Department under the direct control/supervision of the Lokayukta and that he would consider the suggestion of providing independent investigating agency to the Lokayukta. After the discussion, I sent a D.O letter dated 3.11.1979, highlighting the main theme of

discussions, and the difficulties which countenance the Lokayukta institution. It will be proper to reproduce the D.O. letter, at this stage, for ready reference:

"My Dear,

In our meeting dated 26th October, 79, I drew your attention that for want of independent investigating agency i.e. field officer and staff under the Lokayukta, and for further want of supervisory control over the existing agencies, the Institution of Lokayukta has been experiencing serious handicaps, rendering it difficult to effectively gear up its Anti-Corruption strategy. You, then, informed me that you, yourself, were very keen to see the institution to be more effective and further observed that you were seriously thinking to place the Anti-Corruption Department under the direct control/supervision of the Lokayukta. This idea, if materializes, may go a long way to check corruption. Even in the past, the Anti-Corruption Department used to submit cases to the Vigilance Commissioner in pursuance of Appointments (A-III) Department Order No.F.5(53)Appts/ A/63/Gr-III) dated 29th April, 1964, relevant extracts of which are extracted in Annexure-A for your ready reference. I need hardly emphasize that in the absence of an independent agency for inquiries and investigations, this organization has to depend on agencies which are not directly under the control or supervision of the Lokayukta and are not as prompt and speedy as are essential in making available the desired information to this Sachivalaya to enable it to expeditiously dispose of the complaints. Indeed, instances not wanting where the agencies have not sent the factual reports in many cases even inspite of more than 10 reminders and in some cases inspite of 20 reminders. This has led to inordinate delays in disposal of cases which further in their turn, made the complaints, infructuous for want of evident obliterated due to long lapse of time. A list of such cases, which are self-explanatory, is enclosed for your ready reference. Previously, in this behalf, the Department of Personnel had issued a circular on 24th December 1976 to all the Heads of Departments for dealing with communications of the Lokayukta Sachivalaya expeditiously. Thereafter, the Chief Secretary issued a similar circular on 6th March, 1978 to all the Secretaries & Head of Departments. Subsequently, on the 7th March, 1979, the Lokayukta again drew the attention of the Chief Secretary who was good enough to issue D.O.letter to the concerned authorities to send the factual report expeditiously but despite that, response from them in this behalf has not been encouraging. In many cases, we had to wait for more than a period of two years. By that time, all interest in the complaints fades away in the minds of the complainants. Looked in this background, it becomes all the more necessary to provide the Lokayukta Institution with its own independent agency to do the field work so that the complaints received by the Origination could be expeditiously dealt with. If we have an independent agency of our own subject to our exclusive control, it will be possible to obviate the delays in disposal of cases. This is necessary if

corruption is meaningfully combated through the instrumentality of this organization. Also the conferment of powers of supervisory nature over the existing agencies, authorities and officers under Section 18(2) of the Act would yield more fruitful results.

I may further suggest a few amendments for making the Institution more effective for your consideration.. The suggested amendments are contained in Annexure-B enclosed with the D.O.Letter. If the ways, suggested by me, are adopted then I am of the view that this Sachivalaya become a strong bulwark against corruption and maladministration as then, it would be properly armed with necessary paraphernalia under its own control for taking action meaningfully without any loss of time on receipt of complaints.

I hope, this will receive a favourable response from your side at an early date.

With best wishes and regards,

Yours sincerely,  
Sd/  
(M. L. JOSHI)

Shri Bhairon Singh Shekhawat,  
Chief Minister,  
Rajasthan, Jaipur."

In his Second Annual Report, the former Lokayukta, Mr. Justice I.D. Dua, had also emphasised the importance of prompt attention to the references made by the Sachivalaya to the Heads of Departments for expeditious despatch of the factual reports when he observed,

*"To treat cases involving allegations of corruption in a casual and leisurely manner may, in certain circumstances, rightly invite suspicion of tolerating corruption or at least of being unduly soft to the vice. Again, unless complaints relating to corruptions are dealt with promptly and without avoidable delay, its deterrent effect is likely to be considerably blunted. Too long delay in the final disposal of such complaints may be construed as virtual denial of justice. The ugly impact of corruption on the fair image of a civilised Government Administration is sure to arouse disagreeable feelings amongst the citizens".*

The former Lokayukta Mr. Justice Dua, further observed in the same report,

*"I politely express my unhappiness to some of the Heads of Departments for their causal manner in attending to the communications sent by this Sachivalaya and also for gross delays in holding proper inquiries and in complying with requisitions issued from this organisation. In fact, in some cases, surprisingly enough, communications from this Sachivalaya were stated to have been misplaced in the receiving departments. This reflected a lamentable state of affairs and I had, politely, warned them against such inefficiency."*

The Government has, however, in its explanatory memorandum appended to the Second Annual Report 1974-75 stated:

*"The Government have noted with concern the extraordinary delays in receipt of factual reports and other information from Heads of Departments and suitable instructions had been issued to all concerned to give top priority while dealing with the references from the Lokayukta Sachivalaya".*

I have elaborately discussed the matter relating to inordinate delay in receipt of factual reports with a purpose as the problem remains the same and the factual reports are not received in time despite various reminders from this Sachivalaya and the instructions of the Government to the various Heads of Departments. It is in this background that I have reiterated the setting up of an independent agency under the direct control and supervision of the Lokayukta in my D.O. letter dated 3rd November 1979 to the then Chief Minister. The setting up of an independent investigating agency under the direct control and supervision of the Lokayukta besides serving as a deterrent will go a long way to obviate the delay in the despatch of factual reports to the Sachivalaya and also minimise the botheration of the Heads of Departments. The office of such an independent agency may approach the concerned authorities and gather facts and material information and furnish the same to the Lokayukta within a very short time. The past experience of about 6 years had shown that the instructions issued by the Government had not the desired effect. I, therefore, earnestly suggest that the Government should reconsider this matter and set up independent investigating agency under the direct control of the Lokayukta. It is to be pointed out that Lokayukta makes suggestions after nature consideration based upon the past experience and difficulties countenanced by him. The Lokayukta's suggestions should receive due weight and should not be lightly brushed aside, if the Anti- Corruption strategy is to be geared up in a meaningful and effective manner.

Till the end of the year under report, there was no response from the Government to my D. O. letter dated 3rd November, 1979. (However the Special Secretary to the Government, Department of Personnel Administrative

Reforms, Jaipur, vide his D.O. letter dated 28th August 1980 informed the Secretary of this Sachivalaya that the matter is under examination and consideration of the Government and the reply will be sent in due course. It was also desired in the said D.O. letter that this may kindly be brought to the notice of the Lokayukta). I regret to say that till the time of dictating this report, nothing positive has been heard from the Government in this behalf and the Lokayukta is still confronted with the difficulties in the matter of receiving the factual reports, expeditiously.

This problem has serious repercussions on this institution. The number of complaints has substantially gone down. The following statement will speak for itself about the above observations.

June 1973 to March 1974	Lokayukta 386	Up-Lokayukta 1596 (Total 1982 including 200 transferred by the Lokayukta)
1974-75	1183	
1975-76	1246	
1976-77	822	
1977-78	777	
1978-79	302	
1.4.79 to 31.7.79	96	327
1.8.80 to 31.8.80	231	

Besides this, it is likely to undermine the faith of the people in this institution due to delayed despatch of factual reports.

Conferment of supervisory powers under Section 18(2) of the Rajasthan Lokayukta and Up-Lokayuktas Act, No. 9 of 1973.

It need hardly be emphasised that for efficient working of the Lokayukta, the conferment of powers of the supervisory nature over agency, authorities or officers setup, constituted or appointed by the State Government for eradication of corruption is very much essential. There are various vigilance cells in different Departments, besides the Removal of Public Grievances Department and the Anti-Corruption Department, which deal with the matters related to eradication of corruption. The conferment of powers of supervisory nature over these agencies/Departments will ensure suitable co-ordination and supervision over the functioning of the above separate organizations. Quite often, complaints are addressed simultaneously to the above agencies, which sometimes lead to parallel inquiries before the various agencies. Even the

erstwhile Vigilance Commission had jurisdiction and powers over such agencies Vide-Appointment (A-III) Department Order No. F.5(53)Appts/A/63/Gf .III, -dated 29th April, 1964. Now, the office of the Vigilance Commissioner "has been abolished and there is no high-powered authority for effecting co-ordination between these agencies. Further, the supervision over them of this statutory autonomous high rank body may help in checking corruption. - I had, therefore, in my D.O. letter dated 3rd November, 1979, to the then Chief Minister, made suggestion for conferment of powers of supervisory nature and the then Chief Minister, Shri Bhairon Singh Shekhawat, had expressed that he him self was seriously thinking to put the Anti-Corruption, Department under the direct control and supervision of the Lokayukta. But, to my regret, nothing has been done in that behalf during the year under report. The Lokayukta feels that if the powers of supervisory nature are conferred upon him that will apart from effecting co-ordination amongst various agencies to check corruption, will further tone up the efficiency of various such agencies. It appears that the salutary provision of sub-section (3) of Section 18 have been embodied in the Act with this purpose and I earnestly urge that the salutary provision of sub-section (2) of Section 18 should be implemented as early as possible. The former Lokayukta had also, in his 2nd Annual Report, suggested for conferment of overall supervisory powers on the Lokayukta vis-à-vis various Vigilance Agencies. But that suggestion had not found favour with the Government, when in its memorandum appended thereto it has been stated,

*"Government feels that since the Lokayukta can continue to be benefited by utilising the service of the Anti-Corruption Department or any other agency under Section 14(3) of the State Act, it is not necessary to place these organisation under his exclusive control."*

I, however, feel in the absence of supervisory powers, the utilization of the agencies mentioned in Section 14(3) would not prove much effective. It is difficult to understand the hesitation on the part of the Government for conferment of powers of supervisory nature as contemplated under Section 18(2) of the Act, on the Lokayukta when it really means to eradicate Corruption amongst the services.

#### **Amendment in the Act:**

In this D. O. letter, I had also suggested a few amendments in the Rajasthan Lokayukta and Up-Lokayuktas Act No. 9 of 1973, as mentioned below for making the Institution more effective.

#### **(1) Amendment of Section 2**

It has been considered desirable to make provision for the investigation of grievances also by the Lokayukta or an Up-Lokayukta. Though separate machinery exists in the State for the Removal of Public Grievances, but a number of persons approach the Lokayukta when their grievances are not redressed by the concerned Departments, and the Department for Removal of Public Grievances either. The Lokayukta, therefore, considers it proper that such powers should be conferred upon him to look into the grievances, which are not redressed by the concerned Department or the Commissioner for Removal of Public Grievances within a period of six months. It is to be remembered that maladministration gives rise to grievances on the part of the citizens and delay in redressal of grievances may give rise to corruption, apart from causing resentment in the public. For obviating this evil, it is necessary to amend Section 2 by inserting the definitions of both "mal-administration" and "Grievances" in the Act. For this purpose, I had proposed amendments in this behalf on the lines of Bihar, Maharashtra and U.P. Acts.

**(2) Amendment of Section 8**

Under the existing provision under Sub-section (3) of Section 8 of Act No. 9 of 1973, the Lokayukta or an Up-Lokayukta shall not investigate any complaint involving an allegation, if the complaint is made after the expiry of five years from the date on which the action complained against is alleged to have taken place. It was, therefore, proposed that this sub-section (3) of Section 8 should be suitably amended so as to confer discretion upon the Lokayukta to take up appropriate cases of public importance even if they were filed beyond a period of 5 years after recording reasons.

**(3) Amendment Section 9**

Section 9 (1) of the Act debar a public servant from bringing a complaint before the Lokayukta. The sub-section, as it stands, works harshly upon the public servants. A public servant may have allegations against another public servant in his capacity. A public servant is after all a citizen of the country and he should not be debarred to exercise his right if he brings an allegation of the nature specified in clause (b) of Section 2 of the Act against another public servant belonging to the department other than the one in which he serves. The Section, therefore, requires to be suitably amended so as not to debar the public servant in the wholesale manner to bring complaints before the Lokayukta relating to allegations against public servants belonging to other departments with whom he has to deal within his private life; e.g. a case of theft occurs at the house of a public servant and to get appropriate relief he approaches the Station House Officer I/C of the jurisdiction for detecting the theft. The S.H.O. does not take interest in the investigation or he is in collusion with the alleged or accused persons; then in such cases the aggrieved public servant will have no opportunity to approach the Lokayukta. Likewise, he has

to deal with the Department of Supplies, Water Works, Electricity Boards and the alike. Even if he has genuine allegations to make against the public servants of such departments, he will not be entitled to get the allegations examined by the Lokayukta. It may be said that he may have the remedy to approach the Heads of Departments concerned of the defaulting public servants. That, in my view is hardly a convincing reason to deprive him- an opportunity to approach the Lokayukta as such arguments can be even advanced in case of private complaints. The Lokayukta, therefore, feels the desirability of the amendment of this Section as indicated above for reconsideration by the Government.

**(4) Amendment of Section 14 (3)(i)**

Section 14(3) authorises the Lokayukta to draw upon the services of any officer or investigation agency of the State or Central Government with the concurrence of that Government for the purpose of conducting investigation under this Act. This section should be amended enabling the Lokayukta to utilise the services for the purposes of preliminary enquiries also. Further, a general notification may be issued conveying the concurrence of the State Government for utilising the services of any officer or investigating agency of the State. This may facilitate early disposal of complaints.

**(5) Amendment of Section 22 (b)**

Section 22 (b) excludes all officers or servants of any court in India from the jurisdiction of the Lokayukta. Executive officers functioning, as Revenue Courts, Colonisation authorities etc., should not be excluded from the jurisdiction of the Lokayukta, except the cases in which they exercise judicial functions. Position in this regard needs clarification.

## Extract From Eighth Annual Report For The Year 1980-81

The problem of corruption is a very complex since it has its roots and ramification in the society as a whole. In its widest connotation, corruption in eludes improper or selfish exercise of power and influence attached to a public office due to the special position one occupies in the society. The problem will have to be viewed in relation to the entire system of modern values and socioeconomic structure of society. History is replete with examples of widespread corruption. Corruption in one form or another has always existed. Kautilya Arthashastra refers to the various forms of corruption prevalent in his time. Nor is corruption peculiar to India. The bribery in Judges had a problem in the history of Egyptians and Hebrews. The sons of Eli used their position as priests to extort more than their share of the sacrifices from the people. By the Vth Century B.C., the bribery in Greek officials by foreign powers became common. The increased economic activity and political apathy in its turn led to increase in corruption. In the primitive and medieval society, the scope of public authority was minimum as observed in the Santhanam Committee report. Of the matters that were looked after by the community have now become functions of a State. During the medieval time, the principal form of corruption was extortion of revenue by Central and local officials and perversion of justice. The courts, kings and feudal Lords tended to become instruments serving the pecuniary interest of their patrons. In England, even the common law courts developed corrupt practices. In France, 15th century witnessed the bestowment of the judicial offices by even sale. Alexander Hamilton has remarked in his New Accounts of East Indies that "Mohammedans have the law in their hands and distribute justice best to those that pay best for it." I am tempted here to quote the pragmatic observations made in the Santhanam Committee's report. In the Santhanam Committee report in para 2.5, it has aptly been said that the position in regard to corruption in the following terms:

*"Till about the beginning of the 2nd World War, corruption was prevalent in considerable measure amount Revenue, Police, Excise and Public Works Department officials particularly of the lower grades and the higher ranks were comparatively free from this evil. The smaller compass of State activities, "the great depression" and lack of fluid resources set limits to the opportunities and capacity to corrupter be corrupted. The immense efforts during 1939 to 1945, which involved an annual expenditure of hundreds of crores of rupees over all kinds of, was supplied and contracts created unprecedented opportunities for acquisition of wealth by, doubtful means. The war time controls and scarcities provided, ample opportunities for bribery, corruption favouritism etc. The then Government supported all other consideration to that he making the war efforts a success. Property of means was no consideration if it embodied the war efforts. It would not be far wrong to say that the high watermark of corruption was reached in India a propose in other countries also during the period of 2nd World War."*

During the postwar era one of the developments has been a tremendous increase in the number and authorities of Governmental activities all around the world. There has been a certain extension of economic activities of the Government with a large armoury of regulation, controlled licenses, which provided new and large opportunities for being corrupt. This has resulted in multiplication of administrative processes whereby administrative power and discretion are vested in different levels of the executives. Needless to say that where there are power and discretion, there is always a possibility of their abuse in terms of maladministration and corruption. It has been rightly said that power tends to corruption and absolute power tends to absolute corruption. With the increased economic activities of the State, having its ideal of welfare State, enormous legislations were passed conferring great discretionary power to the executive, enlarging the scope of further corruption. It need hardly be said that the greater the degree of discretion granted, the more likely is its abuse, leading to maladministration.

Undoubtedly, due to the large discretionary power conferred upon the bureaucracy with the increased economic activity of the State in all walks of life of the citizens, there was growing maladministration, which led to the citizens' grievances. This has led to a widespread public suspicion of administrative corruption, which very largely undermined public confidence in it and had corroded the normal authority and image of the administration.

The concept of the Ombudsman like Institution was conceived in this country to look into the citizens' grievances and corruption cases against administrative authorities. It was the late Mr. K. M. Munshi, an eminent scholar of the Constitution who commended the Swedish Practice regarding appointment of Ombudsman for controlling maladministration as then back as in February, 1960. Shri M. C. Sitalwad the noted Jurist and the Attorney General of India while speaking on Ombudsman in the course of his inaugural address to the 3rd All India Law Conference in August, 1962 urged upon the participants to undertake a study about its feasibility in India. Mr. P. B. Gajendragadkar, Chief Justice of the Supreme Court of India also in his address to the Indian Institute of Public Administration commended the Ombudsman idea and made a very strong plea for its adoption in India. Further, Mr. Gajendragadkar, in his book "Law, Liberty and Social Justice", has emphasised that unless we evolve a high constitutional status by amending the Constitution, the problem (of maladministration against Government Departments) will not be effectively tackled.

The Rajasthan State set up an Administrative Reforms committee in September 1962 and the Committee strongly recommended the appointment of an Ombudsman type Institution in the State. However, nothing substantial could be done till 1966. Realising the crucial nature of the problem of redress of citizens' grievance against administration, the Administrative Reforms Commission thought it desirable for setting up of an Ombudsman type Institution-both at the Federal and

State Level, In their interim Report to the Government on 20th October, 1966, they strongly recommended the adoption of "Ombudsman type" system both at the Federal as well as State level and also appended the draft bill Lokpal and Lokayukta Bill, 1966 to their report. The Government of India accepted the recommendation regarding the adoption of Ombudsman type system and introduced in Parliament a new draft bill "Lokpal and Lokayukta Bill 1969", which was passed by the Parliament but the same could not be introduced in the Rajya Sabha; hence, it could not be passed. Later on, in the year 1971, Lokpal and Lokayukta bill was introduced in Lok Sabha but this time also on account of the dissolution of the Lok Sabha, the bill could not be passed. The Maharashtra Government took the lead and enacted Maharashtra Lokayukta and Up-Lokayuktas Act, which was followed by the Rajasthan Lokayukta and Up-Lokayuktas Act No. 9 of 1973. The Rajasthan Act is, more or less, a carbon copy of the Maharashtra State Act with a few exceptions. Where as in the Maharashtra Act, there is a provision for dealing with the maladministration and grievances; unfortunately, the scope of the Rajasthan Act is limited to investigation and inquiry into the acts of corruption of public servants. In this respect, the Rajasthan Act does not come up to the legitimate expectations of the citizens of the State who stand deprived of having their grievances examined by a statutory and independent body viz. Lokayukta or the Up-Lokayukta.

It may be that there are agencies at the State as well as District Level for inquiring into the grievances of the citizens. There are also some departments who have got their own independent Vigilance Cells but people do not appear to be satisfied with such agencies as they have too often been approaching the Lokayukta Organisation for redressal of their grievances. In the changed circumstances of the post independence period, there is growing concern amongst the public for a democratic and effective public administration. Actions of public agencies and officials should reflect the aspirations, interest and demands and responsiveness to the public grievance. The administrative authorities may frequently handle grievances but they, in essence, investigate themselves and to a greater extent rely upon the replies from the agencies for the officials against whom the complaints were made. General leaning of the high officials towards their subordinates cannot be ruled out. It has been not unoften noticed by me that the administrative authorities labour under the impression that the weaknesses exposed in regard to their departments may embarrass them in the Public. The factual reports received by the Lokayukta reflect the veiled attempt of the concerned departments for unduly shielding the public servants instead of taking action against them although the facts justify it. The executive agencies further lack essential characteristic of an independence from the administration.

In my previous report for the year 1979-80, I had recommended for amendment in the Act for empowering the Lokayukta to deal with the citizens' grievances and the cases of maladministration against public servants. It need hardly be emphasised that the Ombudsman type Institution gives the citizen an

expert and impartial Agent, which may inspire confidence in the public although their grievances are not met as they have got no merit in them. But to my utter dismay, I am quite unaware of the positive response of the Government so far. The Government has simply informed that the matter is still under consideration. The above recommendation, if acceded to, will prove an effective preventive measure to check the maladministration and remove the discontent amongst the citizens.

***Desirability of a strong Ombudsman like Institution:***

The increased activities of the State in the economic sphere have eroded the lives of people of all classes. The grant of licenses for dealing in the essential commodities, for playing stage carriages and public carriers, and regulation of public distribution system have made a great impact on the lives of common man. The cases have been brought to my notice in regard to public distribution where black-marketing is flourishing and honest citizens is deprived of getting right quality of goods; sometimes even the quantity supplied is deficient. It has been pointed out to me that supervisory staff is hand in glove with the shopkeepers of the Fair Price Shops who extend protection to them in entering into nefarious activities of under weighing and supplying adulterated goods. I have also been informed that the superior authorities do not pay heed to their genuine grievances in this behalf even if the members of the public approach them: Likewise in the matter of licensing also, some scandals have been brought to my notice due to abuse of wide discretionary powers vested in the authorities. The wide discretion conferred upon the authorities, without any guidelines, tends to result in abuse of power leading to maladministration. Persons approaching me have shown growing resentment in regard to maladministration prevailing in the bureaucracy. Although this feeling may be exaggerated one but it cannot be said that there is no justification for carrying on such impression on their part. Cases of irregularities in the grant of licenses have also been brought to my notice but I had to remain as helpless spectator in the absence of power to deal with cases of maladministration and grievances. The irregularities in purchases in the Government Departments in violation of the General and Financial Rules have also been brought to my notice. In some departments, bulk orders have been placed far beyond the requirement, causing thereby undue waste of public money. Although there had been guidelines for purchases of the stock of goods, they have not been followed. The large discretionary powers conformed upon the administrative authorities have not un often load to maladministration, giving rise to grievances on the part of the members of the public. As pointed out by me in my previous report, maladministration leads to the grievances, which in turn, if not redressed, may further lead to corruption.

One of the main causes of corruption lies in the maladministration, which needs to be contained effectively with a view to check the spread of the evil. It is often said that corruption is an international feature and is not peculiar to India only but these in authorities have never meant that we should be complacent and refrain from taking any effective measures to combat and check it. The contours of corruption ought to be maintained within its reasonable confines otherwise

corruption would further spread up its tentacles in all classes of people, leading to moral degradation. Unless prevalent sick atmosphere is meaningfully dealt with by taking effective measures by cleaning up process, there is likelihood of moral degradation amongst the people effectively deal with the growing tendency of maladministration, spreading of corruption has to be dealt with on priority basis. A strong institution of Ombudsman type, vested with reasonable powers to deal with cases of grievances and maladministration is a necessity of the time to stem the further spread of corruption.

I had in my previous report, made a strong plea for providing this Institution an independent agency for holding preliminary inquiries and for collection of material facts but so far, there has been no response from the Government side. The working experience of 7 years has borne out that the present agencies mentioned under Section 14 of the Rajasthan Act have not at all proved effective. This institution's references have not been responded despite several reminders. Mr. Justice I.D. Dua in his demi-official letter dated 20.2.78, had expressed that it was his sad experience that the factual reports were not being furnished with the requisite despatch and speed which is essential if the complaints are to be fruitfully processed without avoidable delay. He had also pointed out that instances are not wanting when these factual reports had taken years. He had, therefore, requested the Chief Minister to see that the factual reports sought by this Sachivalaya from various Departments are furnished without delay. The Chief Minister, of course, took note of it and issued a circular on March 4.6.78, wherein all the Heads of Department were requested vide circular of even number dated 24th December, 78 to attend promptly to such references from the Lokayukta Sachivalaya. It was also emphasised in the circular that it is necessary that any information or factual report called for by the Lokayukta Sachivalaya in connection with complaints received by the Lokayukta Sachivalaya are attended to without delay.

Despite in this circular; there was hardly any improvement during the tenure of Mr. Justice I. D. Dua. The interim Lokayukta Mr. Justice D.P. Gupta, Judge of the Rajasthan High Court was also confronted with the problem of inordinate delay, expressing his concern for the delay in receiving the factual reports and this fact was brought to the notice of the Chief Secretary who had again issued a circular, showing his concern for the delay in the despatch of factual reports and requesting all Heads of Department and Secretaries to Government to take the matter at their personal level and arrange for speedy despatch of the factual report but this circular too was taken by the Heads of Departments in a lukewarm manner and there was no effective response from the concerned Departments. I had also to face the similar situation. The position in regard to receipt of factual reports has not changed for the better, if not worse. I was constrained to bring again this fact to the notice of the Chief Secretary who was kind enough to issue again a circular No. F. 2 (312) Karmik/AIII/80, dated 20.2.1981.

**Setting up of an independent agency enabling the Lokayukta to get factual reports with promptitude.**

With a view to dispose of the cases of corruption with promptitude, I am of the view that an independent agency under the direct control of this Sachivalaya is very much necessary. The agency under the direct control of the Lokayukta will help to collect material facts and information and make it available to the Lokayukta. I had, therefore, in my D. O. letter dated 3.11.79, addressed to Shri Bhairon Singh Shekhawat, the then Chief Minister, invited his attention for need of setting up of an independent agency i.e. field officer and staff members under the direct control of the Lokayukta for efficient functioning of this organisation. It was made clear to the Chief Minister that in the absence of such an agency for inquiry, the organisation has to depend upon the agencies which are not directly under the control and supervision of the Lokayukta and they are not as prompt and speedy as is essential in making available the desired information to this Sachivalaya to enable to expeditiously dispose of the complaints. The Chief Minister, Shri Shekhawat had assured to consider the matter sympathetically and promptly but nothing has been done in this direction during the year under report, the Lokayukta Sachivalaya is consequently confronted with serious difficulty in its work in the absence of receipt of factual reports with promptitude. If this organisation is to be, strengthened, then it is necessary to provide it with independent agency under its direct control and supervision. Mr. Justice I. D. Dua, with his working experience of 5 years, had also laid emphasis on this aspect of the matter and had invited the attention of the Government for providing this Sachivalaya with an independent agency. Even, interim Lokayukta Mr. Justice D.P. Gupta had also reiterated the view expressed by Mr. Justice I. D. Dua. I, with my two years' experience, am of the firm view that if this Organisation is to be toned up, the need for providing it with an independent agency is greater than before. The effectiveness of this organisation depends upon the active cooperation of the Government, Members of the Legislature and the people at large. Unless the Government provides the Lokayukta with an effective fact finding machinery under its direct control, I have got my own doubts whether this organisation can prove effective to contain the corruption amongst public servants. The views of the three Lokayuktas, having working experience of this organisation, deserve to receive due weight with the Government who is the ultimate authority to make provision for independent agency for the Lokayukta. The Members of the Legislative Assembly, whose cooperation is equally essential, can bring their weight upon the Government for providing an independent agency. The public opinion can also play a great role as in the democratic set up of the Government; the Government is prone to pay heed to the public opinion. I am pained, to say that the Government has not taken the final decision as yet although it deserved a very early decision more particularly when the agencies have failed to supply the factual reports with promptitude. It may be pointed out that at present, the Lokayukta has to solely rely upon the Secretaries, Heads of Departments and Collectors for getting factual reports. The preliminary inquiries cannot be finalised in the absence of any factual material information with the result that the cases of corruption cannot be disposed of with

promptitude. Earlier, I have already highlighted the sordid state of affairs in the matter of getting factual reports. In the absence of independent agency, the organization's efficiency stands impaired, as it has not been possible for it to decide the cases of corruption without any loss of time.

### **Conferment of Supervisory Powers over the existing agencies:**

Conferment of supervisory powers is one of the remedies for strengthening the Lokayukta organisation, I had dealt with this matter in my previous report where in I had emphasised the need for conferment of such powers upon the Lokayukta but I am not aware of the final decision taken upon this proposal of mine by the Government during the year under report. Section 18 of the Lokayukta and Up-Lokayukta Act expressly provides that the Governor may by order in writing and after consultation with the Lokayukta confer the Lokayukta or an Up-Lokayukta such powers of supervisory nature over the agencies, authorities or officers set up, constituted or appointed by the State Government for eradication of corruption. This appears to be a salutary provision for toning up the Lokayukta Organisation. If supervisory powers are conferred upon the Lokayukta over «the existing agencies as mentioned in sub-section (2) of Section 18, that may prove very useful to tone up the agencies, authorities and officers appointed by the State Government for eradication of corruption. In case of lapses on their part, the Lokayukta may give guidelines for expeditious furnishing of the factual reports for completion of the preliminary inquiries. The expeditious disposal of cases of corruption will tend to contain the corruption amongst the public servants and thus generate confidence in the general people who are real rulers in the democratic set up of the State. The Government will be well advised to bestow its serious consideration on this aspect of the matter.

Conferment of supervisory powers will also bring coordination between various agencies dealing with the cases of corruption and also tone up those agencies. The supervisory control of the Lokayukta on such bodies may tone up their functioning, which may enable them to contain corruption, thereby checking further spread of corruption. It will be appropriate to observe here that the existing authorities which are concerned with inquiring and investigation of cases of corruption have least liaison with Lokayukta and consequently, there is no coordination with them and the Lokayukta Sachivalaya, which is so essential for checking the evil of corruption, which it cannot be denied, is on increase. I have not received the explanatory memorandum on my previous report and in its absence; I have not been able to assess the response of the Government in this behalf. I hope, the Government will give its serious consideration to this matter.

### **Need to empower the Lokayukta to deal with the cases of Maladministration and Redressal of Grievances.**

The various States, which have at present Ombudsman type Institution i.e. Lokayukta and Up-Lokayukta Organisation, is the result of the suggestions made by the Administrative Reforms Committee, which recommended that a machinery

for looking into the maladministration redressal of grievances and corruption amongst the public servants be set up at the Central and in the State. It was, in this context, that the draft Lokpal and Lokayukta Bills were introduced in the Parliament. The Maharashtra State was the first, which took inspiration from the recommendation of the Administrative Reforms Commission, which had prepared draft bill also and on acted the Maharashtra Lokayukta and Up-Lokayukta in the year 1973. Provisions have been made in this Act to deal with the cases of corruption, maladministration and grievances of citizen so that healthy and clean social climate may be created. The State of Rajasthan was the next to enact the Rajasthan Lokayukta and Up-Lokayuktas Act; but the Act did not empower the Lokayukta and Up-Lokayuktas to deal with the cases of corruption and maladministration, which has deprived the Lokayukta or the Up-Lokayukta to play an effective role in containing corruption and to have a healthy preventive influence on the public servants to discharge their functions in accordance with the rule of law. The wide discretionary powers with the administrative authorities is likely to lead to maladministration giving rise to grievances on the part of the citizens. Indeed I have been frequently receiving complaints regarding grievances and maladministration from the various people. Although in some of the complaints, I find that injustice has been done to the citizen by not observing the rules and regulations; but I had to file the complaints for want of jurisdiction in many cases. It is high time for the Government to look in to the matter promptly in the light of experience gained by the various Lokayuktas.

**Need of setting up healthy convention for eliminating overlapping jurisdiction with a view to avoid conflicting decisions.**

The Lokayukta Institution has been specifically set up for dealing with the cases of corruption. The other authorities, officers, including the level of the Chief Minister are empowered to deal with the cases of corruption. Not too unoften, the complaints are addressed/endorsed simultaneously, to the Chief Minister, the Ministers In charge of the concerned portfolios, the Secretaries to the Government and also to the Lokayukta. The Lokayukta has to act in accordance with the statutory provisions contained in the Rajasthan Act and he is under obligation to process these complaints. There is no coordinating machinery to enable the Lokayukta to make where there the contingency of the complaints has been taken by other authorities/competent bodies also. In the absence of coordination machinery, there is no check on parallel inquires on the same subject, which in its turn results in waste of public time and money. Undoubtedly, the Lokayukta is a statutory body and he has special statutory duty under the Act to inquire in to the cases of corruption. In case of Parallel inquiries, there is likelihood of conflicting orders in regard to initiating disciplinary inquiries against the delinquent public servants. I am quite aware that proceedings before the Lokayukta in respect of a particular complaint will not operate as stay of proceedings before other competent authorities in the matter of inquiry into the action complained against. Sub-section (6) of Section 10 goes to the extent that the conduct of an investigation under the Lokayukta Act in respect of any action shall not affect such action or any power or

duty of any public servant to take further action with respect to any matter subject to the investigation. It is one thing that authorities other than the Lokayukta may have power to deal with the cases pending before the Lokayukta but it is another thing whether the authorities should ordinarily take action when the case is already pending before the Lokayukta. In order to eliminate the conflicting results of parallel inquiries, it will be a sound practice that ordinarily, except in emergent cases, the other authorities should not embark upon the inquiry and investigations in cases in which the Lokayukta is seized of the matter. The reason is obvious that the Lokayukta is a special Institution created solely for the purpose of conducting inquiries in to the case of corruption and that too in a quasi-judicial manner. Such healthy convention will inspire confidence in the general public, more particularly because the Lokayukta takes decisions in a quasi-judicial manner in accordance with the provisions of the Act. The Administrative authorities are not statutory bodies and their inquiries may, in such cases, not generate confidence in the aggrieved parties. The result of conflicting decisions is to be avoided and this could be done only by setting healthy practice, as suggested above. The result of conflicting decisions may lead to anomalous situation and may impair the confidence of the public in regard to the inquiries into the cases of corruption. In this connection, it would be appropriate to mention a case where the Lokayukta was practically deprived of his jurisdiction, which undoubtedly, vested in him.

