

THE GUJARAT LOKAYUKTA RULES, 1989

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FORMS**THE GUJARAT LOKAYUKTA RULES, 1989**

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Ext. Pl. IV-B. dt. 15-5-89, p. 97-1].

In exercise of the powers conferred by section 23 of the Gujarat Lokayukta Act, 1986 (31 of 1986), the Governor of Gujarat hereby makes the following rules namely:-

CHAPTER I**PRELIMINARY**

1. Short title.-(1) These rules may be called the Gujarat Lokayukta Rules, 1989.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.-In these rules, unless the context otherwise requires—

(a) "The Act" means the Gujarat Lokayukta Act, 1986.

(b) "Civil Manual" means the Civil Manual issued by the High Court of Judicature, Bombay Appellate side, and adopted by the High Court of Gujarat for the Guidance of the Civil Courts and Officers subordinate to it, as amended from time to time;

(c) "Code" means the code of Civil Procedure 1908 in its application to the State of Gujarat;

(d) "Criminal Manual" means the Criminal Manual issued by the High Court of Gujarat for the guidance of the Criminal Courts and officers subordinate to it, as amended from time to time;

(e) "Form" means a form appended to these rules;

(f) "Registrar" means a person appointed to be the Registrar under section 15;

(g) "Secretary" means a Secretary to the Government of Gujarat and includes the Chief Secretary, Principal Secretary, Additional Chief Secretary and Special Secretary;

(h) "Section" means a section of the Act.

(2) Words and expressions used but not defined in these rules and defined in the Act, shall have the meanings respectively assigned to them in the Act.

CHAPTER II

COMPETENT AUTHORITY, OPINION OF THE CHIEF JUSTICE OF HIGH COURT, AND FORM AND CONTENTS OF COMPLAINTS, AFFIDAVITS AND DEPOSIT

3. Competent Authority under sub-clause (b) of clause (3) of section 2.-The competent authority, in relation to a public functionary other than a Minister shall be the Secretary to the Government of Gujarat of the Department, controlling or concerned with a Government Company, a Corporation or a University referred to in sub-clause (b), (c) or (d) of clause (7) of section 2 respectively, as the case may be.

4. Manner of obtaining opinion of Chief Justice of the High Court under sub-section (3) of section 8.-(1) If any dispute arises under sub-section (3) of section 8, the Governor shall forward a copy of the application made to him by the party aggrieved in this behalf to the Lokayukta calling upon him to offer his views thereon within a period of fifteen days from the date of receipt of the application by the Governor or within such further period, if any, as may be extended by the Governor on the request of the Lokayukta.

(2) On receipt of the views of the Lokayukta under sub-rule (1), the Governor shall draw up a statement of the case and, along with a copy of the application of the aggrieved party and a copy of the views thereon of the Lokayukta, refer the statement to the Chief Justice of the High Court for his opinion within such period as may be specified in the statement or such further period as may be specified in the statement or such further period as may be extended by the Governor.

5. Form and contents of complaint.-Save as otherwise provided in these rules, every complaint under the Act shall be made, as far as possible, in Form A and shall contain the following particulars namely:—

(a) The name and address of the complainant.

(b) The name, official designation and address of the public functionary against whom a complaint stating the allegation is made.

(c) The details of the content of the action complained and of the allegation.

(d) A Statement that the complainant has not for the same matter resorted to any other remedy by way of proceedings before any tribunal or court of law or any other authority empowered to decide that matter. If the complainant has resorted to any such remedy, the designation of the tribunal or court or authority, as the case may be, before which such proceedings were instituted, the date on which they were instituted, the number given to such proceedings, if the proceedings are disposed of the result of such proceedings and if the proceedings are pending the stage at which pending should be stated.

6. Signature or thumb impression below complaint.-Every complaint shall be duly signed by the complainant, or if he is illiterate it shall bear his thumb impression duly attested by a literate person under his signature, and such person shall give his full name, designation, if any, and complete address below his signature.

