

Lokpal – The effort continues

This time the opportunity has come in the form of *The Lokpal and Lokayuktas and other related Law (Amendment) Bill, 2014* to contribute for effective Lokpal Institution. This bill is under the purview of Department Related Parliamentary Standing Committee on personnel, Public Grievances, Law and Justice of Rajya Sabha. FDR has submitted its views on the bill and also has been invited to present its views before the committee. The bill has provisions that ensures speedy establishment of Lokpal. However, certain issues need to be addressed to ensure effective functioning of the Lokpal.

Gist of improvements needed in the amendment bill

Mandatory disclosure of movable property held in the name of family members of public servant and publication of annual return of assets and liabilities:

The Lokpal Act mandates disclosure of assets and liabilities held in the name of public servant, his spouse and his dependent children. Whereas, the proposed amendment bill seeks to exempt movable property held in the name of public servants' family members from disclosure. Also, the principal Act enables competent authority to publish annual statement of assets and liabilities furnished by the public servant on their respective websites. Whereas, the amendment bill exempts this mandatory provision. While, Right to Information Act mandates proactive disclosure, the proposed exemptions are truly one step backward in achieving greater transparency & accountability. Therefore, the exemptions proposed from disclosure should be withdrawn.

Greater powers to Lokpal to take action against corrupt public servants

According to the Lokpal Act, Lokpal can only recommend to the Central Government for transfer or suspension of public servant if it is *prima facie* satisfied with the evidence available that, continuance of alleged public servant in the same post would affect the process of preliminary inquiry. However, the recommendations were not binding. Understanding the magnitude of corruption in India, Lokpal can only function effectively when assigned with greater powers. Therefore, in cases of grave offences, if Lokpal is satisfied with the evidence available, then it can recommend to the competent authority for dismissal or reduction in rank of public servant. While ensuring that the public servant is given an opportunity to be heard before any action is taken, these recommendations should be made binding over competent authority.

Integration of the Central Vigilance Commission (CVC) with the Lokpal

In order to ensure effective coordination between CVC and Lokpal the central vigilance commissioner and two vigilance commissioners may function as ex-officio members of Lokpal. The three members of CVC will be a part of Lokpal and will simultaneously exercise the functions under the CVC Act, with appropriate changes. All the allegations of corruption against Class I officers will be referred to the Lokpal for action. The members of the CVC will be part of decision-making process in all these cases in Lokpal. In respect of corruption allegations against officials of lower rank, the CVC will have exclusive jurisdiction without over-burdening the Lokpal institution. In cases concerning corruption, the CBI must be made accountable only to the CVC and not the government. Once this is done, the CVC should be given the power to appoint prosecutors dealing with the corruption cases investigated by CBI.

Apart from a strong independent Lokpal, many other measures have to be taken to tackle the menace of corruption effectively, namely – Speedy enactment of Right to Public Services legislation, Amendments to Prevention of Corruption Act, 1988, False Claims Act on the lines of US False Claims Act, imposition of windfall profits tax or royalty or cess. Also, efforts need to be made towards strengthening the anti-corruption institutions in the country especially filling vacancies, increasing the staff to population ratio of the anti-corruption agencies (CBI in particular), improved infrastructure for surveillance, forensic laboratories, communications and mobility must be given due attention.

These are vital initial steps. The durable and final steps in building a corruption free system would involve in addition introduction of competition and choice, technology and transparency, dramatic decentralization of power with clear lines of authority fused with accountability, and political reform to alter the nature of politics and eventually eliminate dependence on illegitimate and unaccounted money power for inducing people to vote in a certain manner. Once robust, practical, strong and independent anti-corruption agencies are in place, other systemic reforms can be institutionalized through national consensus.