## Extract From Ninth Annual Report For The Year 1981-82

I cannot help expressing concern at the conduct of the Head of Departments and competent authorities and may bring to their notice that the delay in despatch of factual reports, results in consequent delay in disposal of cases. This is bound to lead to the growing discontent and resentment amongst the people as they have, on many occasions, expressed before me that we are making mockery of the institution. This impression may not be wholly justified but one thing is very clear that people want prompt and expeditious disposal of cases. I strongly feel that for the efficient and smooth running of this Sachivalaya, an independent agency for collecting facts and material, under the direct supervision of the Lokayukta, is a prime necessity. The Lokayukta have been drawing attention of the Government in this behalf from time to time. The former Lokayukta Mr. Justice I.D.Dua stressed the need for independent agency in his correspondence with the Government as also in his Annual Reports for the year 1976-77 and 1977-78. But, there was little response from the Governmental side. Shri I.D.Dua, therefore, had sent a D.O. letter to Shri Bhairon Singh Shekhawat, the then Chief Minister on 20.2.78 in which he expressed his said experience that the factual reports from the agencies mentioned in Section 14 have not been received with the requisite despatch and speed, which is essential for prompt disposal of complaints. He had also pointed out that in many cases, this Sachivalaya had to wait for more than a period of two and even three years for getting factual reports; thus discouraging complainants. He, therefore, emphasized the need for providing the Lokayukta Institution its own independent agency to do the fieldwork so that the complaints received in his organisation could be expeditiously dealt with. The interim Lokayukta has also reiterated the need of independent agency in his Annual Report for the year 1978-79 but that too did not bear any fruit. The Government not only issued circulars, enjoining upon the concerned Heads of Departments, the Secretaries to Government and the Collectors etc. to give top priority to the references made by the Lokayukta but they had not the desired effect. I again, in my D.O. letter sent by me to Shri Bhairon Singh Shekhawat, the then Chief Minister, on 3.11.79 laid stress that the procedure for calling for the factual reports from the concerned agencies had not proved effective due to very poor response from these agencies who have taken more than 2 to 3 years in sending the factual reports; and that for prompt and speedy disposal of complaints, it was necessary to provide the Lokayukta Institution its own independent agency to do the field work for collecting material relevant to the allegations made in the complaints.

An interim reply was received from the State Government on 3-9-80 where in the Special Secretary, Department of Personnel and Administrative Reforms, informed that the matter was under examination and consideration of the Government and reply would be sent in due course. After awaiting for a fairly long time for a reply from the State Government, a D.O. letter was again sent by me on 22-4-81, addressed to Shri Jagannath Palladia, the then Chief Minister, Rajasthan. In this letter, I again stressed that in the absence of independent agency, this

Institution feels helpless as it has no fact finding machinery under its control and has to heavily depend upon the various departments of the State Government for getting factual reports. It was pointed out in that D.O. letter that despite the fact that the Chief Secretary had been good enough to issue circulars from time to time, enjoining upon the Heads of Departments and concerned agencies to give priority to the Lokayukta Sachivalaya's references but they had very little effect. It was pointed out in the D.O. letter that the State Government of U.P. has created an independent agency under the direct control of the Lokayukta and to start with, it was proposed that this Sachivalaya may be provided with one Chief Investigating Officer of I.P.S. Senior Scale or Selection Scale R.P.S. Officer and one Investigating Officer of R.P.S. Junior Scale with the subordinate staff enabling them to collect material relevant to the complaints. The proposal was mooted by this Sachivalaya, estimating an expenditure on such field staff and vehicles etc., to the tune of Rs. 2.05 lacs. The matter was also discussed with Shri M. M. K. Wali, the Chief Secretary to the State of Rajasthan in the course of a meeting held on 31st July, 1981 in this Sachivalaya. The Special Secretary, Department of Personnel and the Secretary, Lokayukta Sachivalaya had also participated in the meeting. During the course of discussions, the Chief Secretary had appreciated that creation of an independent agency may help the disposal of complaints expeditiously and he assured that the matter will be looked into expeditiously and the State Government decision would be conveyed at an early date. While no decision of the State Government in this regard has been received so far, the Department of Personnel in the meantime called for a list of cases, which are pending. A list of as many as 56 cases was sent to the Department of Personnel on 10-11-81 wherein factual reports had not been received. A D. O. letter was also sent to Shri Shiv Charan Mathur, the present Chief Minister of Rajasthan on 3-11-81 in which a request was made for fixing up a meeting for discussing certain important matters relating to the organisation with a view to make it more effective. A list of items, which were proposed to be discussed, was also sent to him, which included the proposals for creation of independent agency. A reply was received from the Chief Minister on 28-12-81 in which he suggested that the provisions made in the Act may be first implemented and the provisions available in Section 14 for utilising the existing agencies may be made more effective rather than an independent investigating agency to be created. The Chief Minister also informed that Government is writing to the various departments to furnish factual reports. I have already pointed out that this Institution's experience of last eight years had been rather very depressing as the existing agencies had not been fruitful despite the various circulars issued by the Government from time to time. I have pointed out in my Annual Report for the year 1980-81 that these' agencies have evinced little interest in the matter of making available\* the factual reports. They had been rather indifferent and cases are not wanting where they had, to the utter dismay of the Lokayukta, asked for the copies of the complaints sent to them after two year stating that either they had been misplaced or are untraceable. Even after making the reports available, they sat silent on the reference and had not made the factual reports available within a reasonable time. The experiment of utilising the

existing agencies has not at all proved successful for the past 8 years and I have my own doubts regarding the efficacy of the existing agencies; obviously for the reason that the Lokayukta has got no control and supervision over these agencies and even in cases of lapses on the part of the existing agencies, he has no power to compel them to send the factual reports Immediately.

At this stage, it would be appropriate to mention a few cases in which the Lokayukta much against his will had to bring the cases to the notice of the Chief Secretary when he had failed to get the factual reports even after a long lapse of time from the existing agencies. I had to take resort to such procedure because I had no other alternative but to seek the intervention of the Chief Secretary for using his good offices for making available the factual reports to this Sachivalaya. The Chief Secretary's intervention in some cases had some effect but his intervention is sought as a last resort; by that time much time is spent with the existing agencies. It will be appropriate to mention here that the practice in the Lokayukta Sachivalaya is first to call upon the Heads of Department/Secretaries to the Government/Collectors for despatch of the factual reports. If the reports are not received within a reasonable time, then, 2 D.O. letters are issued to the concerned agencies and even if they have no desired effect; then the assistance of the Secretaries to the Government is solicited. When no reply is received from the Secretaries to the Government, 2 D. O. letters are issued with reasonable intervals and it is when no desired assistance is forthcoming from the Secretaries to the Government, then, as a last resort, the good offices of the Chief Secretary is sought. This time consuming exercise leads to inordinate delay because the Chief Secretary, who is in charge of overall administration of the State is not supposed to attend to this Sachivalaya's communications in the first instance. His assistance is sought only after exhausting all the available means for procuring the factual reports from the concerned agencies. In these circumstances, to ask for the utilisation of the existing agencies, in my opinion, can hardly solve the problem, which has been confronting this Institution for the last 8 years.

#### **Conferment of Supervisory Powers:**

Although more than 8 years have passed since the creation of this Organisation, I cannot help saying that this Organisation has yet to make it felt and create confidence in the public minds. It is my considered opinion that unless the supervisory powers are conferred upon the Lokayukta, this organisation, as at present constituted, would not be able to achieve the object which the legislature had in view while passing the Rajasthan Lokayukta and Up-Lokayuktas Act No. 9 of 1973. Mr. Justice 1. D. Dua had made a suggestion for conferment of supervisory powers in his Annual Report for the year 1973-74 and had urged upon the Government for conferment of supervisory powers under Section 18 of the Act for effectively and meaningfully eradicating corruption. In his 2nd Annual Report for the year 1974-75, while inviting Government's attention to his earlier report, he reiterated that supervisory powers maybe conferred in such a manner that they may also-be exercised over the District Vigilance Committees and the Department for

Removal of Public Grievances besides the Anti-Corruption Department and all these suggestions could be formulated in a comprehensive scheme. The Government, however, did not agree to these suggestions as is evident from the explanatory memorandum added to the Annual Report for the year 1974-75; when it has stuck to its stand that the Lokayukta- can be continued to be benefited by utilising the services of the Anti-Corruption Department or any other agencies under Section 14(3) of the Rajasthan Act and it is not necessary to place these agencies under the supervision and control of the Lokayukta. Looking to the 'unsatisfactory functioning' of the existing agencies in the matter of sending factual reports, Mr. Justice I. D. Dua, again reiterated in his 4th Annual Report for the year 1976-77 for the conferment of supervisory powers but he was dismayed to observe that the suggestion has remained unheeded. However, in the explanatory Memorandum to the Annual report for the year 1976-77, the State Government did not offer its comments on this point. Looking to the persisting unsatisfactory performance of the existing agencies in the matter of despatch of factual reports, the matter was again pursued by me. In the Annual-Report for the year 1979-80, I strongly emphasised that conferment of powers of supervisory nature is very much essential for efficient functioning of this in situation and also for ensuring suitable coordination between the various existing agencies.

It was also pointed out by me in my report that the erstwhile Vigilance Commission had also jurisdictional powers over such agencies vide Appointment A(A-III) Department order No. P.5(53) Appts/A/63/ (Group-III), dated 29-4-64. After the abolition of the Office of the Vigilance Commission, there was a lacuna in this behalf. I feel that conferment of supervisory powers on the autonomous high ranking body may, besides ensuring coordination between the various agencies will help in checking corruption. I, therefore, had personally discussed the matter with the then Chief Minister during which I impressed upon him the necessity for conferment of supervisory powers which were permissible under section 18 of the Rajasthan Act. The then Chief Minister, Shri Shekhawat, was favourably inclined to my suggestions when he expressed that he, himself, was seriously thinking to put the Anti-Corruption Department under the direct control and supervision of the Lokayukta.

I had also in my D.O. letter dated 20-4-81 made various proposals for giving effect to section 18, which permits the conferment of supervisory powers upon the Lokayukta. In that D.O. letter, I specifically pointed out that the Lokayukta may be empowered to call for reports, returns and statements in such forms and for such periods as may be prescribed by the Lokayukta from the Secretaries/ Departments/Undertakings and Collectors so as to enable him to exercise general check and supervision over the Vigilance and Anti-Corruption agencies in various departments and Undertakings. It was also suggested that the Lokayukta may be empowered to call for the records in all those cases wherein an inquiry/investigation has been closed without recommending prosecution or departmental inquiry and also call for record of all those cases in which sanction

for prosecution has been refused by the competent authority. A suggestion was also made, that the appointments of Vigilance Officers may also be made in consultation with the Lokayukta and he may have powers to assess the work of such officers. Various other suggestions in this behalf were given for consideration of the Government. This matter was also discussed with the Lokayukta on 31st July, 1981. The Chief Secretary had simply pointed out in this respect that in his opinion the Lokayukta organisation may concentrate on the investigation of complaints themselves and conferment of supervisory powers does not need such priority. The Chief Secretary observed that the Government was having an effective check and presently there was no necessity to confer supervisory powers. I pointed out that so far the existing agencies have not been prompt in the dispatch of the factual reports despite various circulars issued by the Government and in my view the present agencies would not be effective and prompt in the absence of the supervisory control of the Lokayukta. I had expected that the Government would concede to this reasonable suggestion, as there has been no improvement in the matter of receipt of factual reports despite Government instructions to the agencies from time to time. The matter was again taken up by me with the Chief Minister in a D.O. letter sent to him on 3.11.81 along with brief notes on various items; including a brief note for conferment of supervisory powers and requested for personal discussions. But, the personal discussions were not held. Instead, a reply dated 28.12.81 did not specifically comment upon this suggestion but simply referred to the discussions which I had with the Chief Secretary on 31.7.81. However, he showed his willingness to have personal discussions on the matter. Accordingly, this matter was discussed by me with the Chief Minister on 30th June, 82 during which I apprised him that for want of supervisory powers over the existing agencies, the work of this institution is being seriously hampered. The Chief Minister appeared to have been impressed with this suggestion when he made observation that the Anti-Corruption Department should have connection with the Lokayukta Institution. At the cost of repetition, I may reiterate that conferment of supervisory powers is one of the remedies for strengthening the Lokayukta organisation. The conferment of supervisory powers over the existing agencies may go a long way to ensure coordination. It need hardly be emphasised that for want of supervisory powers, there has been no coordination and even the existing agencies have been quite lukewarm and indifferent in the matter of sending factual reports. I have already pointed out in my previous report that in some cases, the agencies have even after reminders, after a lapse of two years, demanded copies of the complaints as they have misplaced them and even after supplying them have not sent the factual reports with promptitude. I had to seek intervention of the Chief Secretary in many cases for using his good offices for making available the factual reports and the Chief Secretary had been kind enough to take steps to ask the agencies and it was then that the factual reports could be obtained after a great lapse of time. Such a position has persisted even after circulars issued by the Government for giving priority to the Lokayukta's references. In these circumstances, I hope that the Government will reconsider its view in regard to conferment of supervisory powers.

### **Meeting with the Chief Secretary on 31-7-1981 :**

As various proposals made by the Lokayukta were pending with the State Government since long time, the Chief Secretary of the State was requested vide this Sachivalaya letter dated 1st May, 1981 to intimate the date and time convenient to him for discussions so that a meeting in this respect may be convened to discuss the following matters:-

1. Creation of an independent Investigating Agency,
2. Conferment of Supervisory Powers over the Agencies, entrusted with the work of combating corruption,
3. Appointment of the Secretary, Lokayukta Sachivalaya,
4. Availability of Law Books,
5. Amendment in clause of pension and clarification in regard to the gratuity of the Lokayukta,
6. Amendment in Rajasthan Lokayukta and Up-Lokayuktas Act No. 9 of 1973.

Minutes of this meeting are available at Appendix-II. Regarding creation of an independent agency, the Chief Secretary assured that the matter will be looked in to expeditiously and the State Government decision will be conveyed at an early date. As regards the supervisory powers, the Chief Secretary observed that the Lokayukta organisation may concentrate on the investigation of complaints and the conferment of powers does not need much priority. Regarding the appointment of Secretary in the Lokayukta Sachivalaya, he assured that a panel of names will be sent for consideration of the Lokayukta. He also assured that the Lokayukta organisation will be provided facilities to obtain law books from the Rajasthan Secretariat Library and some ad-hoc grant for purchase of law books will also be considered. Regarding the proposal for amendment in rules in respect of pension and clarification relating to gratuity to the Lokayukta, it was stated by him that the amendment and the desired clarification appear reasonable and necessary action would be taken expeditiously. As regards the proposal for amendment in the Rajasthan Act No. 9 of 1973, he did not favour to bring the grievance and maladministration within the purview of the Lokayukta, as, according to him, the main purpose for this Institution as has been constituted for combating corruption may be lost. Regarding other amendments, he assured that they will be examined soon and further necessary action, as deemed fit, will be indicated. Facility regarding law books has been provided and special grant of Rs. 7000/- has been made available to purchase law book, which has been utilized. The State Government has also authorized this Organisation to obtain law books from the Secretariat Library as and when necessary. As regards the rest of the items, the State Government decision is awaited.

### **Amendment in the Rajasthan Act No. 9 of 1973 :**

With the tremendous increase in the number of varieties of governmental activities all around, the Government Administration today is called upon to manage the entire affairs of the socio-economic life of the people. There has been

nationalisation of essential industries and distribution of essential commodities. The enormous expansion of public services had led to the expansion of bureaucratic participation in socio-economic activities of the State. This has also resulted in multiplication of administrative processes whereby large administrative powers and discretion are vested at different levels of the executive. I have already, in my previous report, pointed out that where discretionary powers are vested in public servants, there is always a possibility of its abuse in terms of mal-administration and corruption. Experience has shown that greater the discretionary power, the greater is the possibility of its abuse. This, in its turn, has tendency to give rise to corruption including nepotism amongst the administrative officers, vested with vast discretionary powers. The slackness in devising effective steps to effectively checkmate corruption is very much likely to give rise to resentment amongst the people after sometime and may erode in a contemptuous resentment against the system which breeds such vices.

It has come to my notice that corruption and nepotism are growing in the autonomous bodies like Rajasthan State Road Transport Corporation, Rajasthan State Electricity Board, Rajasthan Finance Corporation, Rajasthan Agriculture Marketing Board and I have received complaints of glaring irregularities and illegalities in such Undertakings. I have also come across complaints containing grievances in regard to serious irregularities committed by the Administrative Bodies. But there is no power conferred upon the Lokayukta to deal with such situations. A strong Lokayukta organisation may prove to be a bulwark against the spread of corruption.

The need of a strong and effective Lokayukta Organisation to effectively check and control the evil of corruption as a result of maladministration and nepotism hardly requires emphasis. This has been highlighted by the Lokayuktas repeatedly in their Annual Reports but unfortunately the same has not yet been met. I had sent a few proposals for amendments to the then Chief Minister, under covering D.O. letter dated 3-11-79 where in I had suggested the inclusion of the terms- 'Grievance' and 'Mal-administration' in Section 2 and 10 of the Act so as to empower the Lokayukta to look into the cases of grievances and mal-administration. A few other proposals were also sent in that D. O. letter, which, I need not refer here because subsequently I had sent comprehensive proposals in regard to amendments in some of the provisions of the Act and the rules with an explanatory note, which I shall refer hereinafter. While no reply was received from the State Government to my above D.O. letter; a meeting was convened by the Commissioner for Removal of Public Grievances in the month of February, 81 in which the Secretary, Lokayukta Sachivalaya and the Special Secretary, Department of Personnel had participated. This meeting was called with a view to examine the proposal for bringing 'grievance' within the purview of the Lokayukta Organisation. It was suggested by the Special Secretary, Department of Personnel that instead of bringing all sorts of grievances within the purview of the Lokayukta, specific grievances may be identified which might be brought within the

jurisdiction of the Lokayukta. It was also suggested that other grievances could also be investigated, if the aggrieved persons having not got the grievances redressed in six months by the Removal of 'Public Grievances authorities, by the Lokayukta. In pursuance of the discussions, the Secretary, Lokayukta Sachivalaya in consultation with the Special Secretary, Department of Personnel, identified the grievances. Sad draft proposals-for amendments in this respect were prepared. Some other lacunae in the Act were also felt and therefore, consolidated proposals for amending some of the provisions of the Act were sent to the State Government vide letter: No. F.39(A)LAS/79/5713 dated 24-3-81 along with the draft amendment coupled with explanatory note for this purpose. These amendments relate to the inclusion of 'grievance' and 'mal-administration', all Corporations constituted under the Central Act and owned or controlled by the State Government and all persons in the pay or service of the Cooperative Societies under the purview of the Lokayukta. A copy of the proposals for amendments with an explanatory note is attached at Appendix-III. The Government, by its letter No. F.6(2) Karmik/A-III/ 81 dated 18-6-81 communicated that it did not agree with the suggestion of bringing 'grievance' and 'mal-administration' within the purview of the Lokayukta. In its view, since the Government have separate setup to look into the grievance at the State level in the Chief Minister's Office. It was not considered necessary to burden the Lokayukta with grievances. Regarding the proposal to amend Section 2 relating to Corporations created under the Central Act but controlled or owned by the State Government, the Government asked the Organisation to specify the Corporations which are to be covered as a result of those amendments. The State Government also did not agree to the suggestions of bringing the office bearers of the Cooperative Societies within the definition of - public servant. The Government also did not agree to the other amendments, excepting the proposal to amend Section 14(2) by inserting the word-'Preliminary inquiry' in that section. I feel dismayed with the Government's stand as I hoped that the Government would see reason and favourably respond to my proposal in regard to grievances and maladministration. It need not be gainsaid that conferment of vast discretionary powers on the executive has led to cases of maladministration and grievances which need to be handled by an independent statutory Body, to generate public confidence, in the public mind and enhance the image of the Government. Indeed, Maharashtra, Uttar Pradesh,, Bihar and Madhya Pradesh Lokayuktas have been empowered to deal with the cases of mal-administration and grievances. I have already pointed out, in my previous report for the year 1980-81 that it is one thing, that the other agencies at the State and District level exist but they are administrative authorities and judge in their own cause and their decisions not being to the standard of an impartial statutory body, would not generate the confidence amongst the members of the public. The Government's stand that the Lokayukta will be over-burdened if the cases of mal-administration and grievances are brought within his purview, does not appear to be reasonable as the Lokayuktas in other Indian States where the Lokayukta & Up^Lokayuktas Acts are in force are effectively dealing with such cases without any let or hindrance. Looking to the number of cases with the Lokayukta, it would not at all be difficult for him to deal

with such cases. In any case, if the number of cases swells up due to the increase in number of cases relating to grievances and mal-administration an Up-Lokayukta can be appointed to, deal with such a situation.

The proposal of empowering the cases of maladministration and grievances was also brought to the notice of the Chief Minister vide D.O. letter dated 3-11-81 and the same was discussed with him. I am happy to note that the Chief Minister was favourably inclined to consider the proposal. I have every hope, the Government will reconsider this matter and accede to the proposals made by this Sachivalaya.

The proposals for amendments regarding bringing the corporations created under the Central Act and owned and controlled by the State Government is also equally important. It has come to my notice that there is growing corruption and nepotism in such Corporations. Indeed, I have received complaints against the officers working in such Corporations e.g. Rajasthan State Road Transport Corporation, Rajasthan State Electricity Board, Rajasthan Agriculture Marketing Board and Rajasthan Finance Corporation but no action could be taken upon them, they are outside the purview of the Lokayukta.

The amendment in regard to the employees of the cooperative Societies also deserves merit. Recently, the Cooperative Societies have increasing financial dealings with the Members of the general public and complaints have been received in respect of the acts of corruption and mal-practices in their functioning. The Department of Personnel did not favourably react to this proposal on the ground that the employees of the Cooperative Societies are not public servants. It is true that at present they are not but that is the reason for making amendment for bringing such employees within the purview of the Act.

**Issue of notification for declaring persons in the service or pay the various local authorities as 'Public Servant' in the Rajasthan Act No. 9 of 1973 :**

I have been receiving complaints in regard to the corrupt activities and mal-practices against the persons in the service or pay of Municipalities of Grade-B and so also against the persons in the service or pay of various Panchayat Samitis. A request was, therefore, made to the State Government vide this Sachivalaya's letter No. P. 39 (2)LAS/81/296 dated 23-4-81 to bring all the Municipal Boards of Gr.B within the purview of the Lokayukta so that the Lokayukta could take action under the Rajasthan Act No. 9 of 1973 against such persons. Besides this, a request was also made that all the persons in the service or pay of Panchayat Samitis may also be brought within the definition of 'public servant' for the purpose of this Act. Likewise looking to the increased activities of the Krishi Upaj Mandi in the recent years and also in view of the complaints being heard against the officials and the employees of the Krishi Upaj Mandi Samitis, it was proposed that they may also be brought within the purview of the Act. Indeed, I had received some complaints against the officials of the Krishi Upaj Mandi. It may be remembered that the

officials and employees of the Krishi Upaj Mandi have to deal with the members of the common public where financial considerations are to crop up and it is desirable to keep check on their activities by bringing them within the purview of the Lokayukta. An interim reply has been received from the State Government vide their letter dated 5-8-1981 that the matter is under consideration with the Government. The matter was again pursued and a reply has been again received from the State Government vide letter dated 29.1.1982 that the matter is under consideration with the Government. A final decision has still not been taken by the Government as yet. However, hopes have arisen to expect a quick decision as the Chief Minister in his letter dated 28th December, 1981, addressed to me, has informed that the Government is inclined to accept the proposal and the final decision will be communicated soon.

Extract From Tenth Annual Report  
For The Period From 1.4.82 To 3.1.85 And 4.1.85 To 31.12.87

With an intention to incorporate the gist of the unanimous decision taken by the All India Conference of Lokayuktas held at Shimla in the Month of May 1986 and to remove the difficulties felt by me in implementing Act No. 9 of 1973 during these last three years, I propose following amendments in the Rajasthan Lokayukta and Up-Lokayukta Act No. 9 of 1973.

Chapter IV-A of the Constitution did not form part of the Constitution. Subsequently Article 51-A has been inserted by the Constitution (42nd Amendment) Act 1976. The purpose behind incorporation of Article 51 (8) was and is to make the public responsible and services accountable. The 20 Point Programme introduced by the Prime Minister of India also indicate in clause twenty of Twenty-Point Programme. 1986 that services should be accountable. The Supreme Court in Rudul Sah Vs. State of Bihar AIR 1983 SC 1086 has held similar view and a Division Bench of the Sikkim High Court Prem Prakash Agrawal Vs. State of Sikkim (1987) 20 STL 1ST has also propounded the same doctrine. Thus, it has become necessary to introduce one more clause in the definition of word "allegation". In Section 2(b) of the Act clause (3) be added as under:-

*"has abused his position and caused considerable loss to the State property or exchequer by his wilful act, omission or neglect."*

**Following sub-clause (2) be added to Section 2.**

*"Any person who abets or causes or attempts to conceal from detection, the commission of corruption specified in sub-section (i) by a public servant also amounts to corruption."*

Many a time it has been observed and realized that the Sarpanch of a Panchayat Samiti wields great power and exercises substantial authority. He allots and transfers by way of sale, agricultural land of considerable value Jeopardizing the interest of the State Government and the Local Bodies such as municipalities or Urban Improvement Trusts. He also orders for mutation of land and while discharging these duties, sometimes makes unearned money in thousands. As such it has become necessary and would be in the interest of eradicating corruption to add following words in Section 2 (i) (iii):-

*"The Sarpanch of a Gram Panchayat appointed under the provisions of the Rajasthan Panchayat Act."*

**Following sub-clause be added to Section 2 (i) (in) (c):-**

*"Every Chairman, Vice Chairman, President Secretary or Member of the Board of Directors of Executive Committee by whatever name or the nationalized Bank. Co-operative Bank or a Housing Co-operative Society."*

**Following sub-clause (b) be added :-**

*"Every Vice-Chancellor, Pro-Vice-Chancellor, Member of a Senate, Registrar, Professor, Reader, Lecturer or teacher of a Government aided College."*

**Note :**

The above noted amendment of clause (c) and (d) has been suggested on the ground that the time when Act No. 9 of 1973 was enacted, the University and other Institutions were not considered as Instrumentalities of the State Government. By a number of decisions of the Supreme Court and other Courts, it has been held that they are to be considered as State within the meaning of Article 12 of the Constitution.

The term of Office and other conditions of service of the Lokayukta and Up-Lokayuktas have been provided in Section 5 of the Rajasthan Lokayukta and Up-Lokayuktas Act No. 9 of 1973. In all States period for which Lokayukta and Up-Lokayukta are appointed is 5 years.

While enacting Act No. 9 of 1973 the Lokpal Bill of .1968 was taken as a Model as a result of which the Draftsman missed the point that the State Legislature cannot put restrictions on the power of the Central Government to appoint a retired Lokayukta. The restrictions on further employment provided in the proposed Lokpal Bill were to be imposed by the Parliament, which is a sovereign power to legislate for the entire country but the Rajasthan Government, has no such power. In all the other States, the restrictions placed on a retired Lokayukta or Up-Lokayukta is in respect of employment under the Government of that State only and it does not extend to further employment under the Central Government.

**The existing sub-section (3) of Section 5 be substituted by the following sub-section:-**

*"(3) On ceasing to hold Office; the Lokayukta or Up-Lokayukta shall be ineligible for further employment in any capacity under the Government of Rajasthan or any employment under or any local authority or Corporation, Government Company, Corporation or Corporate body under the administrative control of the Government of Rajasthan."*

Under Act No. 9 of 1973 the Lokayukta was to be paid Rs. 4500/- per month as salary when the Chief Justice of Rajasthan and Judge of Supreme Court were being paid salary of Rs. 4000/- per month. The salaries of the Judges have been increased by a Constitutional Amendment. The salaries of the Members of the Indian Administrative Services and the Chief Secretary gets a salary of Rs. 8000/-

per month. Sub-section (5) of Section 5 provides that the pension payable and other conditions of Service of the Lokayukta shall be fixed keeping in view the service conditions of the Chief Justice of the High Court; as such to remove the anomalies, sub-section 4 of Section 5 be deleted and sub-section (5) be substituted as under:-

*"The pay, allowances, pension payable to and other conditions of service of the Lokayukta and Up-Lokayukta shall be the same as that of the Chief Justice and Judges of the Rajasthan High Court, at the relevant time."*

In Section 10 (2) the words "appearing in between" "during the investigation" be omitted. No doubt the proceedings before the Lokayukta are secret, but once a report is made under Section 12 (i) it passes from hand to hand and when a special report or Annual Report is submitted to the Governor, for being placed before the House of the State, the Legislature, nothing remains secret and as such these words are not only redundant but are likely to create confusion.

**Following sub-section (7) be added to Section 12:-**

*"(7) Public servants other than Ministers to be suspended, if directed by the Lokayukta or Up-Lokayukta. Where after an investigation under this Act, the Lokayukta or Up-Lokayukta is satisfied that an allegation against a public servant other than a Minister has been substantiated, and is of the type that such public servant should not continue to hold the post held by him, the Lokayukta or Up-Lokayukta shall make a declaration to that effect and report under sub-section (1) of Section 12 and thereupon the Government may either accept the declaration or reject it."*

*"(2) If declaration is not rejected under sub-section (i) within a period of 3 months from the date of receipt the report under sub-section (i) of Section 12; it shall be deemed to have been accepted by the Government on the expiry of the said period of 3 months."*

*"(3) If the declaration referred to in sub-section (1) is accepted or is deemed to have been accepted by the Government the fact of such acceptance or deemed acceptance, shall be intimated to the public servant and notwithstanding anything contained in law, orders, notifications or contract or appointment or election, the public servant shall with effect from the date of expiry of 3 months from the date of intimation be suspended."*

**Following sub-section 2 (a) be added:-**

"Issue of search warrants."

**Following sub-section 3 (a) be added:-**

"3 (a) The Lokayukta and Up-Lokayukta shall be deemed to be a Court within the meaning of Contempt of Courts Act."

**Following sub-section 3 (b) be added:-**

"3 (b) No discussion shall take place in the Legislature or outside with respect to the conduct of Lokayukta or Up-Lokayukta in discharge of his functions."

**Section 32 (b) substituted as under:-**

"any officer or servant of any court in India presided by Officers of Judicial Service as defined in Section (b) of Article 236 of the Constitution."

This amendment is being made with an intention to serve the purpose and intention of the Legislature.

In order to remove the difficulties felt in the working of the Lokayukta and Up-Lokayuktas Act No. 9 of 1973, to remove disparity to avoid confusion and make the above Act uniform with similar Acts prevalent in other States of the country, following amendments are being suggested, in the Rajasthan Lokayukta and Up-Lokayuktas Act No. 9 of 1973. The allegation as defined in Section 2 (b) of the Act take note of:-

- (i) Causing wrongful gain or favour to himself or any other person;
- (ii) Hardship or undue harm to any person;
- (iii) to be actuated by personal interest or improper or corrupt motives; Corruption; lack of integrity.

It does not take notice of wrongful loss being caused to the State Exchequer; nationalised banks; statutory local authorities. His Excellency the Prime Minister of India has provided in clause twenty of the 20 Point Programme that services should be accountable. Article 51 (A) of the Constitution has also been inserted in the Constitution by 42nd Amendment Act. As such to keep the law in conformity with the intention of the Constitution; following clause needs to be added to the definition of word "allegation" provided in Section 2 (b). The new sub-section 2 (b) (iv) proposed to be added would read as under:-

*"has caused or causes loss to the State Exchequer or the Exchequer of the nationalised bank or statutory local authority by wilful or negligent act or omission."*

2 (b) Allegation includes misdemeanor.

Employees of the local bodies; nationalised banks; Universities are taking advantage of Article 12 of the Constitution of India as interpreted by the Supreme Court and the High Court. They are claiming themselves to be employees of the State Government within the meaning Article 12 of the Constitution. As such they cannot be exonerated of their liability.

There are large number of complaints of defalcation and misappropriation of funds by the cooperative banks nationalised banks and other similar Institutions. The Rajasthan Lokayukta & Up-Lokayukta Act No. 9 of 1973 was promulgated in the year 1973 and Article 12 of the Constitution has been interpreted by the High Court and Supreme Court later in the year 1975-76. As such the definition of word "Officer" needs to be changed and made comprehensive. The word "Officer" in clause 2 (g) should read as under:-

"Officer" means a person appointed to a pub service or post in connection with the affairs of the State as defined in Article 12 of the Constitution of India.

**In Section 2 (i) (iii) (a) after the words (Rajasthan Act 37 of 1959); the following words be added:-**

"Chairman; Vice Chairman and Secretary of the Panchayat or Standing Committee of the Panchayat constituted under the Rajasthan Panchayat Samitis and Zila Parishad Act, 1959."

**In Section 2 (i) (iii) (b) following clause be added:-**

- (c) "Every President; Chairman or Officer by what-so-ever name called of any Board, Corporation; Jaipur Development Authority constituted or to be constituted in future to discharge the functions of development which are being discharged by the Urban Improvement Trust or Municipal Board/Corporation or a local authority."
- (d) "The Chairman, Vice-Chairman; President or a Member of the Board of Directors or Executive Committee by what-so-ever name called of an Apex Society, Co-operative Bank, Housing Cooperative Society incorporated by or under the Rajasthan Co-operative Societies Act."

**The following clause 2 (i) (iv) (e) be added which would read as under:-**

"Vice-chancellor, Pro-Vice-Chancellor, Registrar or Professor including the Lecturers and Readers of the University."

**Amendment of Section 5.**

In all the States except Rajasthan the period for which the Lokayukta and Up-Lokayuktas can be appointed is five years while under sub-section (1) of Section 5 of the Rajasthan Lokayukta and Up-Lokayuktas Act No. 9 of 1973, it is 3 years. In order to bring uniformity in the conditions of service of Lokayuktas and Up-Lokayuktas as unanimously resolved in the Conference of Lokayuktas and Up-Lokayuktas held at Shimla on 30th May; 1986, following amendment is proposed. In clause (i) of Section 5 the word "three years" should be substituted by the words "five years". The amended Section will read as under:

**The term of Office and other conditions of service of the Lokayukta and Up-Lokayuktas :**

Every person appointed as the Lokayukta or an Up-Lokayukta shall hold office for a term of five years from the date on which he enters upon his office."

**Clause (a) and (aa) of the proviso to Section 5 shall stand deleted.**

At the time when the Rajasthan Lokayukta and Up- Lokayuktas Act No.9 of 1973 was enacted in the year 1973, the Lokpal Bill of 1968 was published in various books. Probably the Lokpal Bill of 1968 was taken as a Model for drafting the Rajasthan Lokayukta and Up-Lokayuktas Act No. 9 of 1973 and while borrowing some provisions of the Lokpal Bill of 1968 particularly the provision contained in sub-clause (3) of Section 5, the Draftsman missed the point that the State Legislature cannot put restrictions on the power of the Central Government to appoint a retired Lokayukta and Up-Lokayukta who has worked in the State and consequently in sub-section (3) of Section 5 the restriction on further employment of Lokayukta and Up-Lokayuktas by or under the Central Government have been imposed, which need to be deleted. The restriction imposed against appointment in the Central Government is in fact restriction on the Central Government, which could be imposed only by the Parliament and not by the State Legislature.

This fact becomes all the more clear when the relevant provisions of the Lokayukta & Up-Lokayuktas Acts of various States are compared and considered. Such a provisions has not been incorporated in the Lokayukta & Up-Lokayuktas Acts of other States in India. Amended sub-section (3) of Section 5 would read as under:-

"On ceasing to hold Office, the Lokayukta or Up-Lokayuktas shall be ineligible for further employment (whether as Lokayukta or Up-Lokayukta or in other capacity under the Government of Rajasthan or for any employment in any Office in such local authority, Corporation, Board or Government Company or Society as referred to in sub-clause (4) of Section2."

**Amendment of sub-sections (4) & (5) of Section 5.**

Sub-section (4) and (5) of Section 5 deals with allowances and pension and other conditions of service of Lokayukta and Up-Lokayuktas. It expresses the intention of the Legislature that pay and allowances and other facilities available to the Lokayukta & Up-Lokayuktas be the same as that of the Chief Justice and Judges of the Rajasthan High Court respectively. At the time when Act No. 9 of 1973 was enacted, service conditions of the Judges were not separately defined in detail. Rules made applicable to I. A. S. Services were applied. Now elaborate Rules have been made. In view of the changed position and to implement the intention of the Legislature, following amendments are suggested:-

**Sub-section (4) of Section 5 and the II Schedule of the Act should be deleted.**

**Sub-section (5) of Section 5 should be substituted as under:-**

"The Pay; Pension; Allowances and other conditions of service of the Lokayuktas and Up-Lokayuktas shall be the same as that of the Chief Justice and Judges of the Rajasthan High Court; at the relevant time."

**After sub-clause (3) of Section 6 following sub-clause (4) be added:-**

"The Lokayukta and Up-Lokayuktas shall be entitled to the protection of Article 211 of the Constitution of India."

**Following sub-section (4) be added to Section 8.**

"The Lokayukta or Up-Lokayukta shall not enquire or investigate any complaint involving an allegation in respect of transfer, grade-increments, posting, retirement or other service conditions of a public servant. He will also not investigate or inquire into complaints against Police Officers below the rank of a Sub-Inspector of Police. In other Service Class IV & Class III employees below the rank of Office Superintendent or Inspectors."

Sub-section (1) of Section 9 provides that the Lokayukta or Up-Lokayukta can entertain complaints in case of allegations made by a person other than a public servant. In this clause, the word 'other than public servant' should be deleted for the following reasons:-

- (i) Sometimes a female public servant comes with tears in her eyes to make complaints regarding the demand of their officers for submitting themselves to the illegal satisfaction of their sexual lust. Throwing such complaints at the outset appears to be inhuman.
- (ii) For the purpose of by passing sub-clause (i) of Section 9, the Government servants approach the Representatives of the Daily or Weekly papers or approach the self-styled Secretaries of Organizations which have recently grown professing themselves to be protector of public moral and watch dog of corruption. Such complaints are made by the above noted person; though the real complainant in fact is the Government servant, thus these people get an opportunity to get secrets of the State Government from those persons for whom they filed complaints.
- (iii) A Government servant is expected to be responsible people who generally do not make vague and baseless allegations. If he is allowed to file a complaint, he would straightway State the facts, would quote the relevant files from which those allegations can be proved and the Lokayukta Office would save time by not being made to enquire into vague allegations and roving enquiries.

### **Amendment Of Section 10.**

When a report under Section 12 is made by the Lokayukta after completion of the enquiry, it goes into the hands of so many officers. The report under sub-section (3) and (4) of Section 12 are required to be placed before the Legislature and when a matter is discussed in the Legislative Assembly it can be published in papers also. As such there is no justification for saying that every investigation shall be secret or saying that the facts of the investigation or the name of the public servant and the complainant should not be disclosed even after completion of the investigation.

In Sub-section (2) of Section 12 following words "or after the investigation" should be deleted. The above words appearing in sub-clause (3) and (4) of Section 12, but they are also inconsistent with sub-section (5) of Section 10. Nothing remains secret when a reasoned order is communicated to the complainant and the public servant complained against.

### **In Section 13 following sub-section (6) should be added:-**

"The Lokayukta or Up-Lokayukta shall be considered as a court within the meaning of Contempt of Court Act, 1971."

While enacting Section 22 the intention of the Legislature was to safeguard the independence of the High Court and officers posted directly under the control of the High Court, Accountant General, Rajasthan, Chief Election Commissioner, Rajasthan Public Service Commission but clause (b) of Section 22 is likely to create confusion and as such clause (b) and (f) be deleted.

Section 23 be added as under:-

### **Public servants to submit property statements.**

- (1) Every officer referred to in clause 2 (g) of Section 7 shall within three months of 30th June of every year submit to the Lokayukta in the prescribed form a statement of his assets and liabilities and that of the members of the family.
- (2) If no such statement is received by the Lokayukta from any such public servant within the time specified in sub-section (1), the Lokayukta shall make a report to that effect to the competent authority and send a copy of the report to the public servant concerned. If within two months the public servant would not submit the statement of his assets and liabilities, he shall publish or cause to be published the names of such public servants in three news papers having wide publication in the State,

*Note:-In this section "family of a public servants" means the spouse and dependent children and parents of the public servant.*

**Section 12A be added as under:-**

Public servant to vacate Office if directed by Lokayukta, etc.-(1) Where after investigation into a complaint the Lokayukta or an Up-Lokayukta is satisfied that the complaint involving an allegation against the public servant can be substantiated, and that the public servant concerned should not continue to hold the post held by him, the Lokayukta or the Up-Lokayukta shall make a declaration to that effect in his report under Sub-Section (3) of Section 12. The competent authority may, either accept the declaration or reject it. If not rejected within a period of three months from the date of receipt of the report under the said sub-section (3), it shall be deemed to have been accepted by the competent authority on the expiry of the said period of three months.

(2) If the declaration so made is accepted or is deemed to have been accepted by the 'competent authority, the fact of such acceptance or the deemed acceptance shall be intimated to the public servant by the competent authority and then, notwithstanding anything contained in any law; order; notification; rule or contract of appointment; the public servant concerned shall, with effect from the date of such acceptance or the deemed acceptance of the declaration.-

If any official be deemed to have been placed under suspension by an order of the appointing authority:

Provided that if the official is a member of an All India Service as defined in Section 2 of the All India Services Act; 1951 (Central Act 61 of 1951), the State Government shall take action to keep him under suspension in accordance with the rules or regulations applicable to his service.

Extract From Eleventh Annual Report  
For The Period From 1.1.1988 To 30.6.1989

The Rajasthan Lokayukta and Up-Lokayuktas Act No. 9 of 1973 was promulgated on 26th day of March, 1973. In between 1973 to 1989 the concept regarding rights, liabilities has undergone a great change. The demand of the welfare State is that all those who get payment from the State Exchequer or from the local, bodies should be accountable. This has been amply enunciated by 42nd Constitutional Amendment Act, 1976, as well as by the decision of the Supreme Court in Rudal Shah. v. State of Bihar 1983 SC 1986 and in Prem Prakash Agrawal v. State of Sikkim 1987 Twenty Sales Tax Reporter page 157. The concept of State within the meaning of Article 12 of the Constitution has also changed and its scope has been widened by including Corporations and other instrumentalities. In the Lokayuktas Conference held at Shimla in the month of May, 1986 the provisions of Lokayukta Acts of various States were threadbare discussed and many defects in various Acts were pointed out. Keeping in view the above noted facts and the difficulties faced by me: in implementing Act No. 9 of 1973, during these last four and a half years, I am of the view that the Rajasthan Lokayukta and Up-Lokayuktas Act No. 9 of 1973 needs amendment to meet the aspirations of the people and to serve the purpose for which the Institution of the Lokayukta has been established. In Section 2 (b) of the Act, relating to allegation clause (iv) and (v) and (vi) be added as under:-

- "(iv) has failed to act in accordance with the norms of integrity and conduct which ought to be followed by public servant of the class to which he belongs.
- (v) has abused his position and has caused loss to the Exchequer or property of the State, statutory local authority, nationalised bank or society or cooperative society or company which is controlled and owned by the State Government or in which 50% of the share capital has been invested by the State Government.
- (vi) is guilty of mal-administration."

The word "Officer" has been defined in clause 2 (g), as already mentioned above, the definition of the 'State' has been widened by the interpretation given by the Supreme Court and High Court in various decisions and various officers employed with Corporations, Universities are seeking remedy under Article 226 of the Constitution. One can not be allowed to say that he is an Officer of the State and public servant for the purpose of filing a writ, but he is not an Officer and public servant for the purpose of being enquired against regarding his conduct and integrity. Thus in the changed circumstances after the word State the following words should be added :-

"State of Rajasthan within the meaning of Article 12 of the Constitution."

**After the word "Minister" in between 2 (f) & (g) one clause (f) (i) be added as under: -**

"(f) (i) "mal-administration" means act or omission of administration by the State Government or officer of the State Government, or agency of the State Government or other public authority or public functionary functioning within the State in connection with the affairs of the State of Rajasthan which permits, promotes or tolerates:-

- (a) corruption by its officers or employees or abuse of official powers by its officers or employees;
- (b) Loss to the property, assets or revenue of the State or any authority included in the expression "State" as defined in Article 12 of the Constitution of India, or causing of any harm or harassment, indignity, confinement otherwise than in accordance with the procedure established by law.

**Section 2 (g) (i) defines public servant in the definition following additions should be made:-**

"2 (i) (iii) (c) the Sarpanch of a Gram Panchayat or Member or Committee of the Gram Panchayat constituted under the Rajasthan Panchayat Act;"

"2(i) (iii) (d) Every Vice-Chancellor, Pro-Vice Chancellor Member of a Senate, Registrar, Professor, Reader, Lecturer or teacher of a University or Government aided college."

"2(i) (iii) (e) Members of the Executive or Office holder of Cooperative Society registered under the Rajasthan Cooperative Societies Act, 1964."

The word (which, is notified by the State Government in this behalf in the official Gazette) be deleted from Section 2 (i) (iv) (a).

The words "It is notified by that Government in this behalf in the official Gazette" be deleted from Section 2 (i) (iv) (d).

Following clause (e) be added, "Cooperative Societies registered under the Rajasthan Cooperative Societies Act, 1964 which is subject to the control of the State Government and is being financially aided by the State.

### **Sec. 5 (i) Conditions of Service:**

The term of office of the Member of the Public Service Commission as provided in Article 316 (2) of the Constitution is six years. Similarly the term of office of the Comptroller and Auditor General of India is six years as provided in Section 2 of Comptroller and Auditor General (Conditions of Service) Act, (XXI of 1953).

To make the law uniform the State of Uttar Pradesh has also amended Section regarding the term of the office of the Lokayukta and now the term of office of the Lokayukta is six years. Similarly amendments have been moved in other Acts in other States. It is, therefore, proposed that in Section 5 (1) the words "six years" should be substituted for the words "five years".

While enacting Act No 9 of 1973 the Lokpal Bill of 1968 was taken as a Model as a result of which the Draftsman missed the point that the State Legislature cannot put restrictions on the power of the Central Government to appoint a retired Lokayukta. In all other States the restrictions placed on the employment of the Lokayukta or Up Lokayukta is in respect of employment under the Government of that State only. Thus, it has become necessary to substitute existing sub-section (3) of Section 5 by the following sub-section:-

Section 5 (3) "On ceasing to hold Office the Lokayukta or Up-Lokayukta shall be ineligible for further employment under the Government of Rajasthan than or in employment under or any local authority or Corporation, Government Company, Corporations incorporated under the administrative control of the Government of Rajasthan. The existing sub-section 5 (3) should be deleted.

Judges and Chief Justices have been provided protection of Article 211 of the Constitution of India. As the Lokayuktas and the Up-Lokayuktas are appointed from the rank of Chief Justice, Judges of the Supreme Court and the High Court, there is no reason why this protection should not be given to them. It is proposed that following sub-clause (iv) to Section 6 be added:-

"The Lokayukta and Up-Lokayukta shall be entitled to the protection of Article 211 of the Constitution of India."

**Following Section 7 (a) be added:-**

"Public Servant to submit property statement 7 (a) Every Gazetted officer employed in the affairs of the State referred to in clause (g) of Section 2 shall within three months of the commencement of the year i.e. on or before 30th June of every year submit to the Lokayukta and the State Government in the prescribed form a statement of his assets and liabilities and that of the Members of his family dependent upon him. The such statement is received by the Lokayukta from such public servants within the time prescribed the Lokayukta shall make the report to that effect to the Competent Authority and send a copy of the report of the public servant concerned. If the public servant would not submit the statement of his assets and liabilities after service of the notice upon him, the Lokayukta shall publish or cause to be published the name of such public servant in three newspapers having wide circulation in the State."

**In Section 8 following sub-clause (iv) be added.-**

"The Lokayukta or Up-Lokayukta shall not enquire or investigate any complaint involving an allegation in respect of transfer, grade increment, posting, retirement or other service conditions of a public servant, in service. He will also not investigate or enquire complaints against officers who are below the rank of Sub-Inspector of Police and Office Superintendent or Inspector in other Services." Sub-section 1 of Section nine reads as under: -

"That the Lokayukta or Up-Lokayukta can entertain complaints in case of an allegation made by a person other than public 'servant'. The words 'other than public servant' should be deleted: This clause has not, helped the cause of Justice. It has led to many undesired practices."

**In Section 10 (2) the word "or after" should be deleted.**

Once the investigation is completed and the Report is submitted a large number of persons have access to it, as such the question of secrecy should not arise thereafter.

**Section 11 (2) should be added as under:-**

"The evidence recorded in the Lokayukta Sachivalaya should be read as evidence in departmental enquiries without any further proof.

Following Section 12 (a) should be added: -

"Public servant to vacate Office, if directed by Lokayukta.

If after investigation into a complaint the Lokayukta or Up-Lokayukta is satisfied that the complaint involving the allegations against the public servant can be substantiated and that the public servant concerned should not continue to hold the post held by him, the Lokayukta or Up-Lokayukta shall make the declaration, to the effect in his report under Section 12(1). The Competent Authority may either accept the declaration or disapprove it. If it is not disapproved, within the period, of three months from the date of receipt of the report, it shall be deemed to have been accepted by the Competent Authority on the expiry of the said period of three months."

**Sub-section (2) :**

"If declaration so made is accepted, or is deemed to have been accepted, by Competent Authority, the fact of such acceptance or deemed acceptance shall be intimated to the public servant by the Competent Authority and then notwithstanding anything contained in any law, order, notification, rules or contract of appointment, the public servant shall, with effect from the date of such acceptance, or deemed acceptance of declaration would be deemed to have been placed under suspension by an order of appointing authority :

Provided that if the official is a Member of the All India Services, as defined in Section 2 of the All India Service Act, 1951 (Central Act 61 of 1951) the State Government shall take action keeping him under suspension in accordance with the Rules or Regulations applicable to his service."

**Following sub-section 12 (c) be also added:-  
Initiation of Proceedings.**

"If after investigation into any complaint the Lokayukta or Up-Lokayukta is satisfied that the public servant has committed any criminal Offence and that he should be prosecuted in court of law for such offence; he may pass an order to that effect and the Public Prosecutor shall initiate prosecution of the public servant concerned. If prior sanction of any authority is required for such prosecution, then notwithstanding anything contained in any law, such sanction shall be deemed to have been granted by the appropriate authority from the date of such order."

**NOTE:-**The provisions of Section 12 (a), 12(b) and 12 (c) are available in the Karnataka Lokayukta Act, 1984. These provisions have been implemented successfully in the State and have helped in eradication of corruption and have also provided teeth to the Lokayukta Act.

**In Section 16 following sub-clause (iv) be added:-**

"(iv) The Lokayukta and Up-Lokayukta shall be considered as High Court within the meaning of Contempt of Court Act, 1971."

Section 22 intended to provide protection to the Judges of the High Court and Officers subordinate to them, Accountant General, Members of the Public Service Commission, Chief Election Commissioner, Chief Electoral Officers and Members of the Staff of State Legislature but by misinterpreting clause (b) of Section 22 many officers have been claiming exemption under clause (b) of Section 22, even though they are not Officers of the Court. To avoid confusion and delay in disposal of cases pending before the Lokayukta clause (b) should be deleted or in clause (b) after the word "India" following words should be added:

"Presided by a Member of the Judicial Services as defined in clause (b) of Article 236 of the Constitution of India."

Extract From Twelveth Annual Report  
For The Period From 1.7.89 To 31.12.1989

The Rajasthan Lokayukta and Up-Lokayukta Act No 9 of 1973 was promulgated on 26th day of March, 1973. In between 1973 to 1989 the concept regarding right, liabilities has undergone a great change. The demand of the welfare State is that all those who get payment from the State Exchequer or from the local bodies should be accountable. This has been amply enunciated by 42nd Constitutional Amendment Act, 1976, as well as by the decision of the Supreme Court in Rudal Shah v. State of Bihar 1983 SC 1986 and in Prem Prakash Agrawal v. State of Sikkim 1987 Twenty Sales Tax Reporter page 157. The concept of State within the meaning of Article 12 of the Constitution has also changed and its scope has been widened by including Corporations and other instrumentalities. In the Lokayuktas' Conference held at Shimla in the month of May, 1986 the provisions of Lokayukta Acts of various States were threadbare discussed and many defects in various Acts were pointed out. Keeping in view the above noted facts and the difficulties faced by me, in implementing Act No. 9 of 1973 during these last four and a half years, I am of the view that Rajasthan Lokayukta and Up-Lokayuktas Act No. 9 of 1973 needs amendment to meet the aspirations of the people and to serve the purpose for which the Institution of the Lokayukta has been established. In Section 2 (b) of the Act, relating to allegation clause (iv) and (v) and (vi) be added as under:-

- "(iv) has failed to act in accordance with the norms of integrity and conduct which ought to be followed by public servant of the class to which he belongs.
- (v) has abused his position and has caused loss to the Exchequer or property of the State, statutory local authority, nationalised bank or society or cooperative society or company which is controlled and owned by the State Government or in which 50% of the share capital has been invested by the State Government.
- (vi) is guilty of mal-administration."

The word "Officer" has been defined in clause 2 (g). As already mentioned above, the definition of the "State" has been widened by the interpretation given by the Supreme Court and High Court in various decisions and various officers employed with. Corporations, Universities are seeking remedy under Article 226 of the Constitution. One cannot be allowed to say that he is an Officer of the State and public servant for the purpose of filing a writ, but he is not an Officer and public servant for the purpose of being enquired against regarding his conduct and integrity. Thus in the changed circumstances after the word "State" the following words should be added:-

"State of Rajasthan within the meaning of Article 12 of the Constitution."

**After the word "Minister" in between 2 (f) and (g) one clause (f) (i) be added as under:-**

"(f) (i) 'mal-administration' means act or omission of administration by the State Government or officer of the State Government, or agency of the State Government or other public authority, or public functionary functioning within the State in connection with the affairs of the State of Rajasthan which permits, promotes or tolerates:

- (a) corruption by its officers or employees or abuse of official powers by its officers or employees;
- (b) Loss to the property, assets or revenue of the state or any authority included in the expression 'State' as defined in Article 12 of the Constitution of India, or causing of any harm or harassment indignity; confinement otherwise than in accordance with the procedure established by law."

**Section 2 (g) (i) defines public servant in the definition. Following additions should be made:-**

"2(i) (iii) (c) the Sarpanch of a Gram Panchayat or Member or Committee of the Gram Panchayat constituted under the Rajasthan Panchayat Act;"

"2(i) (iii) (d) Every Vice Chancellor, Pro-Vice-Chancellor, Member of a Senate, Registrar, Professor, Reader, Lecturer or Teacher of a University or Government aided College;"

"2(i) (iii) (e) Members of the Executive or office holder of Cooperative Society registered under the Rajasthan Cooperative Societies Act, 1964."

The words (which is notified by the State Government in this behalf in the Official Gazette) be deleted fn Section 2 (i) (iv) (a).

The words "It is notified by that Government in this behalf in the Official Gazette" be deleted from Section 2(i) (iv) (d).

Following clause (e) be added "Cooperative Societies registered under the Rajasthan Cooperatives Act, 1964 "which is subject to the control of the State Government and is being financially aided by the State.

### **Sec. 5 (1) Conditions of Service.**

The term of office of the Member of the Public Service Commission as provided in Article 316 (2) of Constitution is six years. Similarly the term of office the Comptroller and Auditor General of India is six years as provided in Section 2 of the Comptroller and Auditor General (Conditions of Service) Act, (XXI of

1953). To make the law uniform, the State of Uttar Pradesh has also amended Section regarding the term of the Office of Lokayukta and now the term of Office of the Lokayukta is six years. Similarly amendments have been moved in other Acts in other States. It is, therefore, proposed that in Section 5 (1) the words "six years" should be substituted for the words "five years".

While enacting Act No. 9 of 1973 the Lokpal Bill of 1968 was taken as a model as a result of which the Drafts-man missed the point that the State Legislature cannot put restrictions on the power of the Central Government to appoint & retired Lokayukta. In all other States the restrictions placed on the employment of the Lokayukta or UP-Lokayukta is in respect of employment under the Government of that State only. Thus, it has become necessary to substitute existing sub-section (3) of Section 5 by the following sub-section.

Section 5 (3) "On ceasing to hold Office the Lokayukta or Up-Lokayukta shall be ineligible for further employment under the Government of Rajasthan or in employment under or any Local Authority or Corporation, Government Company. Corporations incorporated under the administrative control of the Government of Rajasthan. The existing sub-section 5 (3) should be deleted.

Judges and Chief Justices have been provided protection of Article 211 of the Constitution of India. As the Lokayuktas and the Up-Lokayuktas are appointed from the rank of Chief Justice, Judges of the Supreme Court and the High Court, there is no reason why this protection should not be given to them. It is proposed that following sub-clause (iv) to Section 6 be added:-

"The Lokayukta and Up-Lokayukta shall be entitled to the protection of Article 211 of the Constitution of India."

**Following Section 7 (a) be added:-**

**'Public Servant to submit property statement. 7 (a)**

Every M.L.A. and Gazetted Officer employed in the affairs of the State referred to in clause (g) of Section 2 shall within three months of the commencement of the year i.e. on or before 30th June of every year submit to the Lokayukta and the State Government in the prescribed form a statement of his assets and liabilities and that of the Member of his family dependent upon him. If no such statement is received by the Lokayukta from such Public Servant within the time prescribed the Lokayukta shall make the report to that effect to the Competent Authority and send a copy of the report to the Public Servant concerned. If the Public Servant would not submit the statement of his assets and liabilities after service of the notice upon him, the Lokayukta shall publish or cause to be published the name of such Public Servant in three newspapers having wide circulation in the State."

**In Section 8 following sub-clause (iv) be added: -**

"The Lokayukta or Up-Lokayukta shall not enquire or investigate any complaint involving an allegation in respect of transfer, grade-increment, posting, retirement or other service conditions of a Public Servant, in service. He will also not investigate or enquire complaints against Officers who are below the rank of Sub-Inspector of Police and Office Superintendent or Inspector in other Services."

**Sub-section (1) of Section 9 reads as under:-**

"That the Lokayukta or Up-Lokayukta can entertain complaints in case of an allegation made by a person other than Public Servant." The words "other than Public Servant" should be deleted. This clause has not helped the cause of Justice. It has led to many undesired practices.

**In Section 10(2) the words "or after" should be deleted.**

Once the investigation is completed and the report is submitted, a large number of persons have access to it, as such the question of secrecy should not arise thereafter.

**Section 11 (2) should be added as under:-**

"The evidence recorded in the Lokayukta Sachivalaya should be read as evidence in departmental enquiries without any further proof."

**Following Section 12 (a) should be added:-**

"Public Servant to vacate Office, if directed by Lokayukta.  
If after investigation into a complaint the Lokayukta or Up-Lokayukta is satisfied that the complaint involving the allegations against-the Public Servant can be substantiated and that the Public Servant concerned should not continue to hold the post held by him, the Lokayukta or Up-Lokayukta shall make the declaration, to the effect in his report under Section 12 (1). The Competent Authority may either accept the declaration or disapprove it. If it is not disapproved, within the period of three months from the date of receipt of the report, it shall be deemed to have been accepted by the Competent Authority on the expiry of the said period of three months."

**Sub-section (2) -**

"If declaration so made is accepted, or is deemed to have been accepted, by Competent Authority, the fact of such acceptance or deemed acceptance shall be intimated to the Public Servant by the Competent Authority and then, notwithstanding anything contained in any law, order, notification, rules or contract of appointment, the Public Servant shall, with effect from the date of such acceptance, or deemed acceptance of declaration would be deemed to have been placed under suspension by an order of appointing Authority:

Provided that if the official is a Member of the All India Services, as defined in Section 2 of the All India Service Act, 1951 (Central Act 61 of 1951)

the,-State Government shall take action keeping him under suspension in accordance with the Rules or Regulations applicable to his services."

**Following sub-section 12(c) be also added:-  
Initiation of Proceedings.**

"If after investigation into any complaint, the Lokayukta or Up-Lokayukta is satisfied that the Public Servant has committed any criminal offence and that he should be prosecuted in court of law for such offence, he may pass an order to that effect and the Public Prosecutor shall initiate prosecution of the Public Servant concerned. If prior sanction of any authority is required for such prosecution, then notwithstanding anything contained in any law, such sanction shall be deemed to have been granted by the appropriate authority from the date of such order."

**Note:-**The provisions of Section 12 (a), 12(b) and 12(c) are available in the Karnataka Lokayukta Act, 1984. These provisions have been implemented successfully in the State and have helped in eradication of corruption and have also provided teeth to the Lokayukta Act.

**In Section 16 following sub-clause (iv) be added:-**

"(iv) The Lokayukta and Up-Lokayukta shall be considered as High Court within the meaning of Contempt of Court Act, 1971."

Section 22 intended to provide protection to the Judges of the High Court and Officers subordinate to them, Accountant General, Members of the Public Service Commission, Chief Election Commissioner, Chief Electoral Officers and Members of the Staff of State Legislature but by misinterpreting clause (b) of Section 22 many officers have been claiming exemption under clause (b) of Section 22, even though they are not officers of the Court. To avoid confusion and delay in disposal of cases pending before the Lokayukta, clause (b) should be deleted or in clause (b) after the word "India" following words should be added:-

"Presided by a Member of the Judicial Services as defined in clause (b) of Article 236 of the Constitution of India."

**Difficulties Faced By The Lokayukta And Proposals For Making The Lokayukta And Up-Lokayuktas Act, 1973 More Effective.**

I have already pointed out some of the difficulties experienced by me, in part-VI of this report and proposed several changes in the Rajasthan Lokayukta & Up-Lokayuktas Act No. 9 of 1973 with a view to make the provisions of the said Act more effective. A Conference of the Lokayuktas and Up-Lokayuktas was held at Nagpur on 22 to 24th August, 1989. In that Conference all the Lokayuktas and Up-Lokayuktas functioning in India had participated and the difficulties arising in the performance of the functions assigned to the Lokayukta were brought to lime light and several proposals were placed before the Lokayuktas and the Up-Lokayuktas for consideration I 'deem it fit to make some proposals in this Annual

Report for the purpose for making the institution of Lokayukta, more effective so that the common man in the State may easily and effectively get his grievances redressed, more quickly and without incurring heavy expenditure.

2. Necessity Of Providing More Staff To Assist The Lokayukta.

Section 14 of the Rajasthan Lokayukta and Up-Lokayuktas Act No. 9 of 1973 empowers the Lokayukta to appoint such members of the staff as he considers fit for the purpose of assisting him in performance of his functions under the Act. The staff of the Lokayukta is of two categories namely (a) Senior Officers and (b) other staff. The strength of the Senior Officers is only two and the existing senior officers who assist the Lokayukta are (a) Secretary (one) and (b) Deputy Secretary (one). Having regard to the wide jurisdiction of the Lokayukta, it is necessary that more staff should be provided so that he may more effectively perform his functions under the Act. It is, therefore, proposed that following additional staff be provided to the Lokayukta: -

1. An officer of the I.P.S. Cadre holding the rank of Director General of Police.
2. Two officers of the I.P.S. Cadre holding the rank of Superintendents of Police.
3. Four officers of the R.P.S. Cadre holding the rank of Deputy Superintendent of Police.
4. Six officers of the Rajasthan Subordinate Police Service holding the rank of Inspectors of Police.
5. An officer of the Rajasthan Accounts Service holding the rank of Senior Accounts Officer.
6. A Civil Engineer in the service of the State of Rajasthan holding the post of Executive Engineer.
7. Two officers of the Rajasthan Higher Judicial Service holding the post Additional District & Sessions Judge for the purpose of conducting the investigation under the guidance and superintendence of the Lokayukta.
8. A Gazetted officer of the Public Relation Department for the purpose of popularizing the institution of the Lokayukta and publicity purposes, so that this institution may become a popular and people may invoke the jurisdiction of the Lokayukta, as and when the need arises.

In Madhya Pradesh, following Police Officers had been placed at the disposal of the Lokayukta:-

<b>SN</b>	<b>Post</b>	<b>No. of Post</b>
1.	Superintendent of Police	6
2.	Deputy Superintendent of Police	23
3.	Police Inspectors	36
4.	Public Prosecutors	2
5.	Sub Inspectors of Police	6
6.	Head Constables	15
7.	Constables	104

8.	Constable Drivers	6
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In Madhya Pradesh, investigation Section is manned by Director (Investigation) who is of the rank of Special Inspector General of Police. He is assisted by two Deputy Directors and five Investigating Officers Grade-I.

If the proposal is accepted, the appointment of the officers shall be made by the Lokayukta, after selecting suitable officers on the basis of their merit. For the purpose of selection of staff the Lokayukta should be permitted to call for the Annual Confidential Reports and other relevant reports, from the concerned departments and it should be made obligatory on the part of the department to which the officer selected by Lokayukta belongs to relieve that officer to join his duties in the Lokayukta Sachivalaya. The duration of appointment should be exclusively within the powers of the Lokayukta and during the period of appointment, the officer appointed by the Lokayukta should be placed under direct administrative control of the Lokayukta for the purpose of evaluation of his performance as well as for initiating disciplinary action against him if need would arise.