7. Copies of complaint.-Every complaint shall be accompanied by as many spare copies thereof and the documents relied upon or referred to and forwarded alongwith the complaint as there are public functionaries complained against.

8. Affidavit to accompany complaint.-Every complaint shall be accompanied by an affidavit as provided for in rules 9 and 10 and shall also be accompanied by a copy of the document as evidence of payment of the amount of deposit under rule 12.

9. Contents of affidavit.-Every affidavit shall be drawn up clearly and legibly and, as far as possible, in a language which the person making it understand. It shall be drawn in the first person and shall be divided into paragraphs, if any, which should be numbered consequently. Each paragraph shall, as far as possible be confined to a distinct subject or portion thereof. The affidavit shall be sworn in before the Registrar or any officer authorised in this behalf by the

Lokayukta or before a person legally authorised to administer oath.

(2) Every person making an affidavit shall state his name, father's or husband's name as the case may be surname, if any age profession or trade and place of residence and give such other particulars as will make it possible to identify him clearly.

(3) Every affidavit shall be duly signed by the person making it, or if he is illiterate it shall bear his thumb impression duly attested by a literate person under his signature and such literate person shall give his full name, designation, if any, and complete address below his signature.

(4) Every affidavit shall also include averments consistent with clause (c) of rule 5.

10. Manner of submission of complaint or affidavit.-(1) Every complaint or affidavit shall be legibly typed or written on full scape paper only on one side, leaving one-fourth of each page as margin and shall be entitled "Before the Lokayukta, Gujarat."

(2) Every affidavit shall conclude as follows:—

"I do swear in the name of God that this is my name and solemnly affirm, thumb impression/Signature and that the contents of this affidavit are true. I further swear/solemnly affirm that what is stated in paragraph (give numbers) is true to my personal knowledge and what is stated in paragraphs (give numbers) is true to my information and is believed by me to be true."

11. Copies of documents to be relied upon.-(1) If a complainant wants to rely upon any document, he shall alongwith his complaint, submit under his signature or thumb impression duly, attested, a true copy of the document on which he wants to rely.

(2) All such documents filled shall be accompanied by a list in Form-B.

12. Deposit under sub-section (4) of section 9.-The complainant shall deposit an amount of one thousand rupees by a demand draft, or by an account payee cheque, which is good for payment on any Nationalised Bank drawn in favour of the Registrar, or by making payment in cash in the civil deposits account of the Registrar maintained in the Government Treasury or in the Office of the Lokayukta and obtain the receipt for the same in Form C.

CHAPTER III

PRELIMINARY ACTION ON RECEIPT OF COMPLAINT ETC.

13. Registering of complaints.-After any complaint is received in the office of the Lokayukta it shall be scrutinized by the Registrar or any officer authorised in this behalf by the Lokayukta and if the Registrar or the authorised officer as the case may be (hereinafter in this chapter referred to as "the registering authority"), is satisfied that

the complaint is proper, he may direct the complaint to be registered in a register maintained for that purpose.

14. Defects in complaints.-If the registering authority finds that the complaint is not according to the rules or is otherwise defective, he may postpone the registration of the complaint and inform the complainant in Form-D to rectify the defects within a specified time and after such compliance he may direct the complaint to be registered.

15. Effects of non-compliance.-If the necessary requirements are not complied with within the time specified under rule 14 or such further time as the registering authority may allow, the complaint may be put up by the registering authority before the Lokayukta and the Lokayukta may summarily reject such complaint or pass such other order as he deems fit in the circumstances of the case.

16. Acknowledgment of complaint.-After any complaint is registered, the registering authority or any other officer empowered in that behalf by the Registrar, shall send to the complainant an acknowledgment of the complaint in Form (D) informing him that his complaint is registered and giving him the number of his complaint.

