Delay in forming Lokpal

Why in news?

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The Supreme Court recently gave the Lokpal search committee time till February-end to short-list a panel of names for chairperson and members of the Lokpal.

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What is the lokpal?

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- **Purpose** – It is an institution that will inquire into allegations of corruption against certain public functionaries.
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- **Composition** - The Lokpal shall consist of a chairperson and up to eight members.
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- The chairperson and at least half of the members have to be current or former judges of the Supreme Court or chief justices of high courts.
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- The other members will have at least 25 years' experience in matters related to anti-corruption policy, vigilance, public administration, finance, law and management.
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- **Selection** - Under Rule 11 (2) of the Search Committee Rules, 2014, the search panel for lokpal recommends at least five names for chairperson and at least three times the number of vacancies in the case of members.
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- This recommendation has to be placed before the high-power selection committee led by the Prime Minister.
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- The selection committee comprises the Lok Sabha Speaker, the Leader of the Opposition, the Chief Justice of India and an eminent jurist as members.
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- However, the court has for the past several months been constantly urging the government to complete the Lokpal appointment.
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What was the delay in constituting the search committee itself?

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- Though passed in 2014, the Lokpal and Lokayukta Act of 2013 was not implemented all these years because there was no Leader of Opposition (LoP) in the 16th Lok Sabha.
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- However, on April 27 last year, the Supreme Court clarified that the Lokpal appointment process need not be stalled merely due to the absence of the LoP.
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- For this, the court points to sub-section (2) of Section 4 of the original 2013 Lokpal Act.
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- The section makes it clear that an appointment of the chairperson or members of Lokpal will not be invalidated merely because one of the members of the selection committee (the LoP) is missing.
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- In short, the available members of the Lokpal selection committee could very well recommend suitable persons to the President for appointment to Lokpal.
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- Thus, the Lokpal Act 2013 is deemed to be an eminently workable piece of legislation by the Supreme court.
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- Also, a Parliamentary Standing Committee submitted its report on December 3, 2015, fully supporting the amendment to replace the LoP with the single largest Opposition party leader in Lok Sabha.
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- But this amendment has yet to be passed in the parliament.
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What is the stand of the government?

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- The government said that a search committee was constituted in September 2018 to select eligible candidates.
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- The Department of Personnel and Training’s notification, issued on September 27, lists the names of the eight-member search committee, led by

Justice Desai.
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- However, in an affidavit filed a few days ago, the government explained its limited role.
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- It said the search committee devises its own procedure for evaluating suitable names to be shortlisted.
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- It further says that the central government shall provide only such assistance as may be required by the search committee and that the search committee has not yet conveyed any date for its meeting.
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What should be done?

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- It is true that setting up the Search Committee requires some groundwork, as its composition should be drawn from diverse fields such as anti-corruption policy, public administration, law, banking and insurance.
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- Also, half its membership should consist of women, backward class, minority and SC/ST candidates.
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- However, it is the government's duty to expedite this process and not cite it as a reason for delay.
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- Even after it was formed, the Search Committee has been handicapped because of lack of office space, manpower, infrastructure and a secretariat.
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- The court has now asked the government to provide the required infrastructure.
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- The SC has also asked the eight-member Search Committee under the Lokpal Act to recommend a panel of names before the end of February.
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- This shortlist has to be sent to the Selection Committee, headed by the Prime Minister.
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- Recently, in respect of appointments to other posts such as CBI Director and Central Vigilance Commissioner, a simple amendment was made to treat the leader of the largest Opposition party as the Leader of the Opposition for this purpose.

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- A similar amendment should be done in the case of Lokpal to expedite the process of its formation.
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Source: The Hindu, PRS

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