3. Necessity Of Providing Departmental Vehicles To The Lokayukta Sachivalaya.

Rajasthan is a large state and in many cases, for the purpose of conducting inquiries and investigations, it is necessary that the officer entrusted with inquiry/investigation should go to the spot and collect evidence at the earliest opportunity. For this purpose official vehicles are required for, many places are not conveniently connected by train or bus. At present no departmental vehicle is available to the Lokayukta Sachivalaya. The car provided to the Lokayukta, is exclusively for the use of the Lokayukta. Therefore it is necessary that an Ambassador car and a jeep, be provided to the Lokayukta Sachivalaya, and suitable provisions be made for their expenses in the budget.

4. Submission Of Returns Of Property By Public Servants And Public Authorities.

In a large number of cases the allegation against the public officers and public authorities is that they have amassed wealth and other assets, beyond their known means of income and by indulging in corrupt practices. In such cases it becomes necessary to inquire whether the public servant has actually amassed wealth/assets beyond the known means of his income. Since the evil of corruption has spread widely, it is proper that the Lokayukta be empowered to call for returns/statements of property/assets from the public servants/public authorities (within the jurisdiction of the Lokayukta) for such period or periods as may be prescribed by the Lokayukta.

5. Providing A Separate Building For The Lokayukta Sachivalaya.

Presently Lokayukta Sachivalaya is located on the first floor of the Vikas Bhawan within the campus of the Government Secretariat. In case the proposal for additional staff is accepted by the Government, the present building available to the Lokayukta Sachivalaya would not be sufficient to accommodate the staff of the Lokayukta. Besides, the present location of the Lokayukta Sachivalaya in Government Secretariat campus is not conducive to easy access to the Lokayukta Sachivalaya by the ordinary people, who have to first obtain pass for entry in the Secretariat campus. It is, therefore, necessary that provision be made for the purpose of constructing a separate building for Lokayukta Sachivalaya, with sufficient accommodation for its office and the staff.

Extract From Thirteenth Annual Report  
For The Period From 1.1.1990 To 31.8.1993

**Implementation Committee.**

As there was no uniformity in the provisions regarding status and functions of Lokayukta and Up-Lokayukta in the Acts of various States in the country and since the Lokayuktas had not achieved all that was expected of them owing to faulty legislation, the need for a fresh uniform legislation on the Institution of Lokayukta in the country was being felt since long. This matter was discussed at length in the All India Conferences of Lokayuktas and Up-Lokayuktas held at Shimla, Nagpur and Hyderabad. In the All India Conference held at Hyderabad on 26th October, 1991, resolution was taken to constitute an Implementation Committee of five Lokayuktas under the Chairmanship of Lokayukta, Andhra Pradesh for preparing a Draft Model Bill for uniform legislation on the Institution of Lokayukta in the country.

Accordingly, an Implementation Committee was constituted to which I was also later nominated as a member. It held its meetings at New Delhi, Ahemdabad, Bangalore, Lucknow and Bombay. Being a Member of the said Committee, I also attended the meeting held at Bombay w.e.f. 24th February, 1993 to 26th February, 1993 along with Deputy-Secretary and Assistant Secretary of this Sachivalaya.

The Committee has already prepared a Draft Model Bill for uniform legislation on the Institution of Lokayukta (a copy of which is Annexure-II). Some of the suggestions made here in before have been incorporated in the Model Bill. This Draft Model Bill will be considered and finalized in the next All India conference of Lokayuktas and Up-Lokayukta to be held in future. Thereafter, the same shall be submitted to the respective State Governments and the Union Government for consideration and its adoption. If this Model Bill is enacted and enforced in the States and at level of the Union Government, it will, I am sure, go a long way to make the Institution of Lokayukta much more strong and effective and it can, then, successfully combat, curb and root out the evils of corruption, maladministration and abuse of official position in the public services on the one hand and will achieve the desired results in redressing the public grievances on the other.

**Suggestions.**

Before I conclude this report, I would like to make certain suggestions for the proper, effective and efficient functioning of the Institution of Lokayukta in Rajasthan. Some of these suggestions were made in the earlier reports also but the Government has not taken any remedial measures so far.

**1. Extension of Lokayukta's jurisdiction to Ex-Public Servants:-**

Under the Rajasthan Lokayukta and up-Lokayuktas Act, 1973 a great difficulty is being felt to initiate investigation and to make recommendations against the Ex-Public Servants including Ex-Members of Council of Ministers because of the absence of specific and explicit provision in the Act to that effect. In some of the very important cases involving prima-facie gross involving prima-facie gross abuse of official position and corruption by the Ex-Ministers, I could not initiate investigation in the absence of specific provision covering such Ex-Ministers and Ex-Public Servants for the acts done by them while they were holding office. I proposed amendments in the Act to specifically bring within the purview of the Act the Ex-Public Servants including the Ex-of Council of Ministers but inspite of my best efforts, necessary amendments have not been made so far in the Act. The need for such an amendment cannot be over emphasized.

It is, therefore, again suggested that the State Government should give its immediate attention to this matter and necessary amendments in the Act should be made at the earliest to enable this Institution to function more effectively in such cases.

**2. Necessity for providing an Independent Investigation Agency:-**

One major handicap before the Lokayukta in the proper, effective and efficient discharge of his functions is that there is no independent investigating agency who can collect information and evidence and make on the spot inquiries and investigations and further take relevant records into custody immediately before they are tampered with. No doubt, the Lokayukta has been empowered under Section 20 of the Rajasthan Lokayukta and Up- Lokayuktas Act, 1973 to delegate the power on any officer or agency to conduct inquiry or investigation but my experience during the years I have been discharging the functions of the Office of Lokayukta is that while the delegation of powers to the officers of the Lokayukta Sachivalaya is effective, it is not so in the case of other, officers or agencies who are not directly under my control and supervision. I have felt that the factual reports and other required information, which sent for from the Heads of Department and other State functionaries are received with inordinate delay on account of which preliminary inquiries are unnecessarily prolonged. A perusal of the statement in Annexure-I will make it abundantly clear Annexure-I will reveal that out of 245 cases of preliminary enquiries in which factual reports were sent for from the various Heads of Department and other State functionaries, factual reports were not received in 124 cases despite several letters, reminders and D.O. letters. It is, therefore, absolutely essential that an independent investigating agency should be attached with the Lokayukta so that the preliminary enquiries and investigations are completed promptly. Having regard to the large area of the State of Rajasthan as also its population, the need for providing an independent investigating agency to the Lokayukta for conducting inquiries and investigations cannot be over emphasized.

As is well known, at present there are two agencies in Rajasthan namely the Rajasthan State Bureau of Investigation and the Institution of Lokayukta. The basic and main object of/both of them is to root out and curb corruption, lack of integrity and abuse of official powers by the public servants. In order to achieve that object and to tackle the problem of corruption effectively and to make the Institution of Lokayukta more effective and purposeful, the Rajasthan State Bureau of Investigation ought to be placed under the direct control and supervision of the Lokayukta as has been done long back in the States of Karnataka, Madhya Pradesh and a few other States where the Police officers of the rank of Director General of Police/Inspector General of Police alongwith other staff are working under the direct control and supervision of the Lokayuktas. If it is done in the State of Rajasthan also, I am sure, it will go a long way in achieving the basic objects of both these institutions and the evils of corruption and abuse of official position will be checked to a great extent. Similar suggestion was made in earlier reports also but no action in this regard seems to have been taken by the Government.

Since it is hard felt, the earlier suggestion to place the Rajasthan State Bureau of Investigation under the direct control and supervision of the Lokayukta is reiterated.

### **3. Necessity of bringing complaints of Public Grievances about Maladministration within the Jurisdiction of the Lokayukta-**

In some Acts of other States, jurisdiction has been conferred on the Lokayukta to inquire into and redress the public grievances besides the allegations but there is no such provision in the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973. However, this Sachivalaya has been taking cognizance of the grievances of only retired public servants with regard to the payment of their claims of Pension, Gratuity, State Insurance and G.P.F. etc. keeping in view the definition of 'inaction' provided in the Act because most of such grievances are the result of inaction on the part of public servants. The Institution of Lokayukta has emanated from the concept of 'Ombudsman', which means 'a friend of the common man'. His main task is to redress the public grievances but the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973 does not empower the citizens to make complaints of their grievances about mal-administration. Consequently, the grievances of the public about mal-administration generally go uninvestigated. There may be very many cases in which it may not be possible for the citizen to make specific allegations of corruption against any particular public servant but he may be able to make complaint about the mal-administration prevalent in the Department as a whole which may be afflicted by corrupt practices and abuse of official powers. If such cases of mal-administration will go uninvestigated, a large number of officers who indulge in corrupt practices and abuse of official powers will go scot-free, the non-inclusion of specific provision about the redressal of public grievances about mal-administration in the Act appears to me to be a serious anomaly.

Hence, I strongly recommend that a specific provision in the Act should be made for dealing with the public grievances about maladministration so that basic idea behind the Institution of Lokayukta may be fulfilled and this Institution may be made effective, purposeful and meaningful.

**4. Necessity for conferment of powers on the Lokayukta to send for the statements of property acquired or parted with by the Public Servants:-**

As more and more complaints of corruption and amassing of wealth beyond their means and known sources of income against the Class Public Servants and Heads of the Department were pouring in everyday, the Hon'ble Chief Minister was requested confer power on the Lokayukta to call for the return statements of their movable and immovable properties, that suitable action could be initiated against such of them may be found on their scrutiny to have disproportion assets or properties beyond their means and known sources of income. In my opinion, a substantial part of ill-gotten huge wealth of such public-servants is invested in purchasing jewellery, land and building houses /commercial shops- etc. either in their own names or in the names of the members of their families or relatives. Such ill-reputed public servants tarnish the image of the Government. By conferring aforesaid power on Lokayukta, such public servants will considerably be deterred from indulging in such under-hand corrupt practices.

I am, therefore, of the view that the Government should take immediate action in this matter so that the widespread corruption in the bureaucracy may be put to check to some extent.

M.B.Sharma  
Lokayukta

D.O.letter No.F.1(9)LAS/90/1463  
Jaipur, dated 24.9.90

My dear Chief Minister,

The success of a welfare State depends primarily on an honest and efficient administration, and corrupt public servants who abuse their official powers, or indulge in other corrupt activities involving lack of integrity pose serious threat to the State and the people. The institution of Lokayukta had therefore been created in the State with a view to investigate into all kinds of actions of public servants to that the public servants who are wanting in integrity and indulge in corrupt activities for the purpose of accumulating valuable assets for themselves or who abuse their powers for causing unlawful harm or loss to any person may be detected and suitable action against them may be recommended by the Lokayukta.

I have pondered over the aforesaid problem namely of eradication of corruption, and for that purpose gone through the provisions of Lokayukta and Up-Lokayukta Act and other relevant provisions, perused the complaints filed in the Lokayukta Sachivalaya and apprised myself of the latest reports of other Lokayuktas functioning in several States of India and also perused the reports of Ombudsman functioning in other countries of the world. It appears that for the eradication of corruption, some more steps than the holding of investigations on a complaint filed by a citizen would be absolutely necessary, because the citizens often do not make complaints about the corrupt actions of the public servants, and there are various reasons for this indifference on the part of citizens. In a large number of cases, corrupt public servants go on abusing their official powers and indulging in corrupt activities for amassing valuable assets in the form of movable and immovable properties and one of the ways in which such public servants may be identified is to scrutinize the valuable assets collected by them in the form of movable and immovable properties during the period of their employment as public servants. In other words, it is necessary that by scrutinizing the Returns of the valuable assets of public servants, it may be found out whether they have collected assets of any kind, disproportionate to their known incomes.

Experience shows that corrupt public servants often invest the ill gotten money, collected by them as bribes or illegal gratifications, in immovable properties, movable properties and other valuable properties like jewellery, securities, shares and debentures either in their own names or in the names of the near and close relatives. If the Returns of the movable, immovable and

valuable properties are called from the public servants and scrutinized properly, those who have collected assets disproportionate to their known means may be easily detected. I am, therefore, of the opinion that the Lokayukta should also perform the function of calling the Returns of movable and immovable properties from the public servants especially those who are appointed to regular public services created by the State, and scrutinize them for the performance of his statutory duty which is to eradicate corruption in the State. You will appreciate that eradication of corruption and providing clean and honest administration is a pious duty imposed on the State as well on the Lokayukta and if any neglect is committed in this behalf, it would frustrate the aforesaid object.

I have carefully gone through the provisions of the Lokayukta and Up-Lokayukta Act, 1973. No amendment of the Act is necessary for authorizing the Lokayukta to call Returns of properties from public servants belonging to public services and such authorization can be made by His Excellency the Governor of Rajasthan under sub-section (1) of Section 18 of the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973. I may also bring to you kind notice that provisions for calling Returns of movable, immovable and valuable properties, from the officers and employees belonging to public services, already exist in the Rules made by the Government under Article 309 of the Constitution.

I, therefore, bring to you kind notice my own views in this behalf, in my opinion as Lokayukta, I will be in a better position to eradicate corruption, if a notification is issued by His Excellency the Governor of Rajasthan, under sub-section (1) of Section 18 of the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973 in this behalf. A draft of the proposed notification is being sent with this letter. At present, I do not propose to include the Hon'ble Ministers, and authorities, who do not belong to a regular public service of the State, in the list of public servants from whom the Returns of properties are to be called under the proposed notification. I hope, you will be kind enough to personally look into the proposal and take appropriate action in the matter.

With warm regards,

Yours sincerely,  
Sd/-  
(M.B.Sharma)

Hon'ble Shri Bhairon Singh Shekhawat,  
Chief Minister,  
Rajasthan, Jaipur.

Extract From Fourteenth Annual Report  
For The Period From 1.9.1993 To 31.3.1996

The Institution of Lokayukta is an independent statutory authority whose role is simply to investigate the allegations against Ministers and public servants as defined in the Act. Its role does not extend to keeping a watch over actual actions and functions of the various Departments of the Government and to look into grievances and maladministration. Most of the times maladministration may be also as a result of corruption. With the liberalization of economy the extension of the jurisdiction of the institution to "Grievance" and "Maladministration" is all the more necessary. The public and the large suffers as a result of some or the other maladministration at the hands of the Government and the common man may suffer injustice at the hands of a public servant and may have a grievance against some acts of the Government. Not specifically confirming this jurisdiction is against the very purpose, for which the Institution is generally established under the Act. The Lokayukta or Ombudsman as the term is known in Scandinavian countries is a friend of the common man such should look into the grievances part also. Though majority of the States under their respective statutes have conferred jurisdiction on the Lokayukta and the Lokayukta can and does look into the grievance of a citizen in respect of maladministration, but despite suggestions made in the various Annual Reports submitted to His Excellency the Governor no action to amend the Act has been taken so as to confer jurisdiction on this Institution also to investigate the cases of maladministration and to redress the grievances of the affected persons. Persons including retired government servants aggrieved from various types of maladministration and inaction on the part of the authorities have been approaching this Institution for prompt and adequate relief and this Sachivalaya has been taking the cognizance of the grievances of retired Government servants with regard to pension, gratuity, payment of Provident Fund etc. keeping in view the definition of "action" as contained in Section 2(a) of the Act as failure to act is also included in it.

The Rajasthan Administrative Reforms Committee (1963) as well as the Administrative Commission (1966-70) of the Government of India in their respective Reports on the problems of redressal of grievances of citizens, recommended setting up of a statutory authority analogous to that of 'Scandinavian Ombudsman' for keeping a watch over the executive actions of the Government and investigating cases in which the action by any agency of the Government was either illegal, unjust, arbitrary or flagrantly violative of the rules or established precedents, the cases involving definite allegations of corruption. But so far as the Rajasthan

Lokayukta & Up-Lokayukta Act, 1973 is concerned, as said above, it has expressly conferred jurisdiction only in respect of "allegations" as defined in that Act against Ministers and public servants.

During the period of this Consolidated Report 1411 fresh complaints were received and on 1st September 1993, 318 complaints were pending. 1446 complaints were disposed of during this period and 283 were pending as on 31st March 1996. The statistics of the pending complaints and the cases disposed of will be given hereinafter.

The institution Lokayukta has not been as effective forum as it can be because the Government has not provided an independent investigative agency and the necessary staff despite suggestions having been made in the various Annual Reports. This Institution is handicapped in the discharge of its functions for want of independent investigating agency. Not only this various suggestions have been made by this Institution in the various Annual Reports so that this Institution may be effective forum towards removing to some extent at least. The evil of corruption from amongst the public servants and Ministers.

### **Meeting Of Implementation Committee Of All India Lokayuktas And Up-Lokayuktas In Jaipur**

As referred in my Thirteenth Annual Report, a Committee of five Lokayuktas was constituted for preparing a uniform legislation on the institution of Lokayukta in the country. I was nominated as a Member of the said committee. The committee had prepared a draft Model Bill for uniform legislation on the institution of Lokayukta and the same was submitted along with my Thirteenth Annual Report for consideration and suitable action, although no action has been taken in this behalf so far.

The Committee held its last meeting at Jaipur on 3rd and 4th October 1996 in which several important topics were discussed and it was resolved unanimously that the Hon'ble Prime Minister of India, the Hon'ble Home Minister, Government of India, the Hon'ble Law Minister, Government of India and the Hon'ble Minister of State in the Ministry of Personnel, Public Grievances and Pension, Government of India be requested to grant constitutional status to the Lokayukta/Lokpal and Up-Lokayukta in India and to consider legislation for establishment of uniform Institution of Lokayukta in all the States.

In the Draft Model Bill many important suggestions have been made for amending the Lokayukta Act to make it more functional, but no action

whatsoever has been taken, though in the various meetings with Hon'ble the Chief Minister of Rajasthan, an impression was given that the Lokayukta Act needs amendments to make it more effective and workable. It is hoped that in the near future necessary amendments may be made in the Act.

### **Suggestions.**

Before I conclude, I would like to mention here that various suggestions have been made from time to time to Hon'ble the Chief Minister by writing communications as also in the Annual Consolidated Report under Section 12 of the Act to enable this Institution to function properly and effectively. In the Thirteenth Annual Report, the following suggestions were made: -

#### **1. Extension of Lokayukta's jurisdiction to Ex-Public Servants:-**

Under the Rajasthan Lokayukta and up-Lokayuktas Act, 1973 a great difficulty is being felt to initiate investigation and to make recommendations against the Ex-Public Servants including Ex-Members of Council of Ministers because of the absence of specific and explicit provision in the Act to that effect. In some of the very important cases involving prima-facie gross involving prima-facie gross abuse of official position and corruption by the Ex-Ministers, I could not initiate investigation in the absence of specific provision covering such Ex-Ministers and Ex-Public Servants for the acts done by them while they were holding office. I proposed amendments in the Act to specifically bring within the purview of the Act the Ex-Public Servants including the Ex-of Council of Ministers but inspite of my best efforts, necessary amendments have not been made so far in the Act. The need for such an amendment cannot be over emphasized.

#### **2. Necessity for providing an Independent Investigation Agency:-**

One major handicap before the Lokayukta in the proper, effective and efficient discharge of his functions is that there is no independent investigating agency who can collect information and evidence and make on the spot inquiries and investigations and further take relevant records into custody immediately before they are tampered with. No doubt, the Lokayukta has been empowered under Section 20 of the Rajasthan Lokayukta and Up- Lokayuktas Act, 1973 to delegate the power on any officer or agency to conduct inquiry or investigation but my experience during the years I have been discharging the functions of the Office of Lokayukta is that while the delegation of powers to the officers of the Lokayukta Sachivalaya is effective, it is not so in the case of other, officers or agencies who are not directly under my control and supervision. I have felt that the factual reports and other required information, which were sent

for from the Heads of Department and other State functionaries are received with inordinate delay on account of which preliminary inquiries are unnecessarily prolonged. A perusal of the statement in Annexure-I will make it abundantly clear Annexure-I will reveal that out of 245 cases of preliminary enquiries in which factual reports were sent for from the various Heads of Department and other State functionaries, factual reports were not received in 124 cases despite several letters, reminders and D.O. letters.

It is, therefore, absolutely essential that an independent investigating agency should be attached with the Lokayukta so that the preliminary enquiries and investigations are completed promptly. Having regard to the large area of the State of Rajasthan as also its population, the need for providing an independent investigating agency to the Lokayukta for conducting inquiries and investigations cannot be over emphasized.

As is well known; at present there are two agencies in Rajasthan namely the Rajasthan State Bureau of Investigation and the institution of Lokayukta. The basic and main object of both of them is to root out and curb corruption, lack of integrity and abuse of official power by the public servants. In order to achieve that object and to tackle the problem of corruption effectively and to make the Institution of Lokayukta more effective and purposeful, the Rajasthan State Bureau of Investigation ought to be placed under the direct control and supervision of the Lokayukta as has been done long back in the State of Karnataka, Madhya Pradesh and a few other States where the police officers of the rank of Director General of Police. Inspector General of Police alongwith other staff are working under the direct control and supervision of the Lokayukta. If it is done in the State of Rajasthan also, I am sure, it will go a long way in achieving the basic objects of both these institutions and the evils of corruption and abuse of official position will be checked to a great extent. Similar suggestion was made in earlier reports also but no action in this regard seems to have been taken by the Government.

### **3. Necessity of bringing complaints of public grievances about Mai-administration within the jurisdiction of the Lokayukta.**

In some Acts of other States, jurisdiction has been conferred on the Lokayukta to inquire into and redress the public grievances besides the allegations but there is no such provision in the Rajasthan Lokayukta Up-Lokayukta Act, 1973. However, this Sachivalaya has been taking cognizance of the grievances of only retired public servants with regard to the payments of heir claims of Pension, Gratuity, State Insurance and G.P.F. etc., keeping in view the definition of "inaction" provided in the Act because

most of such grievances are the result of inaction on the part of public servants. The Institution of Lokayukta has emanated from the concept of "Ombudsman", which means 'a friend of common man' His main task is to redress the public grievances but the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973 does not empower the citizens to make complaints of their grievances about maladministration. Consequently the grievances of the public about maladministration generally go uninvestigated. There may be very many cases in which it may not be possible for the citizen to make specific allegations of corruption against a particular public servant but he may be able to make complaints about the mal-administration prevalent in the Department as a whole which may be afflicted by corrupt practices and abuse of official powers. If such cases of mal-administration go uninvestigated, a large number of officers, who indulge in corrupt practices and abuse of official powers, will go scot-free. The non-inclusion of specific provision about the redressal of public grievances about mal-administration in the Act appears to me to be a serious anomaly.

Hence, I strongly recommend that a specific provision in the Act should be made for dealing with the public grievances about mal-administration so that the basic idea behind the institution of Lokayukta may be fulfilled and this institution may be made effective, purposeful and meaningful.

**4. Necessity for conferment of powers on the Lokayukta to send for the Statement of property acquired or parted or parted with by the public servants:-**

As more and more complaints of corruption and amassing of wealth beyond their means and known sources of income against the Class-I public servants and Heads of Departments were pouring in everyday, the Hon'ble Chief Minister was requested to confer power on the Lokayukta to call for the returns/statement of their movable and immovable properties, so that suitable action could be initiated against such of them as may be found on their scrutiny to have disproportionate assets or properties beyond their means and sources of income. In my opinion, a substantial part of ill-gotten huge wealth of such public servants is invested in purchasing jewellery, land and building houses, commercial shops etc. either in their own names or in the names of members of their families or relatives. Such ill-operated public servants tarnish the image of the Government. By conferring aforesaid power on Lokayukta, such public servants will considerably be deterred from indulging in such underhand practices.

Besides the above suggestions, which were made earlier and which are reiterated in this Report also. I would like to suggest that the Lokayukta only makes recommendations in his report. If the recommendations are accepted all that the competent authority is required to do so to initiate disciplinary or criminal action against the public servants. The Government should seriously consider making the recommendations of the Lokayukta as binding and the Act be suitably amended. Even then the Government will only be required to initiate action in accordance with the recommendations and the public servant concerned could only be punished in accordance with law and the principles of natural justice. In some of the very important cases involving prima-facie gross abuse of official position and corruption by the Ex-Ministers, I could not initiate investigation in the absence of specific provision covering such Ex-Ministers and Ex-Public servants for the acts done by them while they were holding office. I proposed, amendments in the Act to specifically bring within the purview of the Act the Ex-Public Servants including the Ex-Members of Council of Minister but inspite of my best efforts, necessary amendments have not been made so far in the Act. The need for such an amendment cannot be over emphasized.

It is, therefore, again suggested that the State Government should give its immediate attention to this matter and necessary amendments in the Act should be made at the earliest to enable this institution to function more effectively in such cases.

The Chief Secretary, Government of Rajasthan in the Explanatory Memorandum to the Thirteenth Annual Report of the Lokayukta, Rajasthan has referred to the various suggestions made in the Thirteenth Annual report and has said that the suggestions of the Lokayukta are being got examined separately, but despite the fact that more than three years have elapsed when the Thirteenth Annual Report was submitted, the Government has not yet intimated as to what action has been taken on the suggestions.

D.O.letter No.F.39(2)LAS/95/561

Jaipur dated: 5.5.95

My dear,

Hope this finds you in the best of your health.

In the Annual Consolidated Reports presented by the Lokayuktas from time to time to His Excellency the Governor under Section 12(4) of the Rajasthan Lokayukta and Up-Lokayuktas, Act, 1973 (Act No.9 of 1973) (for short 'the Act' hereinafter) many recommendations have been made so that the Institution of the Lokayukta may become more effective and may achieve the purpose for which it was created. The said recommendations are based on the experience gained during functioning by the persons holding the office. In the recommendations, some suggestions have also been made to make suitable amendments in the Act. I have also, from time to time, written to you in the matter and the subject was also discussed with you personally. Perhaps because of your preoccupations, you could not find time to consider the matter.

I bring to your notice that the Third All India Conference of Lokayuktas held at Hyderabad in 1991 had constituted an Implementation Committee under the Chairmanship of Justice A. Seetharam Reddy, the then Lokayukta of Andhra Pradesh. I was also a Member of that Implementation Committee for some time. The Implementation Committee, after great labour and efforts, prepared the Model Lokayukta Bill with purpose to suggest to the respective State Governments to consider amending the State Act in the light of the provisions of the Model Bill. A copy of the Bill has already been sent to the Government through the Secretary, Department of Personnel, but nothing has yet been heard. I am enclosing a copy of the same for your kind perusal and for consideration for making suitable amendments in the Act in view of the provisions of the Model Lokayukta Bill.

Under Section 18 of the Act, additional functions can be conferred on the Lokayukta and the Up-Lokayukta. In Himachal Pradesh, the analogous Section is 15-A. A perusal of sub-section (4) of Section 15-A of that Act, will show that with the consent of the Lokayukta, the Governor can entrust an enquiry into any matter of public interest referred for enquiry under the Commissions of Enquiry Act, 1952, The Governor can also entrust the Lokayukta with his consent to perform the functions and discharge the duties of statutory Office. I have been given to understand that the Lokayukta, Himachal Pradesh, in view of the aforesaid provision of that Act after he gave his consent has been entrusted to perform the functions and discharge the duties of statutory Office constituted or set up by the State Government under a State or a Central Act such as Chairman of the State Human Rights Commission and perhaps also as Chairman of the State Consumer Forum. I am extracting Section 15-A of the Himachal Pradesh Lokayukta Act, 1983 with this letter to draw your attention particularly to its sub-section (4) and sub-section (5). The Act was made in 1973, more than 22 years ago and in my opinion, needs a fresh look and amendments as suggested from time to time as suggested in the Model Lokayukta Bill prepared by the Implementation Committee constituted in the 3rd All India Lokayuktas Conference. You perhaps are also considering some amendments and the Model Bill as well as sub-section (4) and (5) of Section 15-A of the Himachal Pradesh Lokayukta Act, 1983 may help in reaching to the conclusions as to whether and if so what amendments in the Act are necessary to make the Act more effective.

Yours sincerely

Sd/- 5.5.95

**(M.B.SHARMA)**

Hon'ble Shri Bhairon Singh Ji Shekhawat,  
Chief Minister of Rajasthan, JAIPUR.

*Extract Copy Of Section 15-A Of  
The Himachal Pradesh Lokayukta Act, 1983.*

15-A Conferment of additional functions on Lokayukta. The Governor may, after consultation with the Lokayukta, and by notification published in the Official Gazette, confer on the Lokayukta such additional functions in relations to the eradication of corruption as may be specified in the notification

- (2) The Governor, may by order in writing and after consultation with the Lokayukta, confer on the Lokayukta such powers of supervisory nature over agencies, authorities officers set up, constituted or appointed by the State Government for the eradication of corruption.
- (3) When any additional functions are conferred on the Lokayukta under sub-section (1), the Lokayukta shall exercise the same powers and discharge the same functions as he would in the case of any investigation made on a complaint-involving an allegation, and the provision of this Act shall apply according.
- (4) Notwithstanding anything to the contrary contained this Act, If the Governor Is satisfied that :-
- (a) the quantum of work connected with investigations under this Act is not sufficient to justify the whole time employment of the Lokayukta; and
- (b) the assignment of additional functions or investigation of matters of public importance (not connected with eradication of corruption) can be performed or conducted by the Lokayukta without impending or prejudice of the duties to be performed by him under this Act;
- the Governor may, with the consent of the Lokayukta, entrust, either conditionally or unconditionally, to the Lokayukta--
- (i) to make an inquiry into any definite matter of public importance referred for inquiry under the Commissions of Inquiry Act, 1952; or
- (ii) to perform the functions and to discharge the duties of a statutory office; and he shall hold said inquiry or perform said functions or discharge said duties through such officers, employees, agencies as are referred to in section 13.
- (5) When any additional functions are conferred under sub-section (4), the Lokayukta shall exercise the same powers and discharge the same functions, as he would have exercised or discharged under the Commissions of Inquiry Act, 1952, or as the case may be, under the enactment constituting or setting up that office in relation to which he is to perform the functions or discharge the duties.

**Explanation.** — For the purpose of this section the expression 'statutory office' shall mean the office constituted or set up by the State Government under a State or Central Act for the time being in force in the State, and which is to be manned by a person who is qualified for appointment as, or is a person who is or has been, a Judge of a High Court.

Justice M.B.Sharma  
Lokayukta

D.O.letter No.3243  
Jaipur, dated 23.10.92

My Dear

In some of the cases pending in this Sachivalaya, in which preliminary enquiry has been completed, a decision is to be taken as to whether investigation under Section 10 of the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973 (for short 'the Act') should be commenced or not and investigation in these cases is found to be necessary against some public servants including the Members of the Council of Ministers but they have ceased to be Ministers or public servants. As per the present definition of the aforesaid expression given in Section 2(i) of the Act, it is highly doubtful if investigation can be started against them. A situation has arisen and may arise in future also that when investigation is commenced against a person who is still a Member of the Council of Ministers or other public servant, but before the investigation is completed and a report under Section 12 of the act is made to the Competent Authority, such person may cease to be a Member of the Council of Ministers or a public servant. In that situation, it may be a moot question as to whether or not investigation can be continued against such a Member of the Council of Ministers or a public servant and whether or not a report under Section 12 of the Act can be made in respect of him and whether the Act at all applies to their cases.

I would, therefore, suggest that the definition of expressions 'Ministers', 'Officer' and 'Secretary' given in Section 2(f), (g) and (j) respectively may be suitably amended so as to include even an Ex-Member of the council of Ministers, Ex-Officer and Ex-Secretary. Similarly clause (iii) and (iv) of Section 2(i) of the Act may also be suitably amended so as to include holders of offices enumerated therein and who have ceased to hold such offices, otherwise the purpose for which the Act was made, will be frustrated. It may also be mentioned that even after the proposed amendments, the limitation of five years for initiating action will still be there.

I am enclosing herewith the draft of the proposed amendments in a separate sheet.

In case, you agree with my suggestion, which is very important for the purpose of eradication of the evil of corruption and misuse of power, then an immediate action for bringing about the aforesaid amendments in the Act is requested which may be taken, if necessary, by amending the Act by an ordinance looking to the urgency of the matter.

With warm regards,

Encl: As above.

Shri Bhairon Singh Ji Shekhawat,  
Hon'ble the Chief Minister, Rajasthan, Jaipur.

Yours sincerely,  
Sd/-  
( M.B.Sharma )

## LOKAYUKTA SACHIVALAYA, RAJASHAN, JAIPUR.

F.39(2)LAS/81/1310

dated: 20.6.95

From

The Secretary,  
Lokayukta Sachivalaya,  
Rajasthan, Jaipur.

To,

The Secretary to Government,  
Department of Personnel,  
(A-III), Government of Rajasthan,  
Jaipur.

Sub: Amendment in the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973 for including Mayor and Deputy Mayor within the definition of 'public servant' and issuance of notification.

Sir,

I am directed to say that after the Rajasthan Municipalities (Second Amendment) Act, 1994 in place of Municipal Councils, Jaipur, Jodhpur and Kota, Municipal Corporations have been set up in these places but neither the consequential amendment in the definition of 'public servant' given in Section 2(i) of Rajasthan Lokayukta and Up-Lokayuktas Act, 1973 so as to include Mayor and Deputy Mayor has been made nor the Municipal Corporations have been notified in the official gazette so as to bring every person in the service or pay of these local authorities viz. Municipal Corporations Jaipur, Jodhpur and Kota within the purview of the Lokayukta which amendment and notification ought to have been made and issued contemporaneously with the Rajasthan Municipalities (Second Amendment) Act, 1994. The result is that Hon'ble Lokayukta cannot take cognizance of the complaints of corruption, abuse of official position and inaction which are being received against the Mayor and Deputy Mayor and other employees of these Municipal Corporations.

Thus, under the above changed circumstances, suitable amendment in Section 2(i) (iii) (b) and a notification under Section 2(iv) (a) of Rajasthan Lokayukta and Up-Lokayuktas Act, 1973 is essential. Since the Rajasthan Legislative Assembly is not in session at present, the amendment in the Act is required to be made by an ordinance looking to the urgency of the amendment.

I am, therefore, directed to request you to kindly issue an ordinance for making suitable amendment in Section 2(i)(iii) (b) so as to include Mayor and Deputy Mayor within the definition of 'public servant' and also to issue appropriate notification in the official gazette under Section 2(i)(iv)(a) so as to bring within the jurisdiction of Lokayukta every person in the service or pay of these local authorities viz. Municipal Corporations, Jaipur, Jodhpur and Kota.

Drafts of proposed amending ordinance and proposed notification to be issued in the official gazette are enclosed herewith for consideration and necessary action.

Yours faithfully,  
( Harbans Lal )  
Secretary

Encls: As above.

The Secretary to Government,  
Department of Personnel (A-III),  
Government of Rajasthan, Jaipur.

F.39(2)IAS/81/3125

Dated: 21.10.95

Sir,

I am directed to say that under Section 12(1) of Rajasthan Lokayukta and Up-Lokayuktas Act, 1973 (hereinafter called 'the Act'), if after investigation of any action in respect of a complaint involving an allegation, the Lokayukta or the Up-Lokayukta is satisfied that such allegation can be substantiated wholly or partly, he has to by report in writing communicate his findings and recommendations along with the relevant documents, materials or other evidence to the Competent Authority. The term 'Competent Authority' has been defined in Section 2(c) of the Act as under:-

"(c) 'competent authority', in relation to a public servant, means-

- (i) in the case of a Minister or Secretary-- The Chief Minister.
- (ii) in the case of any other public servant--such authority as may be prescribed."

While prescribing 'Competent Authority' as required in Section 2(c)(ii) of the Act, in Rule 2 of the Rajasthan Lokayukta and Up-Lokayuktas (Proceedings) Rules, 1974 (hereinafter called 'the Rules of 1974'), it has been provided as under:-

"2. Competent Authority.— In the case of any public servant other than a Minister or Secretary, the competent authority for the purpose of sub-clause (ii) of Clause (c) of Section 2 of the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973, shall be the authority for the time being competent to remove that public servant from service as such public servant.'

But Rule 7(2) of the All India Services (Disciplinary Appeal) Rules, 1969 provides that the penalty of dismissal, removal or compulsory retirement shall not be imposed on a member of All India Services except by an order of Central Government.

The resultant position is that Hon'ble the Chief Minister is Competent Authority in respect of Secretaries to the Government, who are also members of All India Services and the reports under Section 12(1) of the Act against them are to be sent to him, whereas in respect of other members of All India Services, the authority competent to remove being the Central Government as per Rule 2 of the Rules of 1974 read with Rule 7(2) of the All India Services (Disciplinary and Appeal) Rules, 1969, the reports under Section 12(1) of the Act against them will have to be sent to the Central Government. There does not appear to be any

reasonable and cogent reason for making the above distinction in prescribing separate Competent Authorities in respect of other members of All India Services and the Secretaries to the Government and this is perhaps due to some inadvertence or oversight and does not appear to have been intended.

I am, therefore, directed to request you to kindly consider making suitable amendments in Section 2(c)(i) of the Act by incorporating after the word 'Secretary' 'or other member of All India Services' and in Rule 2 of the Rules of 1974 between the words 'Secretary' and the 'competent authority' 'or other member of All India Services' so as to make Hon'ble the Chief Minister as the Competent Authority in respect of Secretaries to Government and other members of All India Services alike. In case, the above distinction in prescribing different competent authorities in respect of Secretaries to the Government and other members of All India Services was conscious and intentional, this Sachivalaya may kindly be apprised of the same so that the reports under Section 12(1) of the Act in respect of members of All India Services other than the Secretaries to the Government may be forwarded to the Central Government in accordance with the provisions of the Act and the existing relevant Rules.

Yours faithfully,  
Sd/-  
(HARBANS LAL)  
Secretary

Extract From Fifteenth Annual Report  
For The Period From 1.4.96 To 31.3.1997

**PREFACE**

This report covering the period from 1st April, 1996 to 31st March, 1997 is the Fifteenth Annual Report of this Sachivalaya and the second Report in my appointment as Lokayukta of the State. It is being made when India is celebrating 50 years of independence.

In Rajasthan State, the institution of Lokayukta is as old as 24 years. It is for the Government to see if this institution has achieved the purpose for which it was thought and created. So far as I am concerned, I feel that the Lokayukta Act in the year 1973 appears to have been drafted in hot haste and even "Grievance" was consciously not included for investigation by this forum. The original concept of Ombudsman in the Scandinavian system was that he was the grievance person who could look into any matters that happened to a citizen as a result of an action of the Executive or the military or the courts. No sooner the Act was brought on the Statute Book, the very same feelings were expressed by the first Lokayukta Justice (Rtd.) I. D. Dua, a retired Judge of the Supreme Court and by Shri K. P. U. Menon, first ever Up-Lokayukta of the State. As far back as December, 1973, after functioning as first Up-Lokayukta of the State for about four months, Shri Menon communicated to Shri I. D. Dua his feelings of frustration. He also sent a note to Shri Dua putting his suggestions on the subject. It will be seen that in the points about the working of the new institution of Lokayukta and Up-Lokayuktas, Mr. Menon said-

"the intention of the legislature was to combat corruption even more effectively and in areas so far outside the purview of the previous organization (the State Vigilance Commission) by giving it a statutory basis.....The extent to which that object is achieved will be the touchstone on which the performance of the new organization will have to be tested."

Shri Menon further said-

"The law as enacted, with all its exclusions and restrictions and rigid and inflexible procedures, has created an organization which is likely to be comparatively less effective in combating corruption; and I cannot help feeling that it had been drafted hastily and had received less than the attention and scrutiny that such an important piece of legislation deserved."

Mr. Menon felt that the Vigilance Commissions in Rajasthan and at the Centre and possibly elsewhere, have functioned comparatively more effectively and unless some radical amendments are made to the Lokayukta Act the main purpose with the Administrative Reforms Commissions Legislature had in view would not be achieved.

It appears that the present Chief Minister was also holding the same office in the year 1977 and he felt the need of amendments in the Lokayukta Act and desired the then Lokayukta to send suggestions for amendments. Shri I. D. Dua, the then Lokayukta sent suggestions for more effective and fruitful functioning of the Lokayukta Sachivalaya for prevention/eradication of corruption in public services. In the suggestions made by Shri

Dua for consideration by the Government, amendments to include Ex-Ministers and other categories of public servants, the Members of the Legislative Assembly in the definition of public servant as given in the Lokayukta Act were made. It was also suggested that the Lokayukta should also have jurisdiction to investigate grievance of the common man as a result of mal administration in the Government.

In almost all Annual Consolidated Reports made by the Lokayukta from time to time under the caption "Various Suggestions" for amending the Lokayukta Act to make it more effective, purposeful were made. Even in the 1st Consolidated Annual Report presented to the Governor on July 17, 1974 covering period from August 28, 1973 to March 31, 1974 and the second from April 1, 1974 to March 31, 1975 as required under Section 12 (5), Shri I.D.Dua, Lokayukta suggested that if the problem of combating corruption is to be fruitfully tackled through the instrumentality of this Organization, then extensive powers of supervisory nature over all agencies, authorities or officers set-up, constituted or appointed by the State, for the eradication of corruption (including Anti-Corruption Department, Commissioner for Removal of Public Grievances, District Vigilance Committees and Heads of Department as well as Officers subordinate to them) must be conferred on the Lokayukta and Up-Lokayukta not only in respect of corruption cases pending before them but also in respect of such cases which may not be before the Lokayukta and Up-Lokayukta, but may be with these officers for consideration in connection with all other matters. It was also said in the above Reports that the State Government by issue of a notification may confer supervisory powers on the Lokayukta/Up-Lokayukta, but it may perhaps be more appropriate to vest supervisory power by making a suitable amendment in the Act so as to give it a statutory sanction.

It will, thus, be seen that the desirability of making suitable amendments to make the Lokayukta and up-Lokayuktas Act more effective and result oriented is felt and recommendations are being made to the Government in various Annual Consolidated Reports and otherwise but nothing has been done so far and this Institution could not be as effective in its functioning as it ought to be and as the general public will like it to be. It is heartening to note that the State Government has now vide order No. F. 4(5) Cabinet/94 dated 29th July, 1997 has constituted a Committee of six. Ministers under the chairmanship of Deputy Chief Minister to examine the amendments suggested by me and by my predecessors from time to time as well as the amendments suggested in the Model Lokayukta Bill prepared by the All India Lokayuktas Conference. It is good that a beginning has been made and it is hoped that the Committee will make its recommendations within the given time and thereafter the recommendations will be implemented by making suitable amendments in the Lokayukta Act.

### **Suggeseions**

Suggestions have made in almost all Annual Consolidated Reports including the first two Consolidated Reports, but except saying that they are under the consideration of the State Government not even one of the suggestions has yet been accepted by the State Government. I can do no better then reiterate the suggestions made and than to say that the Government will find time to go through the various Suggestions made from time to time and accept the suggestions made for the effective functioning of the Institution so that this institution may achieve its goal towards eradication of corruption from amongst public functionaries.

In my opinion, the working of the Institution for the last almost 24 years will show that it has not achieved the object for which this Institution was created by the State Legislature. Unless necessary inputs are provided to any institution and more so to the institution of Lokayukta & Up-Lokayuktas, it can hardly be expected to discharge its functions. I will suggest that immediately at least an independent Agency may be provided to the Institution so that it may be better equipped to function, otherwise the Government may think to wind up the Institution so that there may not be an occasion for the general public to say that this institution is of no use and has failed to achieve the objects of eradication of corruption.

To,

The Secretary,  
Department of Personnel (A-III)  
Rajasthan, Jaipur

F. 1(11)LAS/96/3579

dated: 27.2.97

Sir,

I am directed to refer to your department's letter No. F.6(12)DOP/A-III/96 dated 29-1-1996 and to inform that the amendments proposed in the draft of the Ordinance are very important and necessary for the effective functioning of this Institution.

I am, therefore, enclosing copy of the proposed Ordinance prepared in 1996 and Model Bill which contains all the amendments proposed earlier and to request you kindly to expedite necessary action at Government level.

Encl. As above.

Yours faithfully,  
Sd/- 27.2.1997  
( MANPHOOL RAM )  
Secretary

**The Rajasthan Lokayukta And Up-Lokayuktas (Amendment) Ordinance, 1996  
(Ordinance No. of 1996)**

**(Made and promulgated by the Governor on the day of ,1996)**

*An Ordinance to amend the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973  
(Rajasthan Act No.9 of 1973)*

Whereas the Rajasthan Legislative Assembly is not session and the Governor of the State of Rajasthan is satisfied that the circumstances exist which render it necessary for him to take immediate action in this behalf;

Now, therefore, in exercise of the powers conferred on him by clause (1) of Article 213 of the Constitution of India, the Governor hereby promulgates in the Forty-Seventh year of the Republic of India, the following Ordinance namely:-

1. Short title and commencement.- (1) This Ordinance may be called the Rajasthan Lokayukta and Up-Lokayuktas (Amendment) Ordinance, 1996.
  - (2) It shall come into force with immediate effect.
  
2. Amendment of Section 2, Rajasthan Act No.9 of 1973.- Section 2 of the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973 (Rajasthan Act No. 9 of 1973) hereinafter referred to as 'the principal Act' shall be amended as under:-
  - (a) in sub-clause (iii) of clause (b) of Section 2 of the principal Act, between the words 'is guilty of corruption' and the words 'or lack of integrity' the words 'favouritism, nepotism' shall be inserted.
  - (b) after sub-clause (iii) as amended above, following new sub-clauses (iv) and (v) shall be inserted, namely:-
    - (iv) has failed to act in accordance with the and integrity and conduct which ought followed by the public servants of the class to which he belongs;
    - (v) is in possession of pecuniary resource or assets disproportionate to his known sources of income for which he cannot satisfactorily account and such pecuniary resources or assets are held by such public servant personally or by person on his behalf.
  - (c) after clause (b), the following new clause (bb) be inserted, namely:-
    - (bb) 'Chief Minister' means the Chief Minister of the State of Rajasthan.
  - (d) in clause (c), following new sub-clause (i) shall be substituted in place of the existing sub-clause :-
    - (i) in the case of the Chief Minister The State Legislative Assembly or during the period of proclamation issued under Article 356 of the Constitution of India, the Governor.

- (e) the existing sub-clause (i) shall be renumbered a sub-clause (ii) and the existing sub-clause (ii) shall be renumbered as sub-clause (iii) and in sub-clause (ii), as so renumbered/ after the words 'in the case of the Chief Minister or Secretary', the words 'or an officer of All India Services' and after the words 'the Chief Minister', the words 'or during the period of proclamation issued under Article 356 of the Constitution of India, the Governor' shall be inserted.
- (f) after sub-clause (c), the following new sub-clause (cc) and (ccc) shall be inserted, namely :-  
 ( cc ) 'Corruption' includes anything made punishable under Chapter IX of the Indian Penal Code, 1860 ( or under the Prevention of Corruption Act, 1988 (Central Act No. 49 of 1988).  
 (ccc) 'Grievance' means a claim by a person that he has sustained injustice or undue hardship consequence of maladministration.
- (g) after existing sub-clause (e), following new sub-clause (ee) shall be inserted, namely:-  
 (ee) 'maladministration' means action taken or purporting to have been taken in the exercise of the administrative functions in any case, where  
 (a) such action or the administrative procedure or practice governing such action is illegal, unreasonable, unjust, oppressive or improperly discriminatory;  
 (b) there has been negligence or undue delay in taking such action or the administrative procedure or practice governing such action t involves undue delay .
- (h) in the existing clause (f) after the expression 'that is to say' and before the words 'a Minister,' the expression 'a Deputy Chief Minister' shall be inserted and the word 'and' occurring between the expressions 'Minister of State' and 'Deputy Minister' shall be omitted and substituted by ' , ' and after the expression 'Deputy Minister' 'and Parliamentary Secretary,' shall be added.  
 (i) the existing sub-clause (i) shall be substituted as under:-  
 (i) 'public servant' means a person who is or has been-  
 (a) the Chief Minister as referred to in clause (bb);  
 (b) a Minister as referred to in clause (f);  
 (c) an officer as referred to in clause (g);  
 (d) a Pramukh or Up-Pramukh of a Zila Parishad, Pradhan and Up-Pradhan of a Panchayat Samiti, Chairman of any Standing. or any subject committee and a Member of Zila Parishad or Panchayat Samiti. ( by whatever name called) constituted by or under the Rajasthan Panchayati Raj Act 1994 (Rajasthan Act No.13 of 1994).  
 (e) a Mayor and Deputy Mayor of a Municipal Corporation, President and Vice-President of a

- Municipal Council, Chairman and Vice-Chairman of a Municipal Board and Chairman of any Committee constituted or deemed to be constituted by or under the Rajasthan Municipalities Act, 1959 (Rajasthan Act No.38 of 1959);
- (f) a Chairman, Vice-Chairman, Managing Director or a Member of the Board of Directors.( by whatever name called ) of-
- (i) any statutory body or corporation (not being a local authority) established by or under the State Act and owned and controlled by the State Government;
  - (ii) any society registered under the Rajasthan Societies Registration Act 1958 (Rajasthan Act No.28 of 1958 which is subject to the control of the State Government of Rajasthan and which is notified by the State Government in this behalf in the official Gazette;
  - (iii) any co-operative society registered or deemed to be registered under an, law for the time being in force which is subject to the control of the State Government and 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;
  - (iv) any Government Company within the meaning of Section 617 of the Companies Act, 1956 (Central Act 1 of 1956), in which not less than fifty one per cent of the paid up share capital is held by the State Government or any Company which is a subsidiary of a Company in which not less than fifty one per cent of the paid up share capital is held by the State Government;
  - (v) such other body or corporation owned or controlled by the State Government as the State Government may, having regard to its financial interest therein, by notification specify.
- (g) the Chairman, Managing Director or Secretary having control over the administration of a private educational institution receiving aid from the State Government.

**Explanation:** -'Private educational institution' means any college, school, training institute or any other institution, by whatever name designated, established and run with the object of imparting education or preparing or training students for obtaining any

certificate, degree, diploma or any academic distinction recognized by the State or Central Government or functioning for the educational, cultural or physical development of the people in the State and which is neither owned nor managed by the State or Central Government or by any University or local authority or other authority owned or controlled by the State or Central Government.

- (h) a person in the service or pay of a local authority, any other statutory body, corporation, society or Government company as referred to in sub-clauses (d), (e), (f) and (g).
- (j) in clause (j) after the words 'and includes' the words 'the Chief Secretary' an Additional Chief Secretary, a Principal Secretary' shall be inserted and the word 'and' occurring between the words 'an Additional Secretary' and 'a Joint Secretary' shall be substituted by ', ' and words- 'and a Deputy' Secretary.' shall be added after the words 'a Joint Secretary'.

### **3. Amendment of Section 5 of the principal Act-**

In Section 5 of the principal Act the following sub-sections (1) and (3) shall be substituted in place of the existed, sub-sections, namely:-

- (1) Every person appointed as the Lokayukta or an Up-Lokayukta shall hold office for a term of five year: from the date on which he enters upon his office or up to the age of seventy years, whichever is earlier.  
Provided that -
  - (a) the Lokayukta or an Up-Lokayukta may, by writing under his hand addressed to the Governor, resign his office;
  - (b) the Lokayukta or the Up-Lokayukta may be removed from office in the manner specified in Section 6.
- (3) On ceasing to hold office, the Lokayukta or the Up-Lokayukta shall be ineligible for further appointment as the Lokayukta or the Up-Lokayukta or in any other capacity or for any further employment under the State Government or under any local authority or statutory body or Corporation or Society or Co-operative Society or any Government Company or Statutory Body as is referred to in sub-clauses (d) (e), (f) and (g) of Section 2.

### **4. Amendment of Section.7 of the principal Act- In Section 7 of the principal Act-**

- (a) in sub-section (1) after the words 'Lokayukta may' and before the word 'investigate' the words 'either suo-motu or on a complaint made to him' shall be inserted;
- (b) in clause (i) of sub-section (1) before the words ' a Minister' the words 'the Chief Minister' shall be inserted;

- (c) in sub-section (2) after the words 'an Up-Lokayukta may' and before the word 'investigate' the word 'either suo-motu or on a complaint made to him' shall be inserted.

**5. Amendment of Section 8(1) of the principal Act- The following amendments shall be made in Section 8(1) of the principal Act namely:-**

- (a) ' a ' at the end of clause (b) of sub-section (1) shall be substituted by ' ; ' and below the above clause (b) word 'or' shall be added just as after the clause (a);
- (b) the following new clause (c) shall be added after clause (b), namely:-
- (c) in respect of a matter for which a Commission has been appointed by the Central Government under Section 3 of the Commissions of Inquiry Act, 1962 (Central Act 60 of 1952).

**6. Amendment of Section 9 of the principal Act- In Section 9 of the principal Act, sub-section (1) shall be substituted as under :-**

- (1) Subject to the provisions of this Act, a complaint relating to an allegation or a grievance, as the case may be, may be made under this Act, to the Lokayukta or an Up-Lokayukta—
- (a) in the case of an allegation, by any person other than an officer, and
- (b) in the case of a grievance, by a person aggrieved.

**7. Insertion of new Sections 11A,11B and 11C in the principal Act**

After Section 11 of the principal Act, the following new Sections shall be inserted, namely:-

- 11A. Issue of search warrants, etc.-(1) where in consequent of information in his possession, the Lokayukta or Up-Lokayukta-
- (a) has reason to believe that any person:-
- (i) to whom a summon or notice under this Act has been issued or likely to be issued, may not produce or cause to be produced, or may tamper with any property, document or thing which will be necessary or useful for or relevant to any inquiry or other proceeding to be conducted by him;
- (ii) is in possession of any money, bullion, jewellery or other valuable article or thing and such money, bullion, jewellery or other valuable article or thing represents either wholly or partly income or property which has not been disclosed to the authorities as required under any law or rule for the time being in force; or
- (b) considers that the purposes of any inquiry or other proceedings to be conducted by him will served by a general search or inspection, he may by a search warrant authorize any officer subordinate to him or any officer of the institution of Lokayukta- or any person or

agency referred to in Section 14 to conduct a search carry out an inspection in accordance therewith and in particular to,-

- (i) enter and search any building or place where he has reason to suspect that such property document, money, bullion, jewellery or other valuable article or thing is kept;
  - (ii) search any person who is reasonably suspected of concealing about his person any article for which search should be made;
  - (iii) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by item (1), where the keys thereof are not available;
  - (iv) seize or seal any such property, document, money, bullion, jewellery or other valuable article or thing found as a result of search;
  - (v) place marks of identification on any property or document or make or cause to be made extracts of copies therefrom; or
  - (vi) make a note or an inventory of any such property, document, money, bullion, jewellery or other valuable article or thing.
- (2) the provisions of the Code of Criminal Procedure, 1973, relating to searches shall, so far as may be, apply to searches under this section subject to the modification that sub-section (5) of Section 165 of the said Code shall have effect .as if, for the word 'Magistrate', wherever it occurs, the words 'Lokayukta or any officer authorized by it' were substituted.
- (3) A warrant issued under sub-section (1) shall, for all purposes, be deemed to be a warrant issued by a court under Section 93 of the Code of Criminal Procedure, 1973.
- 11B. Interim Recommendation.- If, during the course of preliminary enquiry or investigation under this Act, the Lokayukta or Up-Lokayukta is prima-facie satisfied that allegation or grievance against any action is likely to be substantiated either wholly or partly, he may, by a report in writing, recommend to the public functionary concerned to stay the implementation or enforcement of the decision or action complained against, or to take such mandatory or preventive action, on such terms and conditions, as he may specify in his report.
- 11C. Interim Report.- (1) the Lokayukta or Up-Lokayukta, as the case may be, may forward an interim report to the competent authority recommending grant of interim relief to the complainant if he is satisfied at any stage of preliminary enquiry or investigation that the complainant has sustained injustice or undue hardship in consequence of any decision or action of a public servant and that the grievance complained of should be redressed expeditiously.

- (2) The Lokayukta or Up-Lokayukta, as the case may be, may at any stage of inquiry or investigation, under this Act, forward an interim report to the competent authority recommending to take such action as may be considered necessary by him against the public servant, including the suspension of the public servant, pending inquiry or investigation-
- (a) to safeguard wastage or damage of public property or public revenue by the administrative acts of the public servant;
  - (b) to prevent further acts of misconduct of the public servant;
  - (c) to prevent the public servant from secreting the assets earned by him allegedly by corrupt means; or
  - (d) to promote public interest.

**8. Insertion of new sub-sections (4), (5) and (6) in Section 14 of the principal Act- In section 14 of the principal Act, after sub-section (3), the following sub-sections shall be added, namely:-**

- (4) Any officer, agency or person whose services are utilized under sub-section (1) may, subject to the direction and control of the Lokayukta or Up-Lokayukta, as the case may be-
- (a) summon and enforce the attendance of any person and examine him;
  - (b) require the discovery and production of any document; and
  - (c) requisition any public record or copy thereof from any office.
- (5) The officer, agency or person whose services are utilized under sub-section (1) shall enquire into the matter and submit a report to Lokayukta or Up-Lokayukta, as the case may be, within such period as may be specified by him in this behalf.
- (6) Any officer, agency or person whose services are utilized under sub-section (1) shall act under the directions of the Lokayukta or Up-Lokayukta, as the case may be, and they may be paid such remuneration and expenses as may be allowed by the Lokayukta or Up-Lokayukta, as the case may be.

**9. Insertion of new sub-sections (5) and (6) in Section 18 of the principal Act- In section 18 of the principal Act, after sub-section (4), following new sub-sections shall be added, namely-**

- (5) Notwithstanding anything to the contrary contained in this Act, if the Governor is satisfied that:-
- (a) the quantum of work connected with investigation under this Act is not sufficient to justify the whole time employment of the Lokayukta; and
  - (b) the assignment of additional functions or investigation of matters of public importance (not connected with eradication of corruption) can be performed or conducted by the Lokayukta without impediment or prejudice to the duties to be performed by him under this Act;

the Governor may, with the consent of the Lokayukta, entrust, either conditionally or unconditionally, to the Lokayukta—

- (i) to make an inquiry into an definite matter of public importance referred for inquiry under the Commissions of Inquiry Act, 1952; or
- (ii) to perform the functions and to discharge the duties of an office, statutory or otherwise;

and he shall hold said inquiry or perform said functions or discharge said duties through such officers, employees, agencies as are referred to in Section 14.

- (6) When any additional functions are conferred under sub-section (4), the Lokayukta shall exercise the same powers and discharge the same functions, as he would have exercised or discharged under the Commissions of Inquiry Act, 1952, or as the case may be, under the enactment constituting or setting up that office in relation to which he is to perform the functions or to discharge the duties.

**Explanation:-** For the purpose of this section expression 'statutory office' shall mean the office constituted or set up by the State Government under a State or Central Act for the time being in force in the State, and which is to be manned by a person who is qualified for appointment as, or is a person who is or has been, a Judge of a High Court.

**10. Insertion of Section 20A in the principal Act- After Section 20 of the principal Act,** the following Section shall be inserted in the principal Act, namely:-

- 20A. Public Servants to submit Property Statements.(1) Every public servant falling within the purview of the Lokayukta for the purpose of investigation under this Act, shall, within three months after the commencement of this Ordinance and thereafter before the 30th June of every year, submit to the Lokayukta in the prescribed form a statement of his assets and liabilities held by him or by any person on his behalf.
- (2) If no such statement is received by the Lokayukta from any such public servant within the time specified in sub-section (1), the Lokayukta shall make a report to that effect to the competent authority and send a copy of the report to the public servant concerned if within two months of such report the public servant concerned does not submit the statement of his assets and liabilities, the Lokayukta shall publish or cause to be published the names of such public servants in two newspapers having wide circulation in the State

Draft of the order to be issued under Section 18(2) of the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973 (Act No.9 of 1973) vesting - in Lokayukta the powers of supervision/superintendence over the Rajasthan State Bureau of Investigation.

**ORDER**

In exercise of the powers vested in him under Section 18(2) of the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973 (Act No.9 of 1973) and after consultation with the Lokayukta, the Governor of Rajasthan has been pleased to order that the superintendence of the Rajasthan State Bureau of Investigation, so far as it functions for the eradication of corruption, shall vest in the Lokayukta of Rajasthan with immediate effect.

**OR**

In exercise of the powers vested in him under Section 18(2) of the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973 (Act No. 9 of 1973) and after consultation with the Lokayukta, the Governor of Rajasthan has been pleased to confer on the Lokayukta the powers of supervision over the Rajasthan State Bureau of Investigation, so far as it functions for the eradication of corruption.

**The Rajasthan Lokayukta And Up-Lokayuktas (Amendment)  
Ordinance, 1997**

**(Ordinance No. of 1997)**

**(Made and promulgated by the Governor on the day of ,1997)**

*An Ordinance to amend the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973*

*(Rajasthan Act No.9 of 1973)*

Whereas the Rajasthan Legislative Assembly is not session and the Governor of the State of Rajasthan is satisfied that the circumstances exist which render it necessary for him to take immediate action in this behalf;

Now, therefore, in exercise of the powers conferred on him by clause (1) of Article 213 of the Constitution of India, Governor hereby promulgates in the Forty-eight year of the Republic of India, the following Ordinance namely:-

1. **Short title and commencement.**- (1) This Ordinance may be called the Rajasthan Lokayukta and Up-Lokayuktas (Amendment) Ordinance, 1997.  
(2) It shall come into force with immediate effect.
2. **Amendment of Section 2, Rajasthan Act No.9 of 1973.**- Section 2 of the Rajasthan Lokayukta and Up-Lokayuktas Act, (Rajasthan Act No. 9 of 1973) hereinafter referred to as 'the principal Act' shall be amended as under:-
  - (a) in sub-clause (iii) of clause (b) of Section 2 of the principal Act, between the words 'is guilty of corruption' and the words 'or lack of integrity' the words 'favouritism, nepotism' shall be inserted.
  - (b) after sub-clause (iii) as amended above, following sub-clauses (iv) and (v) shall be inserted, namely:-
    - (iv) has failed to act in accordance with the and integrity and conduct which ought followed by the public servants of the class to which he belongs;
    - (v) is in possession of pecuniary resource assets disproportionate to his known sources of income for which he cannot satisfactorily account and such pecuniary resources or assets are held by such public servant personally or by any person on his behalf.
  - (c) after clause (b), the following new clause (bb) be inserted, namely:-  
(bb) 'Chief Minister' means the Chief Minister State of Rajasthan.
  - (d) in clause (c), following new sub-clause (i) , (iv) and (v) shall substituted in place of the existing sub-clause :-
 

(i)	in the case of the Chief Minister	The state Legislative Assembly or during the period of proclamation issued under Article 356 of the Constitution of India, the Governor.
(iv)	in the case of vice-chancellor	Chancellor
(v)	in the case of a	The Legislative Assembly through the

member of the Speaker  
State Legislature

- (e) the existing sub-clause (i) shall be renumbered a sub-clause (ii) and the existing sub-clause (ii) shall be renumbered as sub-clause (iii) and in sub-clause (ii), as so renumbered, after the words 'in the case of the Chief Minister or Secretary', the words 'or a officer of All India Services' and after the words 'the Chief Minister', the words 'or during the period of proclamation issued under Article 356 of the Constitution of India, the Governor' shall be inserted.
- (f) after sub-clause (c), the following new sub-clause (cc) and (ccc) shall be inserted, namely :-
- (cc) 'Corruption' includes anything made punishable under Chapter IX of the Indian Penal Code, 18 (or under the Prevention of Corruption Act, 1988 (Central Act No. 49 of 1988).
- (ccc) 'Grievance' means a claim by a person that he has sustained injustice or undue hardship consequence of maladministration.
- (g) after existing sub-clause (e), following new sub-clause (ee) shall be inserted, namely:-
- (ee) 'maladministration' means action taken or purporting to have been taken in the exercise of the administrative functions in any case, where
- (a) such action or the administrative procedure or practice governing such action is illegal, unreasonable, unjust, oppressive or improperly discriminatory or
- (b) there has been negligence or undue delay in taking such action or the administrative procedure or practice governing such action involves undue delay .
- (h) in the existing clause (f) after the expression 'that is to say' and before the words 'a Minister,' the expression 'a Deputy Chief Minister' shall be inserted and the word 'and' occurring between the expression 'Minister of State' and 'Deputy Minister' shall be omitted and substituted by ' , ' and after the expression 'Deputy Minister' 'and Parliamentary Secretary,' shall be added.
- (i) the existing sub-clause (i) shall be substituted as under:-
- (i) 'public servant' means a person who is or has been-
- (a) the Chief Minister as referred to in clause (bb);
- (b) a Minister as referred to in clause (f);
- (c) a Member of the State Legislature;
- (d) a vice-chancellor of a University established under a State Act;
- (e) an officer as referred to in clause (g);
- (f) a Pramukh or Up-Pramukh of a Zila Parishad, Pradhan and Up-Pradhan of a Panchayat Samiti, Chairman of any

- Standing. or any subject committee and a Member of Zila Parishad or Panchayat Samiti. (by whatever name called) constituted by or under the Rajasthan Panchayati Raj Act 1994 (Rajasthan Act No.13 of 1994).
- (g) a Mayor and Deputy Mayor of a Municipal Corporation, President and Vice-President of a Municipal Council, Chairman and Vice-Chairman of a Municipal Board and Chairman of any Committee constituted or deemed to be constituted by or under the Rajasthan Municipalities Act, 1959 (Rajasthan Act No.38 of 1959);
- (h) a Chairman, Vice-Chairman, Managing Director or a Member of the Board of Directors.( by whatever name called ) of-
- (i) any statutory body or corporation (not being a local authority) established by or under the State Act and owned and controlled by the State Government;
  - (ii) any society registered under the Rajasthan Societies Registration Act 1958 (Rajasthan Act No.28 of 1958 which is subject to the control of the State Government of Rajasthan and which is notified by the State Government in this behalf in the official Gazette;
  - (iii) any co-operative society registered or deemed to be registered under an, law for the time being in force which is subject to the control of the State Government and 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;
  - (iv) any Government Company within the meaning of Section 617 of the Companies Act, 1956 (Central Act 1 of 1956), in which not less than fifty one per cent of the paid up share capital is held by the State Government or any Company which is a subsidiary of a Company in which not less than fifty one per cent of the paid up share capital is held by the State Government;
  - (v) such other body or corporation owned or controlled by the State Government as the State Government may, having regard to its financial interest therein, by notification specify.
- (i) the Chairman, Managing Director or Secretary having control over the administration of a private educational institution receiving aid from the State Government.

**Explanation:** -'Private educational institution' means any college, school, training institute or any other institution, by whatever name designated, established and run with the

object of imparting education or preparing or training students for obtaining any certificate, degree, diploma or any academic distinction recognized by the State or Central Government or functioning for the educational, cultural or physical development of the people in the State and which is neither owned nor managed by the State or Central Government or by any University or local authority or other authority owned or controlled by the State or Central Government.

- (j) a person in the service or pay of a local authority, any other statutory body, corporation, society or Government company as referred to in sub-clauses (d), (f), (g) (h) and (i).

**3. Amendment of Section 5 of the principal Act-**In Section 5 of the principal Act the following sub-section: (1) and (3) shall be substituted in place of the existed, sub-sections, namely:-

- (1) Every person appointed as the Lokayukta or an Up-Lokayukta shall hold office for a term of five year: from the date on which he enters upon his office or till he attains the age of seventy years, whichever is earlier.

Provided that -

- (a) the Lokayukta or an Up-Lokayukta may, by writing under his hand addressed to the Governor, resign his office;
- (b) the Lokayukta or the Up-Lokayukta may be removed from office in the manner specified in Section 6.
- (3) On ceasing to hold office, the Lokayukta or the Up-Lokayukta shall be ineligible for further appointment as the Lokayukta or the Up-Lokayukta or in any other capacity or for any further employment under the State Government or under any local authority or statutory body or Corporation or Society or Co-operative Society or any Government Company or Statutory Body as is referred to in sub-clauses (d) (e), (f) and (g) of Section 2.
- (2) In Section 5 of the Principal Act, the second proviso to sub-section (4) shall be deleted.

**4. Amendment of Section.7 of the principal Act- In Section 7 of the principal Act-**

- (a) in sub-section (1) after the words 'Lokayukta may' and before the word 'investigate' the words 'either suo-motu or on a complaint made to him' shall be inserted;
- (b) in clause (i) of sub-section (1) before the words ' a Minister' the words 'the Chief Minister' shall be inserted;
- (c) after clause (i) new sub-clause (ii) and (iii) shall be added as under and existing clause (ii) and (iii) shall be renumbered as clause (iv) and (v). In

sub-clause (ii) which is being now renumbered as sub-clause (iv) word '(iii)' shall be replaced by the words '(f), (g), (h), (i), (j) and (k)':-

- (ii) a member of the State Legislature;
- (iii) a vice-chancellor of a University established under the State Act.

Provided that the investigation against the Chief Minister or any member of the council of Ministers as defined in clause (bb) and (f) of Section 2 shall be conducted by a bench consisting of the Lokayukta and one Up-Lokayukta as may be directed by the Lokayukta.

- (d) in sub-section (2) after the words 'an Up-Lokayukta may' and before the word 'investigate' the words 'either suo-motu or on a complaint made to him' shall be inserted.

**5. Amendment of Section 8(1) of the principal Act-** The following amendments shall be made in Section 8(1) of the principal Act namely:-

- (a) below the clause (b) word 'or' shall be added just as after the clause (a);
- (b) the following new clause (c) shall be added after clause (b), namely:-
- (c) in respect of a matter for which a Commission has been appointed by the Central Government under Section 3 of the Commissions of Inquiry Act, 1952 (Central Act 60 of 1952).

**6. Amendment of Section 9 of the principal Act-** In Section 9 of the principal Act, sub-section (1) shall be substituted as under :-

- (1) Subject to the provisions of this Act, a complaint relating to an allegation or a grievance, as the case may be, may be made under this Act, to the Lokayukta or an Up-Lokayukta—

- (a) in the case of an allegation, by any person other than an officer, and
- (b) in the case of a grievance, by a person aggrieved.

Provided that a complaint against the Chief Minister or any member of the Council of Ministers will be made to the Lokayukta, who will then proceed in accordance with the other provisions of this Ordinance.

**7. Amendment in Section 10 of the principal Act-** In Section 10 of the principal Act, main sub-section (1) and (2) shall be substituted as under and clause (a), (b) and (c) of sub-section (1) shall be retained:-

- (1) Where the Lokayukta or Up-Lokayukta, and in case of Chief Minister or any other member of the Council of Ministers, the bench consisting of the Lokayukta and an Up-Lokayukta (after making such preliminary enquiry, if deemed necessary) proposes to conduct any investigation under this Act, he-
- (2) Every such investigation shall be conducted in public.  
Provided that the Lokayukta and Up-Lokayukta may conduct any investigation in private for reasons to be recorded in writing, if he thinks fit to do so.

- 8. Insertion of new Sections 11A, 11B and 11C in the principal Act.** After Section 11 of the principal Act, the following new Sections shall be inserted, namely:-
- 11A. Issue of search warrants, etc.-(1) where in consequence of information in his possession, the Lokayukta Up-Lokayukta-
- (1) where in consequence of information in his possession, the Lokayukta or Up-Lokayukta-
- (a) has reason to believe that any person:-
- (i) to whom a summon or notice under this Act has been issued or likely to be issued, may not produce or cause to be produced, or may tamper with any property, document or thing which will be necessary or useful for or relevant to any inquiry or other proceeding to be conducted by him;
- (ii) is in possession of any money, bullion jewellery or other valuable article or this and such money, bullion, jewellery or other valuable article or thing represents either wholly or partly income or property which has not been disclosed to the authorities as required under any law or rule for the time being in force; or
- (b) considers that the purposes of any inquiry other proceedings to be conducted by him will served by a general search or inspection, he may by a search warrant authorize any officer subordinate to him or any officer of the institution of Lokayukta- or any person or agency referred to in Section 14 to conduct a search carry out an inspection in accordance therewith and in particular to,-
- (i) enter and search any building or place where he has reason to suspect that such property document, money, bullion, jewellery or other valuable article or thing is kept;
- (ii) search any person who is reasonably suspected of concealing about his person any article for which search should be made;
- (iii) break open the lock of any door, box, locker, safe, almirah or other receptacle for exercising the powers conferred by item (1), where the keys thereof are not available;
- (iv) seize or seal any such property, document, money, bullion, jewellery or other valuable article or thing found as a result of search;
- (v) place marks of identification on any property or document or make or cause to be made extracts or copies therefrom; or
- (vi) make a note or an inventory of any such property, document, money, bullion, jewellery or other valuable article or thing.
- (2) the provisions of the Code of Criminal Procedure, 1973, relating to searches shall, so far as may be, apply to searches under this section subject to the modification that sub-section (5) of Section 165 of the said

Code shall have effect as if, for the word 'Magistrate', wherever it occurs, the words 'Lokayukta or any officer authorized by it' were substituted.

- (3) A warrant issued under sub-section (1) shall, for all purposes, be deemed to be a warrant issued by a court under Section 93 of the Code of Criminal Procedure, 1973.
- 11B. Interim Recommendation.- If, during the course of preliminary enquiry or investigation under this Act, the Lokayukta or Up-Lokayukta is prima-facie satisfied that allegation or grievance against any action is likely to be substantiated either wholly or partly, he may, by a report in writing, recommend to the public functionary concerned to stay the implementation or enforcement of the decision or action complained against, or to take such mandatory or preventive action, on such terms and conditions, as he may specify in his report.
- 11C. Interim Report.-
- (1) the Lokayukta or Up-Lokayukta, as the case may be, may forward an interim report to the competent authority recommending grant of interim relief to the complainant if he is satisfied at any stage of preliminary enquiry or investigation that the complainant has sustained injustice or undue hardship in consequence of any decision or action of a public servant and that the grievance complained of should be redressed expeditiously.
- (2) The Lokayukta or Up-Lokayukta, as the case may be, may at any stage of inquiry or investigation, under this Act, forward an interim report to the competent authority recommending to take such action as may be considered necessary by him against the public servant, including the suspension of the public servant, pending inquiry or investigation-
- (a) to safeguard wastage or damage of public property or public revenue by the administrative acts of the public servant;
- (b) to prevent further acts of misconduct of the public servant;
- (c) to prevent the public servant from secreting the assets earned by him allegedly by corrupt means; or
- (d) to promote public interest.

**9. Amendment in Section 12 of the principal Act-**

(a) in Section 12 of the principal Act sub-sections (1) and (2) shall be substituted as under:-

(1) If, after investigation of any action in respect of which a complaint involving an allegation or grievance has been or can be or could have been made, the Lokayukta or an Up-Lokayukta and in the case of Chief Minister and any other member of the Council of Ministers, the bench of Lokayukta and an Up-Lokayukta is satisfied that such allegation or grievance can be substantiated either wholly or partly he or they, as the case may be, shall report in writing communicating the findings and recommendations along with the relevant documents, material and other evidence to the competent authority.

The recommendations in respect of allegations and grievances shall be of binding nature on the competent authority and the grievance will have to be redressed within a reasonable time.

Provided that in case of Chief Minister and any member of his council of Ministers the Lokayukta and the other members of the bench agree on the recommendations.

(2) The competent authority shall examine the report forwarded to it under sub-section (1) and intimate within three months of the date of receipt of the report, the Lokayukta or Up-Lokayukta or the bench as aforesaid, as the case may be, the action taken or proposed to be taken on the basis of the report.

(b) The following amendments shall be made in sub-section (5) of Section 12 of the principal Act-

(1) after the words 'State Legislature' and before the '.' the words 'not later than 120 days' shall be inserted.

**10. Insertion of new sub-sections (4), (5) and (6) in Section 14 of the principal Act-**

In section 14 of the principal Act, after sub-section (3), the following sub-sections shall be added, namely:-

(4) Any officer, agency or person whose services are utilized under sub-section (1) may, subject to the direction and control of the Lokayukta or Up-Lokayukta, as the case may be-

- (a) summon and enforce the attendance of any person and examine him;
- (b) require the discovery and production of any document; and
- (c) requisition any public record or copy thereof from any office.

(5) The officer, agency or person whose services are utilized under sub-section (1) shall enquire into the matter and submit a report to Lokayukta or Up-

Lokayukta, as the case may be, within such period as maybe specified by him in this behalf.

- (6) Any officer, agency or person whose services are utilized under sub-section (1) shall act under the directions of the Lokayukta or Up-Lokayukta, as the case may be, and they may be paid such remuneration and expenses as may be allowed by the Lokayukta or Up-Lokayukta, as the case may be.

**11. Amendment of Section 18 of the principal Act-**

- (a) sub-section (2) of Section 18 of the principal Act shall be substituted as under:-

2(i) The Governor may, by order in writing and after consultation with the Lokayukta, confer on the Lokayukta or an Up-Lokayukta such powers of a supervisory nature over agencies, authorities or officers set up, constituted or appointed by State Government for the eradication of corruption.

(ii) The control/superintendence of the Rajasthan State Bureau of Investigation shall vest in the Lokayukta of Rajasthan.

- (b) In Section 18 of the principal Act, after sub-section (4) following new sub-sections shall be added, namely:-

(5) Notwithstanding anything to the contrary contained in this Act, if the Governor is satisfied that:-

(a) the quantum of work connected with investigation under this Act is not sufficient to justify the whole time employment of the Lokayukta; and

(b) the assignment of additional functions or investigation of matters of public importance (not connected with eradication of corruption) can be performed or conducted by the Lokayukta without impediment or prejudice to the duties to be performed by him under this Act;

the Governor may, with the consent of the Lokayukta, entrust, either conditionally or unconditionally, to the Lokayukta—

(i) to make an inquiry into a definite matter of public importance referred for inquiry under the Commissions of Inquiry Act, 1952; or

(ii) to perform the functions and to discharge the duties of an office, statutory or otherwise;

and he shall hold said inquiry or perform said functions or discharge said duties through such officers, employees, agencies as are referred to in Section 14.

- (6) When any additional functions are conferred under sub-section (4), the Lokayukta shall exercise the same powers and discharge the same functions, as he would have exercised or discharged under the

Commissions of Inquiry Act, 1952, or as the case may be, under the enactment constituting or setting up that office in relation to which he is to perform the functions or to discharge the duties.

Explanation;- For the purpose of this section expression 'statutory office' shall mean the office constituted or set up by the State Government under a State or Central Act for the time being in force in the State, and which is to be manned by a person who is qualified for appointment as, or is a person who is or has been, a Judge of a High Court.

- 12. Insertion of Section 20A in the principal Act-** After Section 20 of the principal Act, the following Section shall be inserted in the principal Act, namely:-
- 20A. Public Servants to submit Property Statements**
- (1) Every public servant falling within the purview of Lokayukta for the purpose of investigation under Act, shall, within three months after the commencement of this Ordinance and thereafter before the 30th of every year, submit to the Lokayukta in prescribed form a statement of his assets liabilities held by him or by any person on his behalf.
  - (2) If no such statement is received by the Lokayukta from any such public servant within the time specified in sub-section (1), the Lokayukta shall make a report to that effect to the competent authority and send a copy of the report to the public servant concerned, within two months of such report the public servant concerned does not submit the statement of his assets and liabilities, the Lokayukta shall publish or cause to be published the names of such public servants in two newspapers having wide circulation in the State

Extract From Sixteenth Annual Report  
For The Period From 1.4.1997 To 31.3.1998

### Opening Remarks

July, 1998 marks the commencement of the fifth year of my tenure of the office of the Lokayukta. There is great deal of pride and satisfaction when I submit the Annual report for the period 1st April, 1997 to 31st March, 1998. I am grateful to my Secretary and other staff who have fully co-operated and worked with me to assist in discharging the onerous duties as Lokayukta.

In the earlier Annual Reports, many suggestions were made for taking measures including the amendments of the statute to make this Institution more purposeful and useful to the society. But, I am sorry to observe that there is no intimation from the Government of accepting even one of the suggestions or initiating steps towards that direction. I hope that the suggestion made in the earlier report as well as in this report will be seriously considered by the Government and this report will not gather dust which perhaps the earlier reports might have gathered. In the absence of accepting the various suggestions made in the various earlier reports, this institution has not been an effective instrument towards eradicating corruption in high places - Ministers and public functionaries and the object for which this institution has been established, could not be achieved.

To me, the Act does not appear to have been enacted as per administrative decision of the Government. I had the occasion to see the file in which the decision to enact the Rajasthan Lokayukta and Up-Lokayuktas Act was taken and if I correctly remember, the decision was to create an Institution to investigate allegations against the Minister and public servants. But under Section 7 of the Act instead of investigating allegations against a public servant, the Lokayukta has only been conferred a limited jurisdiction to investigate "action" as defined in section 2 (a) of the Act - that is an action taken by way of decision, recommendation or finding or in other manner and includes failure to act. Even an allegation in the complaints must relate to one or more than one action in case or cases. "Allegation" as defined in Section 2 (b) clause (iii) means any affirmation that the public servant is guilty of corruption, or lack of integrity in his capacity as public servant. But the aforesaid expressions have not been defined separately. "Corruption" should be defined to include an offence under the Prevention of Corruption Act and possession of assets (movable and immovable) beyond known sources of income. In the absence of necessary provisions, as aforesaid in the Act, mere possession of assets beyond known sources of income of a public servant, unrelated to one or more than one action, cannot be subject of investigation by the Lokayukta.

### Suggestions

Since the inception of this Institution, under the Rajasthan Lokayukta & Up-Lokayuktas Act, 1973 in the earlier fifteen consolidated annual reports various suggestions for amendment and for improving the working of the Institution were made and though it has been intimated that the suggestions were being looked into and action was likely to be taken, but there is no intimation whatsoever about the fate of the exercise; if taken by the Department of Personnel. It appears to me that in the Explanatory Memorandum of the Government to the annual Reports, it has become a ritual to mention

that the action on the suggestions is being taken, but in fact no action appears to have been taken as no intimation has been received as to what action has been taken on the Annual Reports.

I will, therefore, make no more suggestions in this Report and will reiterate the suggestions made in the various Annual Reports and expect that something will be done on the suggestions in the twenty sixth year of the establishment of this Institution to make it more useful for eradication of corruption which only till now appears to be a laudable object but unachieved. Apart from loud declarations from time to time by the Government to eradicate corruption to remove it from the roots, no follow up action is taken even to take steps to lessen it, what to say of eradicating it.

**Confidential**

D.O.letter No.F.1(11)LAS/96/SPA-22  
Jaipur, dated 14.10.1997

My dear Shekhawat ji,

From time to time, I have been writing to you that it is urgently required that necessary amendments should be made to the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973 to make it more effective. In my few meetings, which I had with you, I have also tried to impress on you the urgent need to make the amendments. The impression, which I have gathered is that you too agree that the amendments are necessary. Without the amendments suggested by me, I feel that this office is 'pointless'; a 'toothless tiger'; a 'watchdog in chains'; a 'swordless crusader'; an 'ombuds flop'; an 'ombudsboob'; and an 'ombudsmouse'. An honest introspection by anybody including the Government will show that in the absence of necessary and meaningful amendments, this Institution has not served the purpose for which it was thought and established. I will, therefore, suggest that the Government consider at an early date to make necessary amendments in the Act to make it more effective and meaningful.

In the various Annual Consolidated Reports and even otherwise the Government has been asked to provide an independent investigating agency and in the absence of an independent investigating agency, this Institution is handicapped in discharging its statutory functions, I will request you to immediately provide an independent investigating agency consisting of the following staff:-

	<b>Name of the Post</b>	<b>No. of Post</b>
1)	Inspector General of Police (Lokayukta)	1
2)	Superintendent of Police	2
3)	Deputy Superintendent of Police	4
4)	Inspector of Police	8

Besides providing the aforesaid staff, the Government should also consider to declare the office or post of Inspector General of Police (Lokayukta) a Police Station under the Provisions of Section 2(s) of the Code of Criminal Procedure and whole of Rajasthan should be the area under the aforesaid Police Station,

It is obvious that if a decision is taken to provide the aforesaid independent investigating agency, some other staff, vehicles etc. will also be required for which necessary budget will have to be provided by the Government.

Today in the Hindustan Times, an article with the caption 'Lokpal Bill is not fully satisfactory' by Rajinder Sachar, retired Chief Justice of Delhi High Court and eminent jurist has appeared. He has dealt with the provisions of the Lokpal Bill and it will be seen from the aforesaid article that Justice (Retd.) Sachar is of the view that the Lokpal should have the jurisdiction to pass binding orders and to impose the penalty,

As it is likely that the Government in the near future will consider making necessary amendments in the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973, it will be better if the views of an eminent jurist are also considered before taking a final decision in the matter (A copy of the article is enclosed).

Hoping that an early decision will be taken in the matter and as and when an independent investigating agency is provided, this Institution will be able to discharge its functions more effectively.

Sincerely yours,  
Sd/- 14.10.97  
( **M.B.Sharma** )

Hon'ble Shri Bhairon Singh Shekhawat,  
Chief Minister,  
Government of Rajasthan,, Jaipur.

Extract From Seventeenth Annual Report  
For The Period From 1.4.1998 To 31.3.1999

Earlier also Annual Reports were submitted to His Excellency the Governor of Rajasthan and many suggestions were made in them for taking necessary steps including the amendments of the statute. The Rajasthan Lokayukta & Up-Lokayukta) Act (No. 9 of 1973) to enable this Institution to better discharge its functions in eradicating corruption; but also not even one of them was accepted by the Government; nor it was intimated that necessary steps to make suitable amendments in the Lokayukta Act are being initiated or are being considered. It appears to me that Annual Reports submitted are perhaps not being considered or may be the Government has no time to go through them, or else the Government would not have failed in considering the suggestions for amendment in the statute or intimating to this Sachivalaya that suggestions do not find favour with the Government. In this background, it appears to me that submission of Annual Report has become simply ritual with no purpose whatsoever; but to comply with the requirement of the statute that the Annual Reports should be submitted, they have to be submitted.

### **Suggestions**

Many suggestions have been made in the various earlier Reports, but nothing whatsoever has been done. What to say of accepting those recommendation and acting on the suggestions has not even been intimated what steps, if any, have been taken on them. It was once intimated that a Committee of Ministers has been appointed to go through the recommendations and suggestions made in the various Reports or otherwise. But nothing fruitful came out despite realization at Government level that the Lokayukta and Up-Lokayukta Act, 1973 needs necessary amendments. I suggest that a Committee of Ministers and Bureaucrats be now appointed to consider making amendments in Act to make it more purposeful and result oriented so that the prime object, eradication of corruption, which to my mind, none can deny exist from high placed functionaries that is Ministers and bureaucrats is achieved at least to some extent as it is impossible to eradicate it fully.

JUSTICE M.C. JAIN  
Lokayukta, Rajasthan

दिनांक: 23.5.2000

प्रिय श्री अशोक गहलोत,

26 नवम्बर, 1999 को कार्यभार संभालने के उपरान्त मेरी अनुभूति है कि भ्रष्टाचार मुक्त शासन देने के लिये लोकायुक्त सचिवालय को एक प्रभावी संस्थान के रूप में पुनर्स्थापित किया जाना अत्यन्त आवश्यक है। लोकायुक्त सचिवालय के क्षेत्रधिकार में सम्पूर्ण राजस्थान के मामले आते हैं। इन मामलों में किये जाने वाले अन्वेषण बहुआयामी होते हैं। राजस्थान लोकायुक्त एवं उप-लोकायुक्त अधिनियम की धारा 14 के अन्तर्गत लोकायुक्त तथा उप-लोकायुक्तों को उपलब्ध कर्मचारी वर्ग के संबंध में प्रावधान किया गया है। धारा 14 की उपधारा 3 के अन्तर्गत इस सचिवालय द्वारा दिये जाने वाले अन्वेषणों में राज्य या केन्द्रीय सरकार के अधिकारियों या अन्वेषण एजेन्सी की सेवाओं का उपयोग लोकायुक्त सचिवालय द्वारा किये जाने का विशिष्ट प्रावधान दिया हुआ है। धारा 14 की उपधारा 3 निम्नवत है :-

“लोकायुक्त तथा उप-लोकायुक्तों का कर्मचारी वर्ग:-

उप धारा (1) के उपबन्धों पर प्रतिकूल प्रभाव डाले बिना, लोकायुक्त या उप-लोकायुक्त इस अधिनियम के अधीन अन्वेषण करने के प्रयोजनार्थ-

- (i) राज्य या केन्द्रीय सरकार के किसी भी अधिकारी या अन्वेषण एजेन्सी की सेवाओं का, उस सरकार की सहमति से, या
- (ii) अन्य किसी भी व्यक्ति या एजेन्सी की सेवाओं का-  
उपयोग कर सकेंगे।”

प्रदेश में हो रहे विकास के साथ-साथ यह स्वाभाविक है कि इस सचिवालय द्वारा किये जाने वाले विभिन्न मामलों के अन्वेषण में विशिष्ट प्रकृति की कार्यवाही बहुधा अपेक्षित होती है। इस सचिवालय में उपलब्ध वर्तमान व्यवस्था के अन्तर्गत केवल दो अधिकारी, सचिव एवं उप-सचिव, जो कि राजस्थान उच्च न्यायिक सेवा के सदस्य हैं, अन्वेषण कार्य सम्पन्न कराने में भागीदारी निभाते हैं। इन दोनों अधिकारियों को प्रशासनिक कार्यवाही एवं अन्य कार्य भी सम्पादित करने होते हैं। अन्वेषण कार्यवाही कर सकने की उनकी अपनी परिसीमाएं भी हैं।

ऊपर वर्णित धारा 14 की उप धारा (3) को लोकायुक्त अधिनियम में समाविष्ट किये जाने का यही उद्देश्य प्रतीत होता है कि लोकायुक्त सचिवालय प्रकरण की पेचीदगियों के अनुरूप त्वरित अन्वेषण करने में सफल हो। धारा 14(3) के इस प्रावधान का प्रयोग वर्तमान में समीचीन हो गया है। इस संदर्भ में मेरा मानना है कि भ्रष्टाचार निवारण ब्यूरो के अधिकारीगण की सेवाओं का कतिपय मामलों के अन्वेषण में इस सचिवालय द्वारा उपयोग प्रभावी एवं फलदायी रहेगा। भ्रष्टाचार निवारण ब्यूरो की सेवाएं इस सचिवालय को राज्य सरकार की सहमति पर ही प्राप्त हो सकती हैं।

अतः लोकायुक्त द्वारा किसी मामले के अन्वेषण में भ्रष्टाचार निवारण ब्यूरो (Anti-Corruption Bureau) के अधिकारीगण की सेवाओं का उपयोग किये जाने के लिये राजस्थान लोकायुक्त तथा उप-लोकायुक्त अधिनियम, 1973 की धारा 14(3) के अन्तर्गत राज्य सरकार की सहमति प्रदान की जावे। मुझे आशा है कि आप इस बिन्दु पर शीघ्र ही कार्यवाही करेंगे।

शुभेच्छु,

ह/-

(मिलाप चन्द जैन)

श्री अशोक गहलोत,  
मुख्यमंत्री,  
राजस्थान सरकार, जयपुर।

Prem Pratap Singh, RHJS  
Secretary

D.O.letter No.F.1(14)LAS/2000/1749-1750  
Jaipur, dated: May 25, 2000

My dear

I am desired to say that the Lokayukta and Up-Lokayukta are empowered to take up the investigation of allegations against public servant as defined under Section 2(i) of the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973.

Section 14(1) of the aforesaid Act provides that the Lokayukta may authorise an Up-Lokayukta or any officer subordinate to the Lokayukta to assist the Lokayukta in the discharge of their functions under this Act. Sub-section (3) of Section 14 provides that the Lokayukta may, for the purpose of conducting investigation under this Act, utilise the services of (1) any officer or investigating agency of the State Government with the concurrence of that authority and (2) any other person or agency. In this connection, Hon'ble Mr.Justice M.C.Jain, Lokayukta has addressed a D.O.letter dated 23.5.2000 to Hon'ble Chief Minister, copy of which is enclosed for your ready reference.

Hon'ble Lokayukta had a meeting with Hon'ble Chief Minister in the evening of 24th instant. Hon'ble Chief Minister appreciated the proposal of Hon'ble Lokayukta for utilising services of Anti-Corruption Bureau with the concurrence of the State Government.

I shall be highly obliged, if you would kindly get the matter examined at the appropriate level and expedite the concurrence of the State Government for utilising the services of the Anti-Corruption Bureau of Rajasthan.

With warmest regards,

Yours sincerely,  
Sd/-  
(Prem Pratap Singh)

Shri Inderjeet Khanna, IAS  
Chief Secretary,  
Government of Rajasthan, Jaipur.

Copy to: Dr.Adarsh Kishore, Principal Secretary to Hon'ble the Chief Minister,  
Government of Rajasthan for information and necessary action.  
Encl. As above.

Sd/-  
(Prem Pratap Singh)

मुख्य मंत्री  
राजस्थान

पत्रांक : मुं.12(1)गृह/51/2000/4985  
जयपुर, दिनांक : 25.5.2K

प्रिय श्री जैन साहब,

भ्रष्टाचार निवारण ब्यूरो के अधिकारीगण की सेवायें लोकायुक्त सचिवालय को उपलब्ध कराने के लिए राज्य सरकार की सहमति प्रदान करने हेतु आपका पत्र दिनांक 23 मई, 2000 प्राप्त हो गया है ।

उपरोक्त एजेन्सी की सेवा उपयोग में लाने के लिए क्या प्रक्रिया निर्धारित की जाये, इसका परीक्षण करने के लिए प्रमुख शासन सचिव, गृह विभाग को निर्देश दिये जा रहे हैं । परीक्षण उपरान्त जो निर्णय लिया जायेगा उससे मैं आपको यथा शीघ्र अवगत कराऊँगा ।

सादर ।

सद्भावी,  
ह0/-  
(अशोक गहलोत)

जस्टिस श्री एम.सी. जैन,  
लोकायुक्त, राजस्थान,  
जयपुर ।

राजस्थान सरकार  
कार्मिक (क-3) विभाग

क्रमांक: 1(3)कार्मिक/क-3/2000

जयपुर, दिनांक 17.6.2000

सचिव,  
लोकायुक्त सचिवालय,  
राजस्थान, जयपुर ।

महोदय,

आपके अर्द्धशासकीय पत्र क्रमांक: एफ.1(14)एलएस/2000/1749-50 दिनांक 25.5.2000 के प्रसंग में कृपया यह अवगत करावें कि लोकायुक्त सचिवालय को किस विशिष्ट मामले के अन्वेषण के लिये किस स्तर के अधिकारी के सेवाओं की आवश्यकता है जिससे आपके प्रस्ताव पर सहमति देने हेतु विचार किया जा सके ।

भवदीय,  
ह/-  
( बी.पी. आर्य )  
शासन सचिव

**LOKAYUKTA SACHIVALAYA, RAJASTHAN, JAIPUR.**

F.1(4)LAS/2000/2223

Jaipur, dt. 6 July, 2000

To

The Secretary to the Government,  
Department of Personnel,  
Jaipur.

Sir,

I am directed to refer to your letter No. F. 1(3)Karmik/K-3/2000 dated the 17th June, 2000 in which you have sought this Sachivalaya to specify the case to be investigated by an Officer of a particular category so that the question of concurrence may be examined.

In this connection, I may mention that the provision of Section 14(3) of the Rajasthan Lokayukta & Up-Lokayuktas Act, 1973 as it reads, does not provide that the concurrence has to be accorded in a specified case or cases. It simply provides that for the purpose of conducting investigation, services can be utilised by this Sachivalaya of any Officer or Investigating Agency of the State Government in appropriate cases. If this would not have been the intention of the provision, the provision would have made it clear that concurrence can be given in a specified case or cases, having regard to the language of the provision, this Sachivalaya sought concurrence of the State Government in a general way and not in any specified case.

It is also worthwhile to say that the very purpose of the provision would be defeated in case concurrence is sought in a specified case by a specific Officer and enquiry would not be initiated immediately, if the matter has come to the knowledge of the Lokayukta, as it may take time to seek concurrence. The very purpose of quick and speedy enquiry would then be defeated, and consequently the object of eradication of corruption from the public services would also be defeated.

I may here profitably make a reference to Section 15(3) of the Karnataka Lokayukta Act, 1984 which reads as under :-

"15(3). Without prejudice to the provisions of sub-section (1), the Lokayukta or an Up-Lokayukta may for the purpose of conducting investigations under this Act utilise the services of

- 3(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."

Similar provisions exist in Section 15(3) of the Gujarat Lokayukta Act, 1986 and Section 16(3) of the Kerala Lokayukta Act, 1999, which are as under:-

"15(3). Without prejudice to the provisions of sub-section (1), the Lokayukta may, for the purpose of conducting investigations under this Act, utilise the services of -

- (i) any officer or investigating agency of the State Government;
- (ii) any officer or investigating agency of the Central Government with the consent of that Government obtained in accordance with article 258A of the Constitution; or
- (iii) any other person or agency."

"16(3). Without prejudice to the provisions of sub-section (1), the Lok Ayukta or an Up-Lok Ayukta 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
- (b) any officer or investigating agency of the Central Government with the prior concurrence of that Government; or
- (c) any other agency."

A bare reading of the above provisions would clearly go to show that the Lokayukta is empowered to utilise the services of any Officer or investigating agency of the State Government for the purpose of conducting investigation under the Act, without seeking any concurrence. Undoubtedly in our Act, the provision is for seeking concurrence of the State Government. However, the provision in Rajasthan Act does not say that the concurrence is to be given in a specified case or cases.

As a matter of prudence it may be mentioned that the Lokayukta being a high-powered Institution, such a necessity of seeking concurrence should not have been there, but in any case, our provision does not lay down that the Lokayukta shall specify the case or cases and the Officer of the specified rank to be mentioned while seeking concurrence of the State Government.

It is expected that the matter will be considered in the light of what has been stated above.

Yours faithfully,  
Sd/-  
( P.P. SINGH )  
Secretary

JUSTICE M.C. JAIN  
Lokayukta, Rajasthan

Jaipur, Dated : 26th Sept., 2000  
D.O. Letter No. F. 1(4)LAS/2000/4364

Dear Chief Minister,

I addressed a D.O. letter dated 23rd May, 2000 in connection with seeking concurrence of the State Government to get the matters investigated through Anti Corruption Bureau u/s 14(3) of the Rajasthan Lokayukta and Up-Lokayukta Act, 1973.

The letter was acknowledged by you on 25th May, 2000 vide your D.O. letter no. F.12(1)Home/51/2000/4985 according to which you informed me that a direction was given to the Principal Secretary to the Government, Home Department to examine the matter as to what procedure is to be adopted in this connection and thereafter take a decision and inform me.

Shri P.P. Singh, Secretary, Lokayukta Sachivalaya also addressed a D.O. letter no. F. 1(4)LAS/2000/1749 dated 25th May, 2000 to Shri Inderjeet Khanna, Chief Secretary & copy thereof was forwarded to Dr. Adarsh Kishore, Principal Secretary to the Chief Minister (copy enclosed). The Secretary to the Government, Department of Personnel sent a letter no. F. 1(3)Karmik/A-3/2000 dated 17th June, 2000 & asked the Secretary, Lokayukta Sachivalaya as to in what matters investigation through Anti Corruption Bureau is required and by the Officer of what rank, so that the question of concurrence may be considered. (copy enclosed).

In reply to that letter, the Secretary, Lokayukta Sachivalaya wrote back letter no. F. 1(4)LAS/20000/2223 dated 6th July, 2000 (copy enclosed) informing him the correct legal position regarding the meaning and content of Section 14(3) and referred to pari materia provisions in the Karnataka Lokayukta Act, 1984 and Gujarat Lokayukta Act, 1986, which provisions do not require any concurrence in those States to utilise the services of any Officer or Investigating Agency for the purpose of conducting investigation without seeking any concurrence and it was requested that the matter may be considered in the light of what has been mentioned in letter dated 6th July, 2000 interpreting Section 14(3) of the Rajasthan Lokayukta and Up-Lokayukta Act, 1973.