CHAPTER IV

INVESTIGATION AND PROCEDURE

17. Notice to public functionary in case of investigation.-(1) Where the Lokayukta proposes (after making such preliminary inquiry as he deems fit) to conduct any investigation under the Act, he shall send a notice in Form-E to the public functionary concerned, alongwith a copy of the complaint or in the case of any investigation which he proposes to conduct on his own motion, a statement setting out the grounds therefor. The notice shall require the public functionary to submit his reply within the time specified therein or within such further time, if any as may be granted.

(2) A copy of such notice and of its accompaniments shall also be sent to the competent authority concerned.

18. Manner of service of notice.-A notice under rule 17 shall be served upon the public functionary concerned by registered post acknowledgment due or by hand delivery after obtaining a receipt from him.

19. Manner of reply.-Such public functionary shall send his reply and offer his comments within the time specified or granted under sub-rule (1) of rule 17. The reply shall be accompanied by an affidavit and also by true copy or copies of the document or documents, if any, on which the public functionary desires to rely for his defence.

20. Failure to reply.-If such public functionary fails to appear personally to file his reply and to offer his comments or fails to file his reply and to offer his comments, within the time specified or granted under sub-rule (1) of rule 17 the complaint may be heard and decided

in his absence.

21. Power to condone delay.-The Lokayukta may for sufficient cause shown to his satisfaction allow the public functionary concerned to file his reply and to offer his comments after the time specified or granted under sub-rule (1) of rule 17 has elapsed.

22. Safe custody of documents etc.-If any party to the investigation files a document or documents in his support or if any file is called for from the public record, and if the Lokayukta considers it necessary in the interest of safety or security, he may specially direct any officer subordinate to him to take the documents or the file in his charge and safe custody, subject to further orders in that behalf.

23. Appearance of Advocate Pleader, etc.-Ordinarily, no Advocate, Pleader, Muktyar or other legal representative shall be allowed to appear before the Lokayukta in the investigations under this Act:

Provided that the Lokayukta may in specific cases allow the parties to appear through any such person if the Lokayukta is satisfied that such appearance is necessary in the interest of the proper disposal of the complaint.

24. Notice of hearing.-(1) During the course of conducting an investigation, the Lokayukta may serve both parties with notice in Form F to appear before him for a hearing, with or without witnesses, or for any other purpose.

(2) Such notice may be sent through the police station of the area in which the complainant or public functionary complained against ordinarily resides or through the Head of the Department in which the public functionary is serving or by registered post acknowledgment due or in such other manner as the Lokayukta thinks fit.

25. Examination and cross-examination of witnesses.-During the course of hearing, each party shall have a right to examine himself and his witnesses and to cross-examine the opposite party and the witnesses examined by that party:

Provided that if the Lokayukta is satisfied that the cross-examination is not relevant to the subject matter of the complaint, or is unduly lengthy or is otherwise improper, he may disallow it or any part of it after recording the reasons thereof.

26. Administering oath and recording of evidence.-(1) The Lokayukta or an officer duly empowered by the Lokayukta in this behalf may administer oath to every person examined during investigation under the Act.

(2) The Lokayukta may record in English the substance of the evidence given by each person examined by him.

27. Interpreters.-(1) The Lokayukta may in special cases appoint an interpreter or interpreters, who shall be paid remuneration at such rate as may be fixed by the Lokayukta.

(2) The interpreter shall take oath in the following form:—

"I do swear in the name of God that I will well and truly interpret and explain all questions put to, and evidence given by, witnesses and translate correctly all documents given to me for translation."

28. Witness summons and process.—If either party wants his witnesses to be summoned he shall pay in the form of court-fee stamps and process fee at the rate of 50 paise per witness and he shall deposit in the Office of the Lokayukta subsistence allowance at the rate prescribed in the Criminal Manual and obtain a receipt as prescribed by rule 30:

Provided that the members of the Scheduled Tribes and Scheduled Castes shall be exempted from the payment of the process fee.

