Syllabus subtopic: Statutory, regulatory and various quasi-judicial bodies

Prelims and Mains focus: about the Lokpal Act of 2013; the office of Lokpal and Lokayukta: composition, ambit and powers

News: Lokpal member Justice Dilip B. Bhosale (retd.) has resigned from his post citing personal reasons.

Background: The govt. had appointed the Lokpal last year

The Lokpal and Lokayukta Act of 2013:

- The Act allows setting up of anti-corruption ombudsman called Lokpal at the Centre and Lokayukta at the State-level.

- Composition: The Lokpal will consist of a chairperson and a maximum of eight members.

- Applicability: The Lokpal will cover all categories of public servants, including the Prime Minister. But the armed forces do not come under the ambit of Lokpal.

- The Act also incorporates provisions for attachment and confiscation of property acquired by corrupt means, even while the prosecution is pending.

- The States will have to institute Lokayukta within one year of the commencement of the Act.

- The Act also ensures that public servants who act as whistleblowers are protected.
Who can become the Chairperson?

The person who is to be appointed as the chairperson of the Lokpal should be either of the following:

- Either the former Chief Justice of India Or the former Judge of Supreme Court Or an eminent person with impeccable integrity and outstanding ability, having special knowledge and expertise of minimum 25 years in the matters relating to anti-corruption policy, public administration, vigilance, finance including insurance and banking, law and management.

Who can become a member?

- Out of the maximum eight members, half will be judicial members.
- Minimum fifty per cent of the Members will be from SC / ST / OBC / Minorities and women.
- The judicial member of the Lokpal should be either a former Judge of the Supreme Court or a former Chief Justice of a High Court. The non-judicial member should be an eminent person with impeccable integrity and outstanding ability, having special knowledge and expertise of minimum 25 years in the matters relating to anti-corruption policy, public administration, vigilance, finance including insurance and banking, law and management.

Who cannot become the chairperson?

The following persons cannot become chairperson of Lokpal:

- MPs and MLAs
- Persons convicted of any offense involving moral turpitude
- Less than 45 years of age
- Members of Panchayats or Municipality
- A person who was removed or dismissed from the public service
- A person who holds any office of trust / profit; if so, he would need to resign from Lokpal
- A person who is affiliated to a political party carries on some business / profession; if so, he would need to quit some business.

Term of Office:

- The term of office for Lokpal Chairman and Members is 5 years or till attaining age of 70 years.
- The salary, allowances and other conditions of service of chairperson are equivalent to Chief Justice of India and members is equivalent to Judge of
Supreme Court. If the person is already getting the pension (for being a former judge), the equivalent pension amount will be deducted from the salary.

- The source of salary for Lokpal and Members is **Consolidated Fund of India.**
- If the chairperson dies in office or has resigned from the post, President can authorise the senior-most Member to act as the Chairperson until new chairperson is appointed. If chairperson is not available for certain functions due to leave, his job will be done by senior most member.

**Powers:**

- The Lokpal will have the power of superintendence and direction over any investigation agency including CBI for cases referred to them by the ombudsman.
- As per the Act, the Lokpal can summon or question any public servant if there exists a prima facie case against the person, even before an investigation agency (such as vigilance or CBI) has begun the probe. Any officer of the CBI investigating a case referred to it by the Lokpal, shall not be transferred without the approval of the Lokpal.
- An investigation must be completed within six months. However, the Lokpal or Lokayukta may allow extensions of six months at a time provided the reasons for the need of such extensions are given in writing.
- Special courts will be instituted to conduct trials on cases referred by Lokpal.

**Ambit of the Lokpal:**

- For a wide range of public servants from the PM, ministers and MPs, to groups A, B, C and D employees of the central government various rules are in place.
- If a complaint is filed against the PM, the Act says, “Lokpal shall inquire or cause an inquiry to be conducted into any matter involved in, or arising from, or connected with, any allegation of corruption made in a complaint”.
- However, certain conditions will apply. The Act does not allow a Lokpal inquiry if the allegation against the PM relates to international relations, external and internal security, public order, atomic energy and 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 two-thirds of the members approve it.
- Such an inquiry against the Prime Minister (if conducted) is to be held in camera and if the Lokpal comes to the conclusion that the complaint deserves to be dismissed, the records of the inquiry are not to be published.
or made available to anyone.

Is Lokpal subjected to the law itself?

- 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 shall be deemed, when acting or purporting to act in pursuance of any of the provisions of this Act to be public servants.
- It shall apply to public servants in and outside India.
- It clarifies that a complaint under this Act shall only relate to a period during which the public servant was holding or serving in that capacity.