You are aware that the Institution of the Lokayukta in Rajasthan has not been provided with any Investigating Team. Even if, it had been so provided still the requirements of this Sachivalaya may not be fully met and the provisions like 14(3) may still require to be invoked. The matter may kindly be given serious thought and attention and concurrence may kindly be accorded as requested earlier giving effect to the provision of Section 14(3) of the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973.

With warm regards,

Yours sincerely,  
Sd/-  
( M.C. JAIN )

Shri Ashok Gehlot,  
Chief Minister, Rajasthan.

मुख्य मंत्री  
राजस्थान

पत्रांक : मुमं.12(1)गृह/51/2000/51/11924  
जयपुर, दिनांक : 17.10.2K

प्रिय श्री एम.सी.जैन,

विचाराधीन प्रकरणों में पुलिस दल से अनुसंधान कराने के संबंध में आपका पत्र दिनांक 26.9.2000 मुझे प्राप्त हो गया है । इस संबंध में दिनांक 25.5.2000 को ही मैंने प्रमुख शासन सचिव, गृह को आवश्यक कार्यवाही करने हेतु निर्देश दे दिये हैं ।

सादर ।

सद्भावी,  
ह0/-  
(अशोक गहलोत)

जस्टिस श्री एम.सी. जैन,  
लोकायुक्त, राजस्थान,  
एफ-177, मेघा मार्ग,  
जनपथ, श्याम नगर  
जयपुर-302019

प्रमुख शासन सचिव,  
गृह विभाग,  
राजस्थान, जयपुर ।

एफ.1(4)लोआस/2000/4962

दिनांक 4.11.2000

विषय:-भ्रष्टाचार निवारण ब्यूरो के अधिकारियों की सेवाओं का उपयोग किये जाने के लिये राजस्थान लोकायुक्त तथा उप-लोकायुक्त अधिनियम, 1973 की धारा 14(3) के अन्तर्गत राज्य सरकार की सहमति के संबंध में ।

महोदय,

उपर्युक्त विषयान्तर्गत निर्देशानुसार आपका ध्यान माननीय मुख्यमंत्री, राजस्थान सरकार, जयपुर के पत्र क्रमांक: 12(गृह/2000/51/11924 जयपुर दिनांक 17.10.2000 (सुविधा हेतु छाया प्रति संलग्न) की ओर आकर्षित कर अनुरोध है कि इस संबंध में आप द्वारा की गई कार्यवाही से इस सचिवालय को शीघ्र अवगत कराने का कष्ट करें, ताकि वस्तुस्थिति से माननीय लोकायुक्त महोदय को अवगत कराया जा सके ।

संलग्न: उपर्युक्तानुसार ।

भवदीय,  
ह/-  
( पी.पी.सिंह )  
सचिव

D.O.letter No.F.1(4)LAS/2000/5199  
Jaipur, dated: 14th November, 2000.

Dear Chief Minister,

In reply to my D.O.letter No.F.1(4)LAS/2000/4364 dated 26th September, 2000 you were kind enough to reply the same vide D.O.letter No.CM/12(1)Home/2000/51/11924 dated 17.10.2000.

As per your aforesaid letter, you had already directed Principal Secretary (Home) for necessary action on 25th May, 2000. So far this Secretariat has not been informed of the action taken by the Principal Secretary (Home) as per your directions, although a period of five and a half month have passed. Secretary of this Sachivalaya has also addressed a letter No.F.1(4)LAS/2000/4962 dated 4.11.2000 to the Principal Secretary (Home) reply to that letter is still awaited (copy enclosed).

The matter needs your attention so that the matter may not be further delayed and necessary direction in this regard may be given with intimation to me.

Yours truly,  
Sd/-  
( M.C.Jain )

Shri Ashok Gehlot,  
Chief Minister,  
Rajasthan, Jaipur.

CHIEF MINISTER  
Rajasthan

D.O. No.PS/SCM/2K/  
Dated December 20, 2000

Dear Justice Jain Sahib,

Kindly refer to your D.O. letter dated 26.9.2000 referring to the matter of general concurrence of the State Government under Section 14(3) of the Rajasthan Lokayukta and Up-Lokayukta Act, 1973 for utilizing the services of the Anti Corruption Bureau for investigation of the matters under consideration by the Lokayukta. The matter was examined and it has been found that Section 14(3) of the Act is an enabling provision which is different from similar provisions in other State Acts referred to in the letter dated 6.7.2000 sent by the Secretary, Lokayukta Sachivalaya.

However, to resolve this issue, State Government can consider designating one senior police officer in the State ACB to take care of cases referred to by you. I hope this will resolve the matter finally.

With regards,

Yours sincerely,  
Sd/-  
( Ashok Gehlot )

Hon'ble Mr. Justice M.C. Jain  
Lokayukta,  
Rajasthan Lokayukta Sachivalaya,  
Jaipur.

JUSTICE M.C. JAIN  
Lokayukta, Rajasthan

D.O.Letter No.F.1(4)LAS/2000/7546  
Jaipur, dated: 22.2.2001

Dear Chief Minister,

Kindly refer to your letter No.PS/SCM/2K December 20,2000.

I could not write to you earlier as I was extremely busy in organizing the Sixth All India Conference of Lokayuktas & Up-Lokayuktas, 2001.

It is correct that Section 14(3) of the Rajasthan Lokayukta & Up-Lokayuktas Act, 1973 is an enabling provision different from similar provisions in Karnataka Lokayukta Act, 1984, Gujarat Lokayukta Act, 1986 and Kerala Lokayukta Act, 1999 which find mention in the letter No.F.1(4)LAS/2000/2223 dated 6th July, 2000 from the Secretary, Lokayukta Sachivalaya to the Secretary to Government, Department of Personnel, Rajasthan, Jaipur. These provisions were referred only with a view that the Legislatures of those States did not feel the necessity of the provision regarding seeking the concurrence of the concerned State Government and directly provided that the Lokayukta can utilize the services of any Officer or Investigating Agency of the State Government without any concurrence.

You have mentioned in your letter that in order to resolve the issue, the State Government can consider designating one Senior Police Officer in the State Anti Corruption Bureau to take care of cases referred to by this Sachivalaya. It may be stated that the rank of the Police Officer, choice of the Police Officer and the modalities of its functioning have not been spelt out in your letter. Final decision may kindly be taken in this regard after consulting me or you may apprise your views in this regard so that after consideration thereof, I may write back to you.

In according the concurrence as the provision envisages, it is worthwhile to mention that the Legislature did not make any provision for designating any Senior Police Officer but left to the discretion of the Lokayukta as to what matters are to be investigated by which Officer or Investigating Agency, after concurrence is accorded in this regard.

An early response is solicited.

With warm regards,

Yours sincerely,

Sd/-

( M.C. Jain )

Hon'ble Shri Ashok Gehlot,  
Chief Minister,  
Government of Rajasthan, Jaipur.

मुख्य मंत्री  
राजस्थान

पत्रांक : मुं.5/प3(1)गृह/2000/1891  
जयपुर, दिनांक : 7.3.2001

प्रिय श्री जैन साहब,

मेरे पूर्व पत्र क्रमांक पीएस/एससीएम/2000 दिनांक 20 दिसम्बर, 2000 के उत्तर में आपका पत्र दिनांक 22 फरवरी, 2001 मुझे प्राप्त हो गया है ।

मैं इस पर अग्रिम कार्यवाही करवा रहा हूँ ।

सद्भावी,  
ह0/-  
(अशोक गहलोत)

जस्टिस एम.सी. जैन,  
लोकायुक्त, राजस्थान,  
जयपुर ।

CHIEF MINISTER  
Rajasthan

D.O. No. F.1(3)Pers./A-3/2000  
Jaipur, 4.4.2001

Dear Justice Jain Sahib,

Kindly refer to your D.O. letter dated February 22, 2001 regarding general concurrence of the State Government under section 14(3) of the Rajasthan Lokayukta and Up-Lokayukta Act, 1973 for utilising the services of Anti Corruption Bureau for investigation of the matters which are either pending or may come before the Lokayukta Sachivalaya.

On a careful consideration of the matter in the light of the observations in the concluding para of your aforesaid D.O. letter, it is felt that designating one Sr. Police Officer in the State Anti-Corruption Bureau to take care of cases referred to by the Lokayukta Sachivalaya may not be an appropriate arrangement. On account of the nature of cases as well as the number of cases, one single police officer may not be in a position to deal with all such cases expeditiously and effectively. Section 14(3) of the Act provides that the Lokayukta and Up-Lokayukta may, for the purpose of conducting the investigation under this Act, utilise the services of any officer or investigation agency of the State or Central Government with the concurrence of that government or any other person or agency. As the investigation is to be conducted as per the provisions of the Act, the provisions of CPC become applicable to such investigation and such proceedings are judicial proceedings within the meaning of section 193 of the Indian Penal Code. Therefore, placing of one senior police officer of the ACB or any other officer or agency under the Lokayukta may not be of much use. However, keeping in view the special nature, facts and circumstances of each case, the State Government would be able to identify the officer who would be suitable for conducting investigation under the Act. On your requisition in a particular case, the services of a suitable person can be provided for conducting the investigation under the provisions of the Act.

With regards,

Yours sincerely,  
Sd/-  
( Ashok Gehlot )

Hon'ble Mr. Justice M.C. Jain  
Lokayukta, Rajasthan,  
Jaipur.

JUSTICE M.C. JAIN  
Lokayukta, Rajasthan

D.O.Letter No.F.1(4)LAS/2000/Part.II/290  
Jaipur, Dated: April 18, 2001

Dear Chief Minister,

I am thankful to you for your D.O. letter No. F.1(3)Pers./A-3/2000 dated 4.4.2001. It appears that the matter has received some consideration.

It is correct that the investigation after according of concurrence by the State Government has to be conducted as per the provisions of the Act. You have been good enough to observe that keeping in view the special nature, facts and circumstances of each case, the State Government would be able to identify the Officer who would be suitable to conduct investigation under the Act. On a requisition in a particular case, the services of a suitable person can be provided for conducting the investigation under the provisions of the Act. It may be stated that each time as and when such matter arises, as per you observations, reference to the Government is to be made and for each case search would be made for a suitable person. This may not be the spirit of Section 14(3) of the Act. However, even in the light of your observation, the power under Sec. 14(3) will have to be exercised by the State Government each time. The power of investigation under the Act will then have to be given as per the provisions of Section 20 of the Act each time for a particular case in favour of a suitable person. The Officer would be able to exercise the power of investigation after conferment of such power under Section 20 of the Act. This does not appear to be the intention and spirit of the provisions of the Act.

If the Government is inclined to issue order or notification under Section 14(3) in the light of your observations in the letter as quoted above, it would defeat the provisions of Section 10(2) of the Act, which reads as under:-

*"Every such investigation shall be conducted in private and in particular, the identity of the complainant and of the public servant affected by the investigation shall not be disclosed to the public or the press whether before, during or after the investigation;*

*Provided that, the Lokayukta or an Up-Lokayukta may conduct any investigation relating to a matter of definite public importance in public, if he, for reasons to be recorded in writing, thinks fit to do so."*

This provision bars the disclosure to the public or the Press the identity of the complainant and of the public servant affected by the investigation.

The very requisition sent by this Sachivalaya for a particular case would be in disregard or in violation of the said provision. Keeping this in view, the power under Section 14(3) needs to be exercised in a general way and concurrence has to be accorded without seeking any requisition in a particular case. The State Government can exercise the power in a general way for any Officer or Investigating Agency without reference to the particulars of a case.

I hope the matter would be given due consideration taking into account the conspectus, scope and ambit of the relevant provisions of the Act.

In any case the power under Section 14(3) may be exercised as early as possible & a final order or notification may be issued under Section 14(3) at an early date.

With warm regards,

Yours sincerely,  
Sd/-  
( M.C. Jain )

Hon'ble Shri Ashok Gehlot,  
Chief Minister,  
Government of Rajasthan,  
JAIPUR.

CHIEF MINISTER  
Rajasthan

D.O. No. CM-5/F.3(1)Home./2001/5053  
Dated 28.4.2001

Dear Justice Jain Ji,

I am in receipt of your letter dated April 18, 2001.

The contention that requisition for an Investigating Officer in each case might infringe section 10(2) of the Act is being examined.

With regards,

Yours sincerely,  
Sd/-  
( Ashok Gehlot )

Justice Shri M.C. Jain,  
Lokayukta, Rajasthan,  
Govt. Secretariat Premises,  
Jaipur.

JUSTICE M.C. JAIN  
Lokayukta, Rajasthan

D.O.Letter No.F.1(4)LAS/2000/3312  
Jaipur, dated: 14.8.2001

Dear Chief Minister,

Kindly refer to my D.O. letters dated 23.5.2000, 26.9.2000, 14.11.2000, 22.2.2001 and 18.4.2001. The last D.O. letter was acknowledged by you vide your D.O. letter No. CM-5/F.3(1)Home/2001 dated 5053 dated 28th April, 2001. Thereafter I have not heard anything in the matter from you. By now, the entire matter must have been got examined and some final action must have been decided to be taken. An early decision u/s. 14(3) of the Rajasthan Lokayukta & Up-Lokayuktas Act, 1973 may be taken and the same may be intimated to me. I am pursuing the matter only with a view to strengthen the investigating machinery & expeditious investigation may be possible.

Hope to receive a favourable response at the earliest.

With warm regards,

Yours sincerely,  
Sd/-  
( M.C. Jain )

Shri Ashok Gehlot,  
Chief Minister,  
Rajasthan, Jaipur.



CHIEF MINISTER  
RAJASTHAN

D.O. No. F.1(3)Pers/A-3/2000, Jaipur  
Dated September 25, 2001

Dear Justice Jain Sahib,

Kindly refer to your D.O. letter dated April 18, 2001 and August 14, 2001 regarding general concurrence of the State Government under Section 14(3) of the Rajasthan Lokayukta and Up-Lokayukta Act, 1973 for utilising the services of the Officers / Agencies of the State Government for investigation of the matters which are either pending or may come up before the Lokayukta Sachivalaya. You have stated that the requisition for the services of an Investigating Officer in each individual case will infringe the provisions of Section 10 (2) of the Act.

On a detailed examination of the matter the State Government is of the view that requisitioning of the services of an Investigating Officer in individual cases will not infringe the provisions of the Act, as the State Government is neither "public" nor "press". There is no provision in the Act, which prohibits the Lokayukta from disclosing the identity of the complainant and of the public servant concerned to the State Government. In this connection your attention is invited to clause (a) of Section 10 (1) of the Act, which specifically provides that where the Lokayukta proposes to conduct any investigation under this Act he shall forward a copy of the complaint to the public servant concerned and the competent authority concerned. If the intention of the Act were to prohibit the disclosure of the identity of the complainant and the public servant concerned to the State Government, the Act would not have specifically provided that a copy of complaint will also be forwarded to the competent authority concerned. Furthermore, if the disclosure of the identity of the complainant and the public servant concerned to the State Government were to be prohibited under the provisions of the Act, the Lokayukta would not be able to send any preliminary reports to the State Government.

From the foregoing it is quite clear that requisitioning the services of an Investigating Officer in specific cases would not in any way violate the provisions of Section 10 (2) of the Act. It is once again reiterated that whenever any requisition is received from the Lokayukta Sachivalaya, the State Government would identify a suitable officer for conducting the investigation under the Act and provide his services to the Lokayukta.

With Regards,

Yours sincerely,  
Sd/-  
(Ashok Gehlot)

Justice Shri M.C. Jain,  
Lokayukta, Rajasthan, Jaipur

JUSTICE M.C. JAIN  
Lokayukta, Rajasthan

D.O.letter No.F.1(4)LAS/2000/4797  
Jaipur, dated: October 12, 2001

Dear Chief Minister,

Thank you very much for your letter No. F.1 (3) Pers/A-3/2000 dated 25.9.2001.

You have conveyed that requisitioning the services of Investigating Officers in specific cases will not in any way violate the provisions of Section 10(2) of the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973 and you have mentioned that whenever any requisition is received from the Lokayukta Sachivalaya, the State Government would identify a suitable Officer for conducting investigation under the Act and provide his services to the Lokayukta. It is good that the Government took the above final view in the matter.

However, I may mention that it is true that there is no provision in the aforesaid Act which prohibits the Lokayukta from disclosing the identity of the complainant and the public servant concerned to the State Government and reference has been made to the provisions contained under Section 10(1)(a) and the provisions under Section 12 of the Act for sending the preliminary enquiry reports. In this connection, it is noteworthy that the expression "Competent Authority" in relation to a public servant is defined under clause (c) of Section 2 of the aforesaid Act and the Competent Authority is part of the machinery provided in the Act, being a final authority to take decision on the reports submitted under Section 12 of the Act. The Competent Authority as envisaged under the Act is not the State Government.

The word 'public' occurring in Section 10(2) is an expression of very wide import and connotation. The employees, officers, authorities and members of the State Government are not outside the expression 'public'. The word 'public', therefore, is to be interpreted in its widest amplitude. This is my understanding of the law as it stands.

I have not been able to persuade myself to adopt the view taken by you on the meaning and interpretation both of Section 14(3) and Section 10(2) of the Act. However, I take it to be the concurrence of the State Government for an Officer and not for an investigating agency as envisaged under Section 14(3) of the Act.

This Sachivalaya has now moved the Secretary, Department of Personnel, our Administrative Department for requisitioning the services of a suitable officer for the cases which are mentioned in the letter addressed to him, a copy of which is enclosed for your information. It is expected that the suitability of the officers would be judged from all angles so that the investigation may not be affected prejudicially.

With warm regards,

Encl: as Above.

Yours sincerely,  
Sd/-  
( M.C. JAIN )

Shri Ashok Gehlot,  
Chief Minister, Rajasthan, Jaipur.

The Secretary to the Government,  
Department of Personnel,  
Rajasthan, Jaipur.

F. 1(4)LAS/2000/4796

Jaipur, Dated 12.10.01

Sir,

I am directed to state that Hon'ble Chief Minister, Rajasthan vide his D.O. letter No. F. 1(3)Pers/A-3/2000 dated the 25th September, 2001 has conveyed that whenever any requisition is received from the Lokayukta Sachivalaya, the State Government would identify a suitable officer for conducting investigation under the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973 and provide his services to the Hon'ble Lokayukta under Section 14(3) of the aforesaid Act.

I am enclosing the copy of the aforesaid letter of the Chief Minister for information. I now request you to make available the services of a suitable officer for conducting investigation in the following complaints, list of which is enclosed.

The suitability of the officer may be judged from all angles so that the investigation may not be affected prejudicially.

The matter may be treated as most urgent so that investigation in the cases may not be delayed.

Yours faithfully,  
Sd/-  
( P.P. SINGH )  
Secretary

मुख्य मंत्री  
राजस्थान

पत्रांक : मुमं.5/प3(1)गृह/2001/15865  
जयपुर, दिनांक : 22.11.01

प्रिय जस्टिस श्री एम.सी.जैन जी,

विशिष्ट मामलों में पुलिस अधिकारी की सेवायें अन्वेषण हेतु उपलब्ध करवाने के लिये आपका पत्र दिनांक 12 अक्टूबर, 2001 मुझे प्राप्त हो गया है ।

मैं इसे दिखवा रहा हूँ ।

सादर,

सद्भावी,  
ह0/-  
(अशोक गहलोत)

जस्टिस श्री एम.सी. जैन,  
लोकायुक्त,  
राजस्थान, जयपुर ।

JUSTICE M.C. JAIN  
Lokayukta, Rajasthan

अ.शा.पत्रांक: 1(4)लोआस/2000/6623  
जयपुर, दिनांक: 5 फरवरी, 2002

माननीय मुख्यमंत्री जी,

मेरे पत्र क्रमांक: एफ.1(4)एलएएस/2000/4797 दिनांक 12 अक्टूबर, 2002 के उत्तर में आपका पत्र क्रमांक: मुमं-5/प.3(1)गृह/2001/15865 दिनांक 22.11.01 प्राप्त हुआ ।

जिन प्रकरणों के विषय में जांच अधिकारी नियुक्त करने के लिये आपको लिखा गया था, उसके विषय में मैं आपको यह अवगत कराना चाहता हूँ कि अब तक किसी जांच अधिकारी को नियुक्त नहीं किया गया है । प्रकरण काफी अरसे से लंबित है । मेरा आपसे अनुरोध है कि आप इस पर ध्यान देकर शीघ्रता से कार्यवाही कर सूचित करेंगे ।

सादर,

सद्भावी,  
ह/-

(मिलाप चन्द जैन)

माननीय श्री अशोक गहलोत,  
मुख्यमंत्री,  
राजस्थान ।

The Secretary to the Government,  
Department of Personnel,  
Rajasthan, Jaipur.

F.1(4)LAS/2000/6652

Jaipur, Dated : 7.2.02

Sir,

I am directed to draw your attention to Hon'ble Chief Minister's letter No.F.1(3)Pers/A-3/2000 dated 25.09.2001 vide which it was conveyed that whenever any requisition is received from the Lokayukta Sachivalaya, the State Government would identify a suitable officer for conducting investigation under the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973 and provide his services to the Hon'ble Lokayukta under Section 14(3) of the aforesaid Act.

I shall be grateful, if you very kindly treat this matter on priority basis and expedite services of suitable officer for conducting investigation in the cases list of which has already been sent to you vide this Sachivalaya letter No.F.1(4)LAS/2000/4796 dated 12.10.2001.

Yours faithfully,  
Sd/-  
( P.P.Singh )  
Secretary

The Secretary to the Government,  
Department of Personnel (A-III),  
Rajasthan, Jaipur.

F.1(4)LAS/2000/4019

Dated: 17.7.2002

Sir,

I am directed to invite your kind attention to Hon'ble Chief Minister's D.O. letter No.F.1(3)Pers/A-III/2000 dated 25th September, 2001 vide which the following assurance was given as under:-

"It is once again reiterated that whenever any requisition is received from the Lokayukta Sachivalaya, the State Government would identify a suitable officer for conducting the investigation under the Act and provide his services to the Lokayukta."

It is regretted that inspite of the above assurance of Hon'ble Chief Minister and this Sachivalaya's letter dated 12.10.2001 and 7.2.2002 (photo copies enclosed), the Government has not so far identified a suitable officer for conducting investigation under the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973 (Act No.9 of 1973), although a period of more than ten months has passed.

It is hoped that the State Government would treat this matter on priority basis with out any further loss of time.

Encl: As above.

Yours faithfully,



(Umesh Sharma)  
Secretary

JUSTICE M.C.JAIN  
Lokayukta, Rajasthan

D.O.letter No.F.1(4)LAS/2000/5875  
Jaipur, dated: September 6, 2002

Dear Chief Minister,

I take this opportunity to refer to my correspondence with you relating to the question of according consent under Section 14(3) of the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973 for utilising the services of any officer or investigating agency of the State Government.

I wrote to you as far back as on 23rd May, 2000. After prolonged interaction through letters, you, vide your letter dated 17th October, 2000, informed that you have already given directions for necessary action to the Principal Secretary (Home). It was with reference to my letter dated 26th September 2000. I again wrote to you on 14th November, 2000 vide my D.O.letter No.F.1(4)LAS/2000/5199 inviting your attention that necessary action was not taken by the Principal Secretary (Home). In reply thereof, you informed on December 20, 2000 vide D.O.letter No.PS/SCM/2K that the State Government considers designating one Senior Police Officer of the Anti-Corruption Bureau to take care of cases referred by this Sachivalaya. The matter continued to remain pending and vide your D.O.letter No.F.1(3)Pers/A-3/2000 Dated 4.4.2001, you expressed your opinion that :-

"Keeping in view the special nature, facts and circumstances of each case, the State Government would be able to identify the officers who would be suitable for conducting investigation under the Act. On your requisition in a particular case, the services of a suitable person can be provided for conducting the investigation under the provisions of the Act."

Thereafter, the correspondence continued on the question of interpretation of Section 10(2) of the Act. Finally, the Government took a decision in the matter and agreed to identify suitable officer for conducting investigation under the Lokayukta Act and provide his service to the Lokayukta. In view thereof, this office moved the Secretary, D.O.P. being its administrative department, for requisitioning the services of a suitable officer for the cases which are mentioned in the letter addressed to him and a copy of which was also forwarded to you for your information. The letter was addressed on 12th October, 2001. The details of the cases were forwarded and request was made to make available the services of a suitable officer for conducting investigation under the provisions of the Act. Reminders were also sent to the Secretary to Government, Department of Personnel and a letter was also addressed to you on 22.11.2001, but so far services

of any officer has not been made available to this office for conducting investigation.

The matter has already been very much prolonged. I hope that the State Government will finally take up the matter and issue orders making the services of a suitable officer available for conducting investigation in the specified cases already referred to the Government.

I hope, you will call for the names of the officers from the concerned authority and let this office know as to who will conduct investigation in each case referred to by this office. Further machinery may be devised for the future also, so that in appropriate cases, services of officers may be utilised by this office.

An early response is solicited.

Yours sincerely,

Sd/-

( M.C. Jain )

Shri Ashok Gehlot,  
Chief Minister of Rajasthan,  
Jaipur.

Chief Minister  
Rajasthan

D.O.No.CM-DS(M)/F-1(17-DOP)/(34-Raj.)/2002/25377  
Jaipur, dated: 13/19.9.2002

Justice Sh.M.C.Jain,

I have received your letter dated 6.9.2002 on 10.9.2002 regarding the consent of a suitable officer under Section 14(3) of the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973 for utilising the services of any officer or investigating agency of the State Government.

I have directed Secretary, D.O.P. to look into it and take further necessary action.

With regards,

Yours sincerely,  
Sd/-  
(Ashok Gehlot)

Mr.Justice M.C.Jain  
Lokayukta,  
Government Secretariat Premises,  
Bhagwan Das Road,  
Jaipur.

JUSTICE M. C.JAIN  
Lokayukta, Rajasthan

D.O. letter No. F.39 (1)LAS/2000/1927-29  
Jaipur, dated: June 9, 2000

Dear,

I am taking this opportunity to write to you in connection with according concurrence of the Central Government for utilising the services of the C.B.I.

The Lokayukta Institution has been established by the State Governments in the various States under their respective State Laws. The Rajasthan Lokayukta and Up-Lokayuktas Act, 1973 (Act No. 9 of 1973) had received the assent of the President on 26th March, 1973 and had deemed to have come into force with effect from 3rd February, 1973 vide Section 1(3) of the Act.

Section 14 of the said Act provides as under:-

"14. Staff of Lokayukta and Up-Lokayukta - (1) The Lokayukta may appoint, or authorise an Up-Lokayukta or any officer subordinate to the Lokayukta or an Up-Lokayukta to appoint, officers and other employees to assist the Lokayukta and the Up-Lokayuktas in the discharge of their functions under this Act.

(2) The categories of officers and employees who may be appointed under sub-section (1), their salaries, allowances and other conditions of service and the administrative powers of the Lokayukta and Up-Lokayuktas shall be such as may be prescribed, after consultation with the Lokayukta.

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

- (i) any officer or investigation agency of the State or Central Government with the concurrence of that Government; or
- (ii) any other person or agency."

A perusal of sub-section 3 of Section 14 would show that the Lokayukta or the Up-Lokayukta may for the purpose of conducting investigation under the Act can utilise the services of any officer or investigating agency of the State or the Central Government with the concurrence of that Government.

It is the policy of the Central Government to eradicate corruption from public services. The goal is to establish corruption free society. All institutions operating in the country for eradication of corruption need to be strengthened. Central Bureau of Investigation is a premier investigation agency in the country. In appropriate cases, services of this premier investigating agency can be of great help to the institution of Lokayukta of Rajasthan. Its services can be utilised in appropriate cases. This provision has not been invoked so far; and I hope the Central Government would assist the institution of Lokayukta, Rajasthan by according concurrence for utilising the services of this premier investigating agency of the Central Government.

I, therefore, request you that the Central Government's concurrence may kindly be accorded for utilising the services of the Central Bureau of Investigation by the Lokayukta, Rajasthan.

Yours sincerely,  
Sd/-  
(M.C.JAIN)

Hon'ble Shri Atal Bihari Vajpayee,  
Prime Minister,  
Government of India,  
Central Secretariat, NEW DELHI.

Hon'ble Shri Lal Krishna Advani,  
Union Home Minister,  
Government of India,  
Central Secretariat, NEW DELHI.

Shri Mangal Pandey, IAS  
Secretary,  
Ministry of Home Affairs,  
Central Secretariat,  
NEW DELHI.

L.K. ADVANI  
HOME MINISTER

No. 1317/O/HMP-2000  
20 June, 2000

Dear Justice Jain Ji,

I am in receipt of your letter no. F. 39(1)LAS/2000/1928 dated 9th June, 2000 regarding concurrence by the Central Government for utilising the services of the CBI by the Lokayukta, Rajasthan.

As the subject matter pertains to Ministry of Personnel, Public Grievances & Pensions, I have forwarded your letter to Ms. Vasundhara Raje Ji, Minister of State in that Ministry for appropriate action.

With regards,

Yours sincerely,  
Sd/-  
( L.K. ADVANI )

Justice M.C. Jain,  
Lokayukta, Rajasthan,  
F-177, Megha Marg,  
Janpath, Shyam Nagar,  
JAIPUR.

VASUNDHARA RAJE  
Minister of State  
Personnel, Public Grievances and Pensions  
Government of India

D.O. No. 228/35/2000-AVD.II  
19/22 Jan., 2001

Hon'ble Justice Jain

Kindly refer to your letter dated the 9th June, 2000 to the prime Minister regarding utilization of the services of the CBI.

The power of the Delhi Special Police Establishment (CBI) to investigate in the area of a State is dependent on the consent of the concerned State Government as provided under Section 5 read with Section 6 of the DSPE Act, 1946. The CBI, therefore, would not be able to take up the investigation of a case in the area of a State without the consent of the State Government.

You may, therefore, like to take the assistance of the State Police. However, in select cases, when State Government requests that either the case is of a complex nature or the State Government is otherwise not fully equipped to investigate the case, services of the CBI could be available after obtaining the formal consent of the State Government under section 6 of Delhi Special Police Establishment Act, 1946.

Yours sincerely,  
Sd/-  
( Vasundhara Raje )

Hon'ble Justice M.C. Jain  
Lokayukta, Rajasthan,  
F-177, Megha Marg,  
Janpath, Shyam Nagar,  
Jaipur - 302 019.

JUSTICE M.C. JAIN  
Lokayukta, Rajasthan

D.O.Letter No.F.1(4)LAS/2000/7580  
Jaipur, dated: 23.2.2001

Dear Minister,

Kindly refer to you D.O. letter No.228/35/2000/AVD.II dated 19th/20th January 2001.

I have carefully read the contents of your letter. I may inform you that I am well aware of the provisions referred to by you of the Delhi Special Police Establishment Act, 1946. The provisions referred to by you undoubtedly envisage that the investigation to be conducted by the Central Bureau of Investigation should emanate from the State Government. The Central Bureau of Investigation is not competent to take up investigation of any case in the area of State without the necessary consent of the State Government.

But, in my opinion, so far as the provisions contained in Section 14(3) of the Rajasthan Lokayukta & Up-Lokayuktas Act, 1973 are concerned, it is significant to note that the said Act had received the assent of the President of India on 26th March, 1973 under Article 201 of the Constitution of India. State Law having received the assent of the President of India would, in my opinion, prevail over the provisions of the Delhi Special Police Establishment Act, 1946. Section 14(3) of the Rajasthan Lokayukta Act, 1973 does not envisage that the Lokayukta will move the State Government and after formal consent of the State Government, Central Bureau of Investigation can take up the investigation of the case referred to by the Lokayukta. The effect of the President's assent on the State Law has to be taken into consideration and needs examination. The State Legislature could not have enacted the provision like Section 14(3) relating to utilization of the services by the Lokayukta of any Officer or Investigating Agency of the Central Government. What is required in that provision is that such services can only be available if the Central Government gives it concurrence? It is only after receiving the assent of the President that such a provision can be taken valid as no State could legislate in respect of any Central Agency. This aspect may kindly be examined and after consideration thereof, if the view, which I have expressed, finds favour, necessary concurrence may kindly be accorded. It is only in appropriate and concrete cases that services of the Central Agency shall be availed.

With warm regards,

Yours sincerely,  
Sd/-  
( M.C. Jain )

Hon'ble Smt. Vasundhara Raje,  
Minister of State, Personnel, Public Grievances and Pensions,  
Government of India,  
168, Udyog Bhawan, New Delhi-110011

VASUNDHARA RAJE

Minister Of State  
Personnel, Public Grievances And  
Pensions  
Government Of India  
राज्यमंत्री  
कार्मिक, लोक शिकायत तथा पेन्शन  
भारत सरकार

27 MARCH 2001

Hon'ble Justice Jain,

Thank you for your letter dated the 23rd February, 2001 regarding availing of the Services of the CBI by the Lokayukta.

2. I have asked my Department to look into the matter and shall revert to you at the earliest.

Yours sincerely,  
Sd/-  
(Vasundhara Raje)

Justice Shri M.C.Jain  
Lokayukta, Rajasthan  
Government Secretariat Premises  
Bhagwandas Road  
Jaipur 302 005.

JUSTICE M.C. JAIN  
Lokayukta, Rajasthan

D.O.Letter No.F.1(4)LAS/2000/3311  
Jaipur, dated: 14.8.2001

Dear Minister,

Kindly refer to my D.O. letter No. F. 1(4)LAS/2000/7580 dated 23rd February 2001, which was acknowledged by you vide your letter dated 27th March, 2001.

By now the matter must have been examined by your department. There may be some cases, which in the interest of justice, would be proper to be got investigated from the Central Bureau of Investigation. I may assure you that only in appropriate cases where I feel that the State Investigating Agency would not be of much help; the services of the CBI would be availed.

I therefore, request you to convey the consent of the Central Government under Sec. 14(3) of the Rajasthan Lokayukta & Up-Lokayuktas Act, 1973.

Hope to receive favourable response at an early date.

Yours sincerely,  
Sd/-  
(M.C. Jain)

Hon'ble Smt. Vasundhara Raje,  
Minister of State,  
Personnel, Public Grievances and Pensions,  
Government of India,  
168, Udyog Bhawan,  
New Delhi-110011

JUSTICE M.C. JAIN  
Lokayukta, Rajasthan

D.O. Letter No. F. 1(4)LAS/2000/5707  
Jaipur, Dated : 4th December, 2001

Dear Minister,

I had written a letter dated 9th June, 2000 to the Hon'ble Prime Minister for utilising the services of C.B.I. under Section 14(3) of the Rajasthan Lokayukta & Up-Lokayukta Act, 1973. That letter was forwarded to you as it pertained to your Ministry.

You responded to that letter vide your communication dated 19th January, 2001 in which you mentioned that services of the C.B.I. could be available after obtaining the formal consent of the State Government under Section 5 of the Delhi Special Police Establishment Act, 1946.

In reply to your aforesaid letter, I wrote D.O. letter No. F. 1(4)LAS/2000 dated 20.2.2001. Copies of the D.O. letters are enclosed for your ready reference.

For your information, I quote Section 14 of the aforesaid Act :-

"14. Staff of Lokayukta and Up-Lokayuktas:- (1) The Lokayukta may appoint, or authorise an Up-Lokayukta or any officer subordinate to the Lokayukta or an Up-Lokayukta to appoint, officers and other employees to assist the Lokayukta and the Up-Lokayuktas in the discharge of their functions under this Act.

(2) The categories of officers and employees who may be appointed under sub-section (1), their salaries, allowances and other conditions of service and the administrative powers of the Lokayukta and Up-Lokayuktas shall be such as may be prescribed, after consultation with the Lokayuktas.

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

- (i) any officer or investigation agency of the State or Central Government with the concurrence of that Government; or
- (ii) any other person or agency."

In the said D.O. Letter of 20.2.2001, I had tried to explain the legal position, which must have been examined at your level.

After the said letter I have not received any communication from you so far. I am anxiously waiting your favourable reply.

With warm regards,

Yours sincerely,  
Sd/-  
( M.C. JAIN )

Hon'ble Smt. Vasundhara Raje,  
Minister of State,  
Personnel, Public Grievances and Pensions,  
Government of India, 168, Udyog bhawan,  
New Delhi - 110011 Encl. As above.



सत्यमेव जयते

Minister Of State  
Personnel, Public Grievances And  
Pensions  
Government Of India

राज्यमंत्री

कार्मिक, लोक शिकायत तथा पेन्शन  
भारत सरकार

VASUNDHARA RAJE

19 DEC 2001

Justice Jain Saab,

Please refer to your letter dated 04.12.2991, regarding utilizing the services of CBI under section 14(3) of the Rajasthan Lokayukta & Up-Lokayukta Act, 1973.

2. Your letter is being sent to the CBI for due consideration and appropriate action.

Yours sincerely,  
Sd/-  
(Vasundhara Raje)

Justice M.C.Jain  
Lokayukta- Rajasthan  
Govt. Secretariat Premises  
Bhagwandas Road  
Jaipur 302 005.



सत्यमेव जयते

Minister Of State  
Personnel, Public Grievances And  
Pensions

Government Of India

राज्यमंत्री

कार्मिक, लोक शिकायत तथा पेन्शन

भारत सरकार

VASUNDHARA RAJE

31 DEC 2001

Dear Justice Jain,

Kindly refer to your letter dated 23rd February 2001, and 4th December 2001, regarding utilizing of the services of the CBI for investigation, in view of the provisions of section 14(3) of the Rajasthan Lokayukta & Up-Lokayuktas Act, 1973.

2. The legal implications of your proposal have been re-considered. It is clear that the services of the CBI cannot be utilised for the purpose of investigation of an offence in a State since the requirement of consent flows from Entry 80 of the union List of the 7th Schedule of the Constitution, which cannot be done away by any law of that State Government. Further, the Rajasthan Lokayukta and Up-Lokayukta Act, 1973 does not start with the non-obstante clause nor does the State Legislature has the legislative competence/power to override the provisions of a Central Act like the DSPE Act, 1946. Therefore, the Lokayukta cannot utilise the services of an investigative agency like CBI without the consent of the State Government.

3. You may, therefore, like to take the assistance of the State Police for investigation. However, in select cases of complex nature, considering the merits of an individual case, the services of the CBI can be provided, if the State Government consents to such investigation under Section 6 of the DSPE Act, 1946.

Yours sincerely,

Sd/-

(Vasundhara Raje)

Justice M.C.Jain  
Lokayukta- Rajasthan  
Govt. Secretariat Premises  
Bhagwandas Road, Jaipur 302 005.

JUSTICE M.C. JAIN  
Lokayukta, Rajasthan

D.O.letter No.F.1(4)LAS/2000/6614  
Jaipur, dated: February 4,2002

Dear Minister,

I am in receipt of your letter dated 31st December, 2001 in reply to my letters dated 23rd February, 2001 and 4th December, 2001.

It appears that even after reconsideration and re-examination of the legal implications of my proposal, the question has not been examined in its true and correct perspective. It proceeds on the basis, as mentioned in your letter, that investigation of an offence in a State by the C.B.I. is covered by Entry 80 of the Union List of the 7th Schedule of the Constitution and the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973 does not start with the non-obstante clause and that the State has no legislative competence when it makes a provision under Section 14(3) and the State Legislature is not competent to override the provisions of the Delhi Special Police Establishment Act, 1946. So, the services of C.B.I. cannot be utilized without the consent of the State Government.

I am of the opinion that investigation under the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973 is not an investigation of an offence committed in the State of Rajasthan. The scope of the said Act is absolutely different. It provides for investigation of allegations against the Ministers and public servants in certain cases as the preamble of the Act states. Matters, which may be investigated, are provided in Section 7 of the said Act in respect of actions and allegations made against public servants. The expressions 'action', 'allegation' and 'public servant' are defined in the said Act. It is significant to note that after investigation under the Act, only recommendation is made. No F.I.R. is registered, nor the provisions of Criminal Procedure Code have any application for the investigation under the Lokayukta Act, which is a self-contained law. No charge sheet is presented as a result of investigation nor final report is submitted to the court. The Lokayukta has to make only recommendation to the Competent Authority and it is the Competent Authority, which subsequently takes action on the recommendation as contemplated under Section 12 of the Act. The officer of the C.B.I. would be required to conduct investigation as per the provisions contained in Section 11 in accordance with the power delegated by the Lokayukta and would be required to submit his report to the Lokayukta after recording his finding. C.B.I. has to perform additional different function under the Act. In this view of the matter, Entry 80 of the Union List of the 7th Schedule of the Constitution is not at all attracted. It is, no doubt, true that if law falls within the scope of Entry 80 of the Union List, the State Legislature has no competence to legislate on that subject.

No law can be enacted by the State Legislature on any subject falling under any Entry of the Union List. If any provision is made by the State Legislature contrary to the Central Act, enacted on a subject falling under the Concurrent list, then the law has to be reserved for consideration of the President and receives his assent under Article 254(2) of the Constitution. It is only in that situation that the Central law would stand overridden by the State law and if the Parliament subsequently enacts any law contrary to the State law, then the subsequent Parliament legislation would prevail over the State law. The Hon'ble Supreme Court has laid down law in different situations in *M.Karunanidhi vs. Union of India* reported AIR 1979 S.C. 898 as under :-

"Repugnancy between a law made by a State and by the Parliament may result from the following circumstances:

(1) Where the provisions of a Central Act and a State Act in the Concurrent List are fully inconsistent and are absolutely irreconcilable, the Central Act will prevail and the State Act will become void in view of the repugnancy.

(2) Where however if law passed by the State comes into collision with a law passed by Parliament on an entry in the Concurrent List, the State Act shall prevail to the extent of the repugnancy and the provisions of the Central Act would become void provided the State Act has been passed in accordance with Cl. (2) of Art. 254.

(3) Where a law passed by the State Legislature while being substantially within the scope of the entries in the State List trenches upon any of the Entries in the Central List the constitutionality of the law may be upheld by invoking the doctrine of pith and substance if on an analysis of the provisions of the Act it appears that by and large the law falls within the four corners of the State List and entrenchment, if any, is purely incidental or inconsequential.

(4) Where, however, a law made by the State Legislature on a subject covered by the Concurrent List is inconsistent with and repugnant to a previous law made by Parliament, then such a law can be protected by obtaining the assent of the President under Art. 254(2) of the Constitution. The result of obtaining the assent of the President would be that so far as the State Act is concerned, it will prevail in the State and overrule the provisions of the Central Act in their applicability to the State only. Such a state of affairs will exist only until Parliament may at any time make a law adding to, or amending, varying or repealing the law made by the State Legislature under the proviso to Art. 254.

'Allegation' as defined in the Act to some extent deal with offence of corruption falling under Entry 1 of the Concurrent List & connected therewith Entry 45 of that List may be relevant. So Article 254(2) can be pressed into service. If the subject is covered under the Concurrent List, for resolving any repugnancy, Article 254(2) would come into play.

The said State Act besides Section 14 makes provision for power to delegate under Section 20. Section 14 and Section 20 contemplate utilization of the services of agencies mentioned in these two provisions including agency of the Central Government. The State Government does not come into picture at all for making any request for investigation by the C.B.I. invoking law made under Entry 80 of the Union List. Power of delegation could be exercised directly by the Lokayukta or Up-Lokayukta by a general or special order. The law as enacted by the Rajasthan State Legislature is within the competence of the State Legislature as it deals with investigation in certain matters as covered by the expressions 'action' and 'allegation' as defined in the Act of 'Ministers', 'Secretaries' and 'Public Servants' as defined in the Act which include employees of local authority, corporations owned and controlled by the State Government, Government companies, Societies registered under the Rajasthan Societies Registration Act, 1958 under the control of the State Government, Cooperative societies and certain office holders of Zila Parishads, Panchayat Samitis, Municipal Councils and Municipal Boards. So, having regard to the scope of the Act, the matter needs to be examined not in the light of the Entry 80 of the Union List but in the light considered above.

If you feel inclined, opinion can be sought from the Law Department and the Attorney General. In my humble opinion, Section 6 of the DSEP Act, 1946 and Entry 80 would not, in any way, be attracted viewed in the light of the provisions of the State Act.

A copy of the Act is also enclosed for facility of reference.  
With warm regards,

Yours sincerely,  
Sd/-  
( M.C.JAIN )

Hon'ble Smt. Vasundhara Raje,  
Minister of State,  
Personnel, Public Grievances and Pensions,  
Government of India, 168, Udyog Bhawan,  
New Delhi-110011  
Encl: As above.



सत्यमेव जयते

Minister Of State  
Personnel, Public Grievances And  
Pensions  
Government Of India

राज्यमंत्री  
कार्मिक, लोक शिकायत तथा पेन्शन  
भारत सरकार

VASUNDHARA RAJE

20 FEB 2001

Dear Justice Jain Ji,

Thank you for your letter dated the 04.02.2002 regarding investigation under the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973.

2. I have asked my Department to look into the matter and shall revert to you at the earliest.

Yours sincerely,  
Sd/-  
(Vasundhara Raje)

Justice Shri M.C.Jain  
Lokayukta, Rajasthan  
Government Secretariat Premises  
Bhagwandas Road  
Jaipur 302 005.

परिशिष्ट-जी-1

Jaipur, dated: 31 May, 2002  
D.O.letter No.F.1(4)LAS/2000/2261

Dear Minister,

Kindly refer to your D.O.letter No.1677/VIP/MOS(PP)/02 dated 20 February, 2002 in reply to my D.O.letter No.F.1(4)LAS/2000/6614 dated 4.2.2002.

I have not heard anything further in this regard. I may mention that the question regarding legislative competence to enact Lokayukta Law by the respective State Legislature had been the subject matter of some four petitions filed before the Gujarat High Court. A division bench of the Gujarat High Court consisting of Hon'ble Mr.Justice G.N.Ray, Chief Justice and Hon'ble Mr.Justice R.K.Abichandani in Rajendra Manubhai Patel v. State of Gujarat and Another decided on 2.5.1991 in Special Civil Application No.994 of 1991 with three other Special Civil Applications has held that the State Legislature is competent to enact the Lokayukta Act. It was observed by their Lordship of the Gujarat High Court that :

"Having regard to the nature of allegations which can be investigated, it is clear that they would amount to enquiries into the matters which would fall within the domain of Criminal Law including matters in the Indian Penal Code and might also amount to actionable wrongs. The enquiries and investigations intended to be made under the said enactment are enquiries for the purposes of the matters specified in Entries 1 and 8 of the Concurrent List. Since the matters squarely fall in Item 45 read with Item 1 and 8 of the Concurrent List, it cannot be covered under the Remainder Entry No.97 of List I-Union List of the Seventh Schedule to the Constitution of India. This view also stands fortified by two decisions of the Supreme Court (in the case of R.K.Dalmia v. Justice Tendolkar, AIR 1958 SC 538 and Karnataka v. Union of India, AIR 1978 SC 68), which have a direct bearing on the reading of Entry 45 of the Concurrent List. The State Legislature has legislative competence to enact the said Act."

For ready reference, I am enclosing a copy of the said judgment.

It will also not be out of place to mention that the Lokayuktas had submitted a note to the National Commission to Review the Working of the Constitution pursuant to the Resolution passed at the VI All India

Lokayukta Conference at New Delhi for conferment of Constitutional Status on Lokayuktas. The National Commission in its report recommended as under:-

"6.23.2 After considering the matter, the Commission recommends that the Constitution should contain a provision obliging the State to establish the institution of Lokayuktas in their respective jurisdiction in accordance with the legislation of the appropriate legislatures."

The above recommendation clearly and amply makes out that the Lokayukta Law is within the competence of the State Legislatures.

I hope, the matter would receive immediate attention at your end and needful consent shall be issued for utilizing the services of the Central Bureau of Investigation. I may draw your attention to the fact that the matter was initiated by me as far back as June 2000. Almost two years have passed. Keeping that in view, an early positive response is eagerly awaited.

With warm regards,

Sincerely yours,

Sd/-

( M.C.Jain )

Hon'ble Smt. Vasundhara Raje,  
Minister of State,  
Personnel, Public Grievances and Pensions,  
Government of India,  
168, Udyog Bhawan,  
New Delhi-110011



सत्यमेव जयते

वसुंधरा राजे  
VASUNDHARA RAJE

राज्यमंत्री  
कार्मिक, लोक शिकायत तथा पेन्शन  
भारत सरकार  
MINISTER OF STATE FOR  
PERSONNEL, PUBLIC  
GRIEVANCES AND PENSIONS  
GOVERNMENT OF INDIA

05 JUL 2002

Hon'ble Justice Jain,

Thank you for your letter dated the 31.05.2002 regarding investigation under the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973.

2. I have asked my Department to look into the matter and shall revert to you at the earliest.

Yours sincerely,  
Sd/-  
(VASUNDHARA RAJE)

**Hon'ble Justice M.C.Jain  
Lokayukta, Rajasthan  
Government Secretariat Premises  
Bhagwandas Road  
Jaipur 302 005.**

JUSTICE M.C. JAIN  
Lokayukta, Rajasthan

D.O.letter No.F.39(1)LAS/2000/5798  
Jaipur, dated: September 03, 2002

Dear Deputy Prime Minister,

I again take this opportunity to refer to you the matter of according concurrence by the Central Government for utilising the services of Central Bureau of Investigation U/s 14(3) of the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973.

I wrote to you as far back as on June 9, 2000 vide my D.O. Letter No. F. 39(1)LAS/1927-29. Such a letter was also addressed to The Hon'ble Prime Minister Shri Atal Behari Vajpayee & Shri Mangal Pandey, Secretary, Ministry of Home Affairs. As the matter pertained to the Ministry of Personnel, Public Grievances and Pension, the letter was forwarded to Mrs. Vasundhara Raje, Minister of State for Personnel, Public Grievances & Pension for appropriate action. Thereafter the matter continued to remain under consideration with that Ministry and a good deal of exchange of correspondence followed. Copies of this correspondence are enclosed for ready reference.

I may mention that sub Section 3 of Section 14 of the aforesaid Act empowers the Lokayukta to utilise the services of any Officer, or Investigating Agency of the Central Government with the concurrence of that Government. Sub Section (3) of Section 14 reads as under:-

- (3) Without prejudice to the provisions of sub-section (1), the Lokayukta or an Up-Lokayukta may for the purpose of conducting investigations under this Act utilise the services of -
  - (i) any officer or investigation agency of the State or Central Government with the concurrence of that Government; or
  - (ii) any other person or agency.

The CBI services could be utilised under the said provision, is quite clear. Only consent of the Central Government is needed. However, you will notice that all queries raised by the Ministry of Personnel and Pension, Public Grievances have been answered from time to time. No final decision has yet been taken by that Ministry. Legal position has been made amply clear and in view thereof, Section 14 sub-section 3 of the said Act is a valid provision and its Constitutionality has also been set at rest.

The Hon'ble Prime Minister in his Inaugural address in the VIth All India Conference of the Lokayuktas & Up Lokayuktas said, "The time has come, therefore, to seriously review the working of the Lokayuktas so far. We should identify the deficiencies in the legislation and drawbacks in implementation. The state should not hesitate to take necessary corrective action since the very credibility of our shared commitment to fight corruption is at stake."

In the recent Conference of Central Bureau of Investigation, the Hon'ble Prime Minister "complemented the CBI on the trust and credibility it enjoyed in the eyes of the people and reminded its officers that they could create a deterrent impression that "no fish - big or small - can escape your net."

He also said, 'Let each institution in our democracy do the work that the law earmarks as its domain - in proper coordination with other institutions; with no interference or pressure from outside; with requisite autonomy but with full responsibility."

As the CBI is the Premier Investigating Agency in the country, and as the policy of the Central Government is to eradicate corruption from public services and thereby achieve the goal to establish corruption free society, if the Lokayukta, Rajasthan is permitted to utilise the services of this Central Investigating Agency, it would be a step forward in that direction. In appropriate cases, such help from the premier investigating agency would go a long way to root out corruption. This is only with this object that such a provision has been incorporated in the Rajasthan Lokayukta & Up Lokayuktas Act.

I hope that the matter would be given deeper consideration at the earliest and the Central Government's consent would be accorded for utilising the services of CBI by the Lokayukta, Rajasthan and the Lokayukta Institution thereby would be strengthened and would become more effective and powerful in the conduct of Investigation under the Lokayukta Act.

You may kindly get the matter examined at the earliest and needful action be taken as more than two years have already elapsed.

With warm regards,

Yours sincerely,

sd/-

( M.C. Jain )

Hon'ble Shri Lal Krishna Advaniji,  
Deputy Prime Minister of India,  
C-1/6, Pandara Park,  
New Delhi - 110 003

L.K. Advani  
Home Minister

No. 1317/O/HMP-2000

Dear Justice Jain Ji,

I am in receipt of your letter No. F.39 (1) LAS/2000/1928 dated 9th June, 2000 regarding concurrence by the Central Government for utilising the services of the CBI by the Lokayukta, Rajasthan.

As the subject-matter pertains to Ministry of Personnel, Public Grievances & Pensions, I have forwarded your letter to Ms. Vasundhara Raje Ji, Minister of State in that Ministry for appropriate action.

With regards,

Yours sincerely,  
sd/-  
( L.K. ADVANI )

Justice M.C. Jain,  
Lokayukta, Rajasthan,  
F-177, Megha Marg,  
Janpath Shyam Nagar,  
JAIPUR.

JUSTICE M.C. JAIN  
Lokayukta, Rajasthan

D.O.letter No.F.39(1)LAS/2000/5796  
Jaipur, dated: September 04, 2002

Dear Prime Minister,

I again take this opportunity to refer to you the matter of according concurrence by the Central Government for utilising the services of Central Bureau of Investigation U/s 14(3) of the Rajasthan Lokayukta and Up-Lokayuktas Act, 1973.

I wrote to you as far back as on June 9, 2000 vide my D.O. Letter No. F. 39(1)LAS/1927-29. Such a letter was also addressed to The Hon'ble Prime Minister Shri Atal Behari Vajpayee & Shri Mangal Pandey, Secretary, Ministry of Home Affairs. As the matter pertained to the Ministry of Personnel, Public Grievances and Pension, the letter was forwarded to Mrs. Vasundhara Raje, Minister of State for Personnel, Public Grievances & Pension for appropriate action. Thereafter the matter continued to remain under consideration with that Ministry and a good deal of exchange of correspondence followed. Copies of this correspondence are enclosed for ready reference.

I may mention that sub Section 3 of Section 14 of the aforesaid Act empowers the Lokayukta to utilise the services of any Officer, or Investigating Agency of the Central Government with the concurrence of that Government. Sub Section (3) of Section 14 reads as under:-

- (3) Without prejudice to the provisions of sub-section (1), the Lokayukta or an Up-Lokayukta may for the purpose of conducting investigations under this Act utilise the services of -
  - (i) any officer or investigation agency of the State or Central Government with the concurrence of that Government; or
  - (ii) any other person or agency.

The CBI services could be utilised under the said provision, is quite clear. Only consent of the Central Government is needed. However, you will notice that all queries raised by the Ministry of Personnel and Pension, Public Grievances have been answered from time to time. No final decision has yet been taken by that Ministry. Legal position has been made amply clear and in view thereof, Section 14 sub-section 3 of the said Act is a valid provision and its Constitutionality has also been set at rest.

The Hon'ble Prime Minister in his Inaugural address in the VIth All India Conference of the Lokayuktas & Up Lokayuktas said:

"The time has come, therefore, to seriously review the working of the Lokayuktas so far. We should identify the deficiencies in the legislation and drawbacks in implementation. The state should not hesitate to take necessary corrective action since the very credibility of our shared commitment to fight corruption is at stake."

In the recent Conference of Central Bureau of Investigation, the Hon'ble Prime Minister "complemented the CBI on the trust and credibility it enjoyed in the eyes of the people and reminded its officers that they could create a deterrent impression that "no fish - big or small - can escape your net."

He also said:

"Let each institution in our democracy do the work that the law earmarks as its domain - in proper coordination with other institutions; with no interference or pressure from outside; with requisite autonomy but with full responsibility."

As the CBI is the Premier Investigating Agency in the country, and as the policy of the Central Government is to eradicate corruption from public services and thereby achieve the goal to establish corruption free society, if the Lokayukta, Rajasthan is permitted to utilise the services of this Central Investigating Agency, it would be a step forward in that direction. In appropriate cases, such help from the premier investigating agency would go a long way to root out corruption. This is only with this object that such a provision has been incorporated in the Rajasthan Lokayukta and Up Lokayuktas Act.

I hope that the matter would be given deeper consideration at the earliest and the Central Government's consent would be accorded for utilising the services of CBI by the Lokayukta, Rajasthan and the Lokayukta Institution thereby would be strengthened and would become more effective and powerful in the conduct of Investigation under the Lokayukta Act.

You may kindly get the matter examined at the earliest and needful action be taken as more than two years have already elapsed.

With warm regards,

Yours sincerely,  
sd/-  
( M.C. Jain )

Hon'ble Shri Atal Behari Vajpayee Ji,  
Prime Minister of India,  
7, Race Course Road,  
New Delhi - 110 011

JUSTICE M.C. JAIN  
Lokayukta, Rajasthan

D.O. Letter No. F.39(1)2000/11509  
Jaipur, Dated : 7th March, 2003

Dear Prime Minister,

I wrote a D.O. letter no. F. 39(1)2000/1927-29 dated June 9, 2000 for according concurrence of the Central Government for utilising the services of C.B.I. for purposes of investigation u/Sec. 14 Sub Section 3 of the Rajasthan Lokayukta & Up Lokayukta Act, 1973 (Act No. 9 of 1973).

I also addressed a similar letter to Hon'ble Shri L.K. Advani ji, Union Home Minister, which was responded by him vide his D.O. Letter No. 1317/0/H.M.P.-2000 dated 20th June, 2000 by which my letter was forwarded to Smt. Vasundhara Raje ji, Minister of State in the Ministry of Personnel, Public Grievances and Pensions. Thereafter, the correspondence continued with Smt. Vasundhara Raje ji, Minister of the State. But so far final action has not been taken by the Central Government in the matter. Whatever queries were made, they were replied and to my mind, there appears to be no legal hurdle in according consent of the Central Government for utilising the services of C.B.I. for purposes of investigation u/s. 14 sub-section 3 of the Rajasthan Lokayukta & Up Lokayukta Act, 1973 (Act No. 9 of 1973). I had quoted the provisions in my first letter and thereafter a copy of the Act was also forwarded to the concerned Minister of State. In reply to the letters from the above Minister of State, I clarified the legal position.

The matter requires serious consideration at your end, so that this Office may be able to utilise the services of the CBI in the most appropriate cases, which in my opinion, will go a long way to serve the cause and goals of good governance to combat, corruption and abuse of power. I may mention that investigation U/s 14(3) is not an investigation under Cr.P.C. and entries in the Union List are not at all attracted.

I hope the matter will be finally settled and also decision will be taken for according concurrence of the Central Government for utilising the services of the Central Bureau of Investigation.

Copies of the entire correspondence are enclosed for ready reference.

With warm regards,

Yours sincerely,  
Sd/-  
( M.C.Jain )

Hon'ble Shri Atal Bihari Vajpayee,  
Prime Minister, Government of India,  
Central Secretariat, New Delhi.

JUSTICE M.C. JAIN  
Lokayukta, Rajasthan

D.O. Letter No. F.39(1)2000/11510  
Jaipur, Dated : 7th March, 2003

Dear Deputy Prime Minister,

I wrote a D.O. letter no. F. 39(1)2000/1928 dated June 9, 2000 for according concurrence of the Central Government for utilising the services of C.B.I. for purposes of investigation u/Sec 14 Sub-Section 3 of the Rajasthan Lokayukta & Up Lokayukta Act, 1973 (Act No. 9, 1973), which was forwarded by you to Smt. Vasundhara Raje ji, Minister of State in the Ministry of Personnel, Public Grievances and Pensions. Thereafter, the correspondence continued with Smt. Vasundhara Raje ji, Minister of the State. But so far final action has not been taken by the Central Government in the matter. Whatever queries were made , they were replied and to my mind, there appears to be no legal hurdle in according consent of the Central Government for utilising the services of C.B.I. for purposes of investigation u/s. 14 sub Section 3 of the Rajasthan Lokayukta & Up Lokayukta Act, 1973 (Act No. 9 of 1973). I had quoted the provisions in my first letter and thereafter a copy of the Act was also forwarded to the concerned Minister of State. In reply to the letters from the above Minister of State, I clarified the legal position.

The matter requires serious consideration at your end, so that this Office may be able to utilise the services of the CBI in the most appropriate cases, which in my opinion, will go a long way to serve the cause and goals of good governance to combat, corruption and abuse of power. I may mention that investigation u/s. 14(3) is not an investigation under Cr.P.C. and entries in the Union List are not at all attracted.

I hope the matter will be finally settled and also decision will be taken for according concurrence of the Central Government for utilising the services of the Central Bureau of Investigation.

Copies of the entire correspondence are enclosed for ready reference.

With warm regards,

Yours sincerely,  
Sd/-  
( M.C.Jain )

Hon'ble Shri Lal Krishna Advani,  
Deputy Prime Minister,  
Government of India,  
Central Secretariat, New Delhi.

JUSTICE M.C. JAIN  
Lokayukta, Rajasthan

D.O. Letter No. F.1(4)2000/11511  
Jaipur, Dated : 7th March, 2003

Dear Minister,

I had written a D.O. letter to the Union Home Minister Shri Lal Krishna Advani ji bearing number F.1(4)LAS/2000/7580 dated 23.2.2000, which was forwarded by him to the then Minister of State, Department of Personnel, Public Grievances and Pensions, Smt. Vasundhara Raje ji.

I had made a request for according concurrence of the Central Government for utilising the services of C.B.I. for purposes of investigation u/Sec. 14 Sub Section 3 of the Rajasthan Lokayukta & Up Lokayukta Act, 1973 (Act No. 9 of 1973). The correspondence continued since then and I had received the last letter from Smt. Vasundhara Raje ji dated 5th July, 2002 stating therein that she had asked her department to look into the matter and shall revert to me at the earliest. Since then, nothing has been heard in the matter. The matter has already been very much delayed.

I therefore, request you to finalise the matter at your earliest convenience and concurrence may kindly be accorded for utilising the services of C.B.I. in some most appropriate cases under Section 14(3) of Rajasthan Lokayukta & Up Lokayukta Act, 1973.

With warm regards,

Yours sincerely,  
Sd/-  
( M.C.Jain )

Hon'ble Shri Harin Pathak,  
Union Minister,  
Personnel, Public Grievances and Pensions,  
Government of India,  
168, Udyog Bhawan,  
New Delhi - 110011.

L.K.Advani  
Deputy Prime Minister

No.O.666/HMP/03  
24 MAR 2003

Dear Justice Jain Ji,

I am in receipt of your letter dated 7th March 2003 along with its enclosures seeking concurrence of the Central Government for utilizing the services of the Central Bureau of Investigation.

I am having the matter look into.

With regards,

Yours sincerely,  
Sd/-  
(L.K.ADVANI)

Justice M.C.Jain,  
Lokayukta, Rajasthan,  
Government Secretariat Premises,  
Bhagwan Das Road,  
JAIPUR.  
North Block, New Delhi-110001 India

हरिन पाठक  
HARIN PATHAK

राज्य मंत्री,  
कार्मिक, लोक शिकायत तथा पेंशन,  
भारत सरकार  
MINISTER OF STATE FOR  
PERSONNEL, PUBLIC  
GRIEVANCES & PENSIONS  
GOVT. OF INDIA

No.1738/VOP/MOS/(PP)/03  
26 MAR 2003

Dear Shri Justice Jain Ji,

Thank you for your D.O.letter No.F.1 (4) 2000/11511 dated 7th March 2003 drawing attention to your letter dated 23rd February 2000 regarding grant of permission to utilize the services of the CBI in come most appropriate cases under Section 14(3) of Rajasthan Lokayukta & Up-Lokayukta Act, 1973, and requesting for an expeditious reply to the issue.

I have asked my Department to look into the matter and shall revert to you at the earliest.

With regards,

Yours sincerely,  
Sd/-  
(HARIN PATHAK)

HON'BLE JUSTICE M.C.JAIN  
Lokayukta, Rajasthan  
Government Secretariat Premises,  
Bhagwan Das Road,  
Jaipur-302 002

परिशिष्ट-एच

सांतवा अखिल भारतीय लोकायुक्त/लोकपाल/उप-लोकायुक्त (ऑम्बुड्समैन)  
सम्मेलन-2003 बैंगलौर

सांतवा अखिल भारतीय लोकायुक्त/लोकपाल/उप-लोकायुक्त (ऑम्बुड्समैन) सम्मेलन-2003 (बैंगलोर) बैकवेट हॉल, विधान सौधा, बैंगलोर में दिनांक 17 एवं 18 जनवरी, 2003 को सम्पन्न हुआ ।

सम्मेलन में मेरे द्वारा स्वागत भाषण दिये जाने के पश्चात्, न्यायमूर्ति श्री एन. वैकटचला, लोकायुक्त, कर्नाटक ने की-नोट एड्रेस दिया । तत्पश्चात् माननीय श्री एस.एम. कृष्णा, मुख्यमंत्री, कर्नाटक, न्यायमूर्ति श्री फैजानुद्दीन, लोकायुक्त, मध्यप्रदेश व अध्यक्ष, अखिल भारतीय लोकायुक्त/लोकपाल/उप-लोकायुक्त (ऑम्बुड्समैन) संगठन एवं श्री टी. एन.चतुर्वेदी, महामहिम राज्यपाल, कर्नाटक द्वारा सम्बोधित किया गया । महामहिम उप-राष्ट्रपति श्री भैरोसिंह शेखावत ने सम्मेलन का उद्घाटन भाषण दिया व श्री आर.सी. अय्यर, उप-लोकायुक्त, महाराष्ट्र ने धन्यवाद ज्ञापित किया ।

दिनांक 17 जनवरी, 2003 को उद्घाटन समारोह के दिन सम्मेलन के दो सत्र थे, तथा दिनांक 18 जनवरी, 2003 को दो सत्र व समापन सत्र था ।

दिनांक 17 जनवरी, 2003 के दो सत्रों का विषय निम्न था :-

**Ombudsmen & Promotion of Good Governance.**  
**Ombudsmen of India - Vision for 21st Century.**

इसी प्रकार दिनांक 18 जनवरी, 2003 को दो सत्रों का विषय निम्न था:-

**Ombudsmen of India- Ideals & Reality.**  
**Mal-administration and Public Funds.**

दिनांक 18 जनवरी, 2003 को समापन समारोह का समापन भाषण माननीय श्री लालकृष्ण आडवानी, उप-प्रधानमंत्री, भारत सरकार द्वारा दिया गया ।