29. Witness summons and manner of service.—Save as otherwise provided or in the absence of any other specific order in that behalf, summons to witnesses may be issued in Form G and may be served through the police station within the jurisdiction of which the witness resides.

CHAPTER V

ACCOUNTS

30. Issue of receipt.—Party depositing witness subsistence allowance under rule 28 shall be given a receipt in Form H.

31. "I" Register.—Such amounts shall be entered in Form-I.

32. "J" Register.—All amounts paid to a witness or witnesses or repaid to the party concerned, shall be entered in Form-J.

33. Cash Book.—The daily total of I and J registers shall be carried to the daily Cash Book, (i.e. Form-K).

34. Balance over one year.—The balances unclaimed within one year from the close of the case shall, after the close of March next year, be credited to Government.

CHAPTER VI

CLOSURE OF A CASE

35. Procedure after closure of case under section 10.—If the Lokayukta refuses to investigate or ceases to investigate any complaint for reasons stated in sub-section (4) of section 10, the finding shall be communicated to the complainant and, if necessary, to the public functionary concerned in Form-L.

CHAPTER VII

FURNISHING OF INFORMATION AND PRODUCTION OF DOCUMENTS ETC.

36. Furnishing of information and production of documents.—

(1) Where the Lokayukta requires any public functionary or any other

person to furnish information or to produce documents under sub-section (1) of Section 11, the Registrar or the officer authorised by him in this behalf, as the case may be shall issue a notice in Form M to the officer or authority in whose custody that document or file would ordinarily be.

(2) If the file is not produced or sent within one month from the date of receipt of the notice by the officer or authority concerned, the Registrar or the authorised officer, as the case may be, shall write to the Head of the Department or, as the case may be, the administrative Department concerned and wait for 10 days thereafter.

(3) If the file is not received within 15 days of the letter referred to in sub-rule (2), the complaint shall be put up before the Lokayukta for disposal.

37. Consequences of refusal of party to produce documents.

Where any party to an investigation before the Lokayukta refuses without valid excuse, to produce a document or documents in his custody or power, the Lokayukta may proceed to decide the matter against him in the absence of those documents and may also strike off the complaint or defence, as the case may be, or may make such other order as he thinks fit.

CHAPTER VIII

MISCELLANEOUS

38. Time limit for certificate under sub-section (8) of section

11.-The certificate as required by sub-section (8) of section 11 shall be issued by the Chief Secretary within a period of sixty days from the day on which the information is required to be furnished, the question is required to be answered, or the document is required to be produced:

Provided that, this period may be extended by the Lokayukta for such further period as he thinks fit.

39. Rehearing of a complaints.-If the case is closed for default of complainant or if it is ordered to be filed or if it is decided ex-parte against the Public functionary, the Lokayukta if sufficient cause is shown to him, may restore the complaint to file and may re-open the case and re-hear on merit.

40. Powers of Lokayukta under clause (f) of sub-section (2) of section 11.-(1) While conducting a preliminary inquiry or an investigation under the Act, the Lokayukta shall have all the powers of a Civil Court as contained in Order XI, rules 12, 13, 14 and 21, Order XII rule 3-A, Order XIII rule 10, Order XVI, rules 1 to 7, 10, 11, 12 regarding imposition of fine only, 14, 15 and 16 in the First Schedule to the Code, with such variations as circumstances may required.

(2) Any amount of fine imposed in accordance with Order XVI rule 12 aforesaid, shall be recovered from the party as an arrear of land revenue.

41. Certified copy.-No person shall be entitled to a certified copy of any record of the proceeding before the Lokayukta;

Provided that, subject to the Provisions of sub-section (2) of section 10 and sub-section (1) of section 16, the Lokayukta may permit a certified copy to be granted of the final order passed in a case, or of such part thereof, as he may deem fit.

42. Destruction of record.-Subject to the general or special order issued by the Lokayukta in this behalf, the record of a case may be destroyed after a period of three years from the date of close of the case:

Provided that, the original complaint and the final order passed or the finding given shall be preserved permanently.

43. Attendance of witnesses.-(1) If while making any preliminary inquiry or while conducting any investigation under the Act, or at any time, the Lokayukta on his own motion examines any person as a witness, whether as a witness to give evidence or to produce any document in his possession, and if such person is in any private service, such person shall obtain from the office of the Lokayukta a certificate that he has attended the office of the Lokayukta for the purpose of giving evidence. The certificate shall state the date of his appearance and the period for which he had been detained.

Explanation.-For the purpose of this rule, "Private serviced" means any employment other than that of a public servant.

(2) If the person produces such a certificate before his employer, he shall be deemed to have been on duty on such date or dates and he shall not be marked absent from duty on such date or dates or be penalized in any manner.

(3) If such person is a public servant to whom Civil Services Rules or Regulations apply, he shall obtain a similar certificate that he was so summoned and has attended that office of the Lokayukta. Upon production of such a certificate, he shall be treated as on duty on the date or dates on which he attended the office of the Lokayukta.

FORM-A

[See rule 5]

BEFORE THE LOKAYUKTA, GUJARAT, AT GANDHINAGAR

Complaint No. of 198 .

A.B. (Add description and residence) Complaint.

Versus

C.D. (Add description and residence) Public functionary
complained against

Herein the complainant complain as follows:-

(Here give a brief substance of the action complained against and of the allegation).

(lengthy statement should be avoided)

A statement that the complainant has not for the same matter resorted to any other remedy by way of proceedings before any tribunal or court of law of any other authority empowered to decide that matter. If the complainant has resorted to any such remedy he shall furnish all the details of the same.

A duly sworn in affidavit supporting the averments in the complaint is filed herewith.

A sum of one thousand rupees has been deposited by Demand Draft, Cheque or by cash in Civil Deposit A/C. on date.

If the complainant has not deposited the amount of deposit as above, a statement showing the grounds and the sufficient causes as to why he has not deposited the amount should be given.

This.....day of.....(Month and Year)

(Signature or thumb mark
of the complainant).

FORM-B

[See Rule 11(2)]

OFFICE OF THE LOKAYUKTA

Complaint No. _____ of _____
Name of parties (1) Complainant
Versus
Persons complained against
(1)
(2)
(3)

List of documents filed on behalf of the.....

Sr. No. of documents	Brief description of the documents	Original certified copy or true copy	Remarks
1	2	3	4

Verified
Signature of the Officer

Date
Signature of the Party filing
the complaint

FORM-C

[See Rule 12]

Receipt of sum of deposit under Section 9(4) of the Gujarat Lokayukta Act, 1986.

Received in cash from.....(Name)..... of
..... (Address)

a sum of one thousand rupees as deposit under sub-section (4) of section 9 of the Gujarat Lokayukta Act, 1986.

Place:

Dated:

Signature of the person making the deposit

Signature of Officer
receiving deposit -

Designation

FORM D

[See Rules 14 and 16]

To.

..... (Name and address of the complainant).
.....
.....

Your complaint addressed to the Lokayukta, Gujarat State, dated
.....is received in this office on.....It is registered as
Complaint No.of 19.....

In all further correspondence this number should be invariably
mentioned.

¹Your complaint is defective on account of following defects:
(Here specify defects).

It will not be registered unless these defects are rectified. They
should be rectified on or before.....

Date:

Place:

Section Officer,
Office of the Lokayukta

¹ Strike off whichever is not applicable.

FORM-E

[See rule 17(ii)]

IN THE OFFICE OF THE LOKAYUKTA, GUJARAT STATE

Complaint No. of 19.....

Complainant.....

Public Functionary

complained against.....

To.

..... (Give name and address of the
Public functionary).

Upon considering the material before him, the Lokayukta has decided to conduct an investