

**BEFORE THE HON'BLE LOKAYUKTA
Justice Manmohan Sarin**

Complaint No. C-727/Lok/2011

Lokayukta on its own motion in Re:- Prof. Purushottam Goyel, Original Informant.

And in the matter of: Shri Jal Singh Rana, erstwhile Chairperson of Governing Body, Vivekanand College, Delhi University.

ORDER

1. The informant, Shri Purushottam Goyel, sent a letter dated 15-04-2011, complaining against Shri Jal Singh Rana, the then Chairman, Governing Body, Vivekanand College For Women, and Mrs. Renu Sawhney, the officiating Principal of the College. Later he sent another letter dated 01-05-2011 complaining against the said Chairman and also requested for return of his earlier communication dated 15-04-2011, which was accordingly returned to him. In his letter dated 01-05-2011 he has enclosed a copy of his letter dated 15-04-2011, addressed to Mrs. Shiela Dikshit, Chief Minister of Delhi, regarding various illegalities committed by the Governing Body of Vivekanand College For Women. According to Mr. Purushottam Goyel, Shri Jal Singh Rana, erstwhile Chairman of the Governing Body of Vivekanand College For Women, was responsible for the illegalities. He was a "public functionary" in terms of Sec. 2(m)(iv) of Delhi Lokayukta and Upalokayukta Act, 1995, and he has failed to act in accordance with the norms of integrity and conduct which ought to be followed by public functionaries and has also abused / misused his position to obtain gain and favour for a few college employees so as to save them from criminal liabilities.

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2. Before going into the illegalities allegedly committed by Shri Jal Singh Rana, the preliminary question which arises for this Forum to exercise jurisdiction is whether Shri Jal Singh Rana is a "public functionary", in terms of Sec. 2(m)(iv) of the Act, or not? Accordingly, notice was issued to the informant Shri Purushottam Goyal for a preliminary hearing on maintainability of the proceedings in respect of Shri Rana. The original informant was heard on 5-7-2011, 8-8-2011 and 17-08-2011. Shri Purushottam Goyal, also filed his written submissions on 12-07-2011 and 17-08-2011.

3. I have perused the record and also considered the submissions made by Shri Purushottam Goyal.

4. According to the informant, Shri Jal Singh Rana, is a "public functionary" in terms of Sec. 2(m)(iv) and (5) of the Act. The Vivekananda College was a launching-pad of Delhi Government, which is evident from the Memorandum of Association of the Society, which is signed by Shri S.C. Bajpai, Secretary to the Hon'ble Lt Governor and Shri B.R. Vyas, Deputy Director and Under Secretary (Education), Delhi Admn. He further submits that the total number of members of the Governing Body in terms of Statute-30 (1)(c) could be 20. However, as per the Executive Council Resolution No. 211 dated 23-08-1969, the College should nominate only 10 members as representatives of the Trust. He further submits that the names of members nominated by the Delhi Government were approved by the Chief Minister.

5. Section 2(m)(iv)(5) of the Act reads as under:-

"(m) "Public functionary" means a person who is or has been at any time-

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(iii) xxx

(iv) a Chairman, Vice Chairman or Managing Director or a Member of a Board of Directors (by whatever name they be called) in respect of-

(1) xxx

(2) xxx

(3) xxx

(4) xxx

(5) any Commission or body set up by the Government which is owned and controlled by it;"

6. It can be seen that a Chairman, Vice Chairman, Managing Director or a Member of the Board of Directors of any Commission or body set up by the Government would fall within the jurisdiction of Lokayukta, only if such Commission or Body is owned and controlled by the Government of NCT of Delhi. In the instant case, as per the Memorandum of Association of the Vivekanand College For Women, the said college is being run by a Society named "Vivekanand College For Women Society". As per Clause-5 of the Memorandum of Association, the membership of the Society shall be identical with that of the Governing Body, and the affairs of the Society shall be vested in and administered by the Governing Body which shall be constituted in accordance with and subject to the provisions of the Act, Statutes, Ordinances, Regulations of the University of Delhi. Further, Rule-3 of the Rules of Vivekanand College For Women Society, Delhi, the constitution, composition, term of office of members and Chairmanship of the Governing Body of the society shall be in accordance with Statute-30 read with Ordinance-XVIII of the University of Delhi. As per the Memorandum of Association, there were 13 constituent members of the Governing Body,

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out of whom two were from the Government of NCT of Delhi. As per the original informant himself, the college is funded to the extent of 95% by the Central Government and 5% by the Government of NCT of Delhi, though it is audited by the Audit and Accounts Department of NCT of Delhi.

7. According to Statute-30 (1) (c), every College is to have a regularly constituted Governing Body consisting of not more than twenty persons approved by the Executive Council and including amongst others at least two representatives of the University and at least three representatives of the teaching staff of whom the principal of that college or institution shall be one.

Ordinance-XVIII provides that members of the Governing Body, other than the principal, shall hold office for a period of one year and shall be eligible for re-appointment or re-election. However, on the expiry of one year, the Executive Council may either on the request of the Trust/Delhi administration or on its own, as the case may be, extend the term of the existing nominees of the Trust/ Delhi Administration on the Governing Body for a further period not exceeding six months, if it is satisfied that the circumstances so warrant.

8. The mere fact that as per the Memorandum of Association, two out of a total of thirteen members of the Governing Body were from Delhi Government does not show the control of Government of NCT of Delhi over the college. Further, the practice of approval by the Chief Minister of the names of members to be nominated by the Delhi Government does not per-se ensure their approval by the Executive Council of Delhi University. The final authority to approve the members of the Governing Body of the College is the Executive Council of Delhi University. The Executive Council of the University of

Delhi is constituted in terms of Sec. 21 of the Delhi University Act, 1922, read with Statute-V there under. It shows that the Government of NCT does not play a part in its formation. Hence, the Government of NCT of Delhi cannot be said to be having any control over the Members of the Executive Council. Thus, Executive Council of the University is not under the control of the Government of NCT of Delhi.

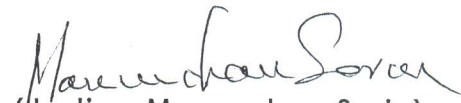
9. It can be seen that so far as funding is concerned, 95% of the funds in running of the College is provided by the Central Government. Although the Government of NCT of Delhi participates in running of the College, it cannot be said to be having substantial control over the College. Therefore, Vivekanand College For Women would not be a body which is wholly or even substantially controlled by the Government of NCT of Delhi. Accordingly, the Chairman of the Commission would not fall within the ambit of "public functionary" as defined under Sec. 2(m)(iv) & 5 of the Act. Consequently, no inquiry can be held against Shri Jal Singh Rana or for that matter any functionary in respect of Vivekanand College For Women under the Act by the Lokayukta. It is held that this Forum does not have the jurisdiction to entertain proceedings under the Act in respect of Chairman of the Governing Body of the Vivekanand College For Women Society and the Principal of the College, who are not "public functionaries" within the meaning of Sec. 2(m)(iv) of the Act.

10. While respecting the autonomy of the Governing Body administering the Colleges and educational institutions, it is also essential to ensure that the educational institutions which shape the career of our youth are kept free from corruption, nepotism and financial misappropriation and bungs. In the instant case, the Vivekanand College Society is funded

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95% by Central Government. The allegations levelled by Shri Purushottam Goyal relating to financial misappropriation, cheating, impersonation, wrong admissions etc. are serious in nature. It is a grievance of Mr. Goyal that these have neither been properly investigated into nor taken to their logical conclusion. Without expressing any opinion on the same, it is considered expedient and in the interest of justice that the letter of Shri Purushottam Goyal dated 01-05-2011 together with all the annexures is sent to the Vice Chancellor of Delhi University and the CVC for consideration and being dealt with as deemed fit.

17-02-2012


(Justice Manmohan Sarin)
Lokayukta