Lokpal and Lokayuktas

What is the issue?

- Former Supreme Court judge Justice Pinaki Chandra Ghose was finalised by a selection panel as the first head of the Lokpal.
- It is imperative, in this context, to understand the various provisions and features of the Lokpal and Lokayuktas Act, 2013.

What is the composition?

- The first head has been selected 5 years after the President had given assent to the Lokpal and Lokayuktas Act, 2013.
- Lokpal is the national anti-corruption ombudsman.
- Under the 2013 Act, the Lokpal should consist of a chairperson and such number of members, not exceeding 8.
- Of the members, 50% should be judicial members.
- Also, not less than 50% of the members should be from among persons belonging to the SCs, the STs, OBCs, minorities and women.
- The same rules apply for members of the search committee.

How is the selection done?

- The selection procedures for the members and the chairperson are the same.
- A search committee will prepare a panel of candidates, and a selection committee will recommend names from among this panel.
- The President will finally appoint these as members.
- Salaries, allowances and service conditions of the Lokpal chairperson will be the same as that for the Chief Justice of India.
- For other members, these will be the same as that for a judge of the Supreme Court.

What after the selection process?

- After the selection of members, the Lokpal will set about creating its various wings.
- It will have an Inquiry Wing, headed by the Director of Inquiry.
- This conducts preliminary inquiry into any offence allegedly committed by a public servant punishable under the Prevention of Corruption Act, 1988.
- It will also have a “Prosecution Wing, headed by the Director of Prosecution.

- This is to prosecute public servants in relation to any complaint by the Lokpal under this Act.
- So once the members are appointed, the process for more appointments will start.
- These may include that for Secretary, Director of Inquiry and Director of Prosecution and other officers and staff of the Lokpal.

Who all does the Act cover?

- The Act covers a wide range of public servants with various rules for each.
- These ranges from the Prime Minister, ministers and MPs, to groups A, B, C and D employees of the central government.
- It shall apply to public servants in and outside India.
- The Act also includes the Lokpal's own members under the definition of "public servant".
- The Chairperson, Members, officers and other employees of the Lokpal, while functioning under the provisions of the Act, shall be deemed to be public servants.
- A complaint under this Act shall only relate to a period during which the public servant was holding or serving in that capacity.

How does an inquiry proceed?

- The Lokpal may, after receiving a complaint against any public servant, order a preliminary inquiry which has to be completed within 90 days.
- After receiving the report of the preliminary inquiry, the Lokpal may order an investigation by any agency or departmental proceedings.
- S/he may also take any other appropriate action by the competent authority, or it can order closure of the proceedings.

What are the limitations?

- If a complaint is filed against the PM, the Lokpal shall inquire or cause an inquiry to be conducted into the allegation of corruption.
- However, the Act does not allow a Lokpal inquiry if the allegation against the Prime Minister relates to

    1. international relations
    2. external and internal security
    3. public order
    4. atomic energy
    5. space

- Also, complaints against the PM are not to be probed unless the full Lokpal

bench considers the initiation of an inquiry and at least 2/3rds of the members approve it.
- Such an inquiry against the PM (if conducted) is to be held in camera.
- If the Lokpal concludes that the complaint deserves to be dismissed, the records of the inquiry are not to be published or made available to anyone.

What are the Lokayuktas?

- The Lokayuktas are the state equivalents of the central Lokpal.
- States have to establish the Lokayukta to deal with complaints on corruption against certain public functionaries in the states.
- In some states, Lokayuktas were already functioning when the 2013 Act was passed.
- Most states, however, are without a Lokayukta even after the 2013 Act.
- The Supreme Court recently directed these states to take steps for appointment of Lokayukta.

Source: Indian Express

SHANKAR IAS PARLIAMENT
Information is Empowering