

BEFORE THE HON'BLE LOAKYUKTA
JUSTICE MANMOHAN SARIN

C-1173/Lok/2011

In Re:

Shri Krishan Gopal Gupta Complainant

Versus

Shri Sheesh Pal, MCD Councillor Respondent

Present:-

1. Shri Arun Kaushal, Advocate, Counsel for the complainant along with Shri Krishan Gopal Gupta, Complainant in person.

Mr. Arun Kaushal, Ld. Counsel for the complainant very fairly submits that the respondent was elected as an MLA during the period 1993-98 and thereafter from 1998-03. The alleged acts of misconduct against the public functionary, which form the basis of allegations, it is urged, came to the knowledge of the complainant in the year 2008, when the respondent filed nomination papers furnishing the details of wealth and properties held by him and in the name of his legal heirs. It is stated that the complaint which is filed on 15-12-2011 was thus within five years of coming into the knowledge, of the alleged particulars of the respondent's properties, by the complainant, which were wrongfully acquired.

It is averred in the complaint that the salary of respondent No.1, for the period 1981-03, who was MLA during the period 1993-03, could not have enabled him to acquire these properties, which were wholly disproportionate to the known sources of income. It is averred in the complaint that the respondent No.1 was a Percher i.e. Chowkidar and was earning a meager amount of Rs. 196/- p.m. initially.

This is not a case where limitation can be extended on the basis of the Complainant gaining knowledge of a fact at a later date. It is also not a case where any fraudulent concealment is alleged. In these circumstances, the limitation in terms of Sec. 8 (b) of the Delhi Lokayukta &

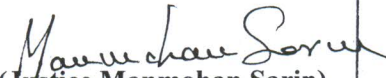
Upalokayukta Act, 1995, for taking cognizance of any complaint against a public functionary would expire five years from the date of the expiry of his term as an elected representative, which in this case, happens to be 2003, i.e. by 2008.

In the instant case, admittedly, the complaint is filed on 15-12-2011, i.e. nearly three years after the expiry of limitation period. Ld. Counsel, Mr. Kaushal, attempted to urge that Section -8(b) puts a bar only on any inquiry to be made after the expiry of five years, however, an investigation could be made into the respondent's assets. The above ignores explanation to Section-7 of the Act providing for inquiry into allegations by the Lokayukta. The explanation is in the following terms:-

“For the purposes of this section, the expressions, “may proceed to inquire”, and “may inquire”, include investigation by any person or agency put at the disposal of the Lokayukta and Upalokayukta in pursuance of sub-section (2) of Section-13”.

It would, therefore, follow from the above that the term, “inquiry” includes “investigation”, hence, the bar under Sec. 8(b) would equally apply to any investigation. In these circumstances, the complaint is held to be barred by limitation and not maintainable. It would, however, be open for the complainant to avail of appropriate legal remedies if he is of the view that the facts disclosed a cognizable offence under the IPC or the Prevention of Corruption Act, and are well within the limitation period.

File be consigned to record.


(Justice Manmohan Sarin)
Lokayukta

Date: 19-03-2012

Hemant