

THE DELHI LOKAYUKTA & UPALOKAYUKTA ACT, 1995

Dr. Harshvardhan, a BJP MLA, filed a complaint against Smt. Sheila Dikshit and Shri. Rajkumar Chauhan, Chief Minister and Minister for PWD / Development / L&B etc. and Chairman of the Delhi Welfare of SC/ST/OBC/Minority Finance & Development Corporation (Corporation) before the Lokayukta.

Dr. Harshvardhan's grievance was that Smt. Sheila Dikshit and Shri. Rajkumar Chauhan both got their photographs printed on the Loan Application Forms. This was under the Delhi Swarojgar Yojna Scheme, under which loans upto Rs. 5.00 Lacs could be given to the needy members of SCs/STs/OBCs, for self employment ventures by the Corporation.

Dr. Harshvardhan alleged that the Chief Minister, Smt. Sheila Dikshit and the Minister Shri. Raj Kumar Chauhan did not control or manage the Corporation. Rs. 100 was charged for the Form with printed photographs, from every applicant, which was earlier free. Dr. Harshvardhan claimed that the printing of photographs was intended to get an edge in the forthcoming Vidhan Sabha elections by forming an image in the minds of the electors.

Notice was issued by the Lokayukta to the Chief Minister Smt. Sheila Dikshit and Minister Shri. Raj Kumar Chauhan to show cause why an inquiry be not held for violation of Section 2 (b) (i) (ii) & (iii) Delhi Lokayukta and Uplokayukta Act, 1995.

The Corporation was also asked to produce the records regarding the decision making process for printing of the photographs on the forms.

It was noticed by the Forum that though printing of photographs of different leaders on posters, pamphlets etc. regarding inauguration of camps etc. occurred frequently but printing of photographs of leaders on Loan Application forms was unusual.

The record revealed that even though the printing of the photographs was not a part of the initial proposal of the Corporation, it was later proposed by Shri. Raj Kumar Chauhan who desired it based on the earlier precedent of Chief Minister and the Minister for Food and Supply (Shri. Haroon Yusuf). This was in the forms of "Kerosene Mukht Dilli" scheme, which was approved by the Cabinet. Forms were accordingly printed.

As per Dr. Harshvardhan, the conduct of the Chief Minister, Smt. Sheila Dikshit and Minister, Shri. Raj Kumar Chauhan in printing their photographs was in violation of the norms of integrity and conduct. It was to gain an unfair advantage

in the forthcoming elections. It was a misuse and abuse of office and conduct actuated by improper motives and personal interest.

The Lokayukta during the proceedings observed that it was time that appropriate norms and guidelines were formulated for dealing with such matters. He further hoped and expected that pending hearing such forms would not be printed and distributed so that our cherished values of ethics and probity could be maintained.

The Law Department of Government of NCT of Delhi advised that pending the inquiry such forms with photographs be not printed. The Corporation with the approval of Shri. Raj Kumar Chauhan, submitted a proposal for framing of guidelines, however instead a committee headed by the Chief Secretary and other Secretaries deliberated on the issue and decided that, "After discussing at length on the various aspects contained in the interim order dated 26-10-2012, it was decided that at this stage there is perhaps no need either to formulate guidelines in the matter nor is there requirement of stopping/publishing of such photographs on the application forms of various schemes on any of the Government Department".

No reply to the show cause was filed by the Chief Minister, Smt. Sheila Dikshit, while Respondent No.2 Raj Kumar Chauhan, in his affidavit deposed as to the factual position regarding the proposal to have photographs printed

on the same basis as that of the Chief Minister and Shri. Haroon Yusuf.

Counsel for Chief Minister, Smt. Sheila Dikshit raised objections as to jurisdiction of Lokayukta and there being no power to pass any interim order. He urged that printing of photographs was an administrative decision, which could be challenged only by Writ Petition or civil proceedings. The said submission was rejected by the Lokayukta holding that the question of the violation of the norms of integrity and conduct itself was required to be decided by the Lokayukta. Regarding the interim order, the Lokayukta held that even if there was no express provision empowering passing such interim directions, in cases where the inquiry was likely to be frustrated or evidence was required to be preserved, interim directions could be given under the overall power to conduct inquiries and laying down the procedures. In any case, the same was of no consequence since the Government decided to continue with the printing of the forms with photographs and deciding there being no need to formulate guidelines in such matters at present.

On merits it was sought to be urged on behalf of the Chief Minister that photographs were meant to give credence to the scheme. This submission was neither borne out by record nor did a scheme for the benefit of the needy and weaker sections run by the Government where

loans are being provided required any boost in its credibility.

There was no conceivable reason for printing the photographs on application forms. The photographs were not required by any way of any identity, information or data for sanction of the loans. There is no doubt that the photographs are intended to glorify and develop personality cult of the individuals. There was no justification or reason for printing of the photographs on the application forms.

Reference was made by the Lokayukta to several decisions and instructions of the Election Commission which are enforced during the Model Code of Conduct. The underlying intention and the rationale is that the photographs and images of political functionaries have deep influence on the minds of the electors, disturbing the level playing field vis-à-vis political functionaries of other parties. The Lokayukta referred to the judicial pronouncement by the Supreme Court in the Writ Petition (C) No.266/2009 titled "RAVIKANT & ANR V/S STATE OF U.P & ORS" where the Supreme Court approved the instruction of the Election Commission inter alia holding that the purpose for putting the photographs was to gain political mileage.

The Lokayukta referred to the Supreme Court judgments where public money was being spent by the Government of U.P for personal glorification by erecting statues of leaders who were then in power. Hence the purpose was to get

unfair advantage from the beneficiaries, projecting themselves as their benefactors. The Lokayukta gave an illustrative example of the Minister of External Affairs wanting his photographs printed on all the applications for the issuance of Tatkal Passports.

In conclusion, the Lokayukta held the Respondents to be guilty of violation of the norms of integrity and conduct in terms of Section 2 (b) (i) (ii) & (iii) of the Act. He recommended issuance of an advisory by the President of India to the Respondents to desist from printing their photographs on the application forms under the Dilli Swarojgar Yojna, efface or block the photographs if any printed on the existing forms prior to their use, and to direct the Government of NCT of Delhi to frame appropriate guidelines that would govern the issuance of advertisements, hoardings etc. containing photographs and images of public functionaries even during the periods when Model Code is not applicable so as to conform to the norms of conduct and integrity expected of public functionaries.

DATE: 6TH MAY 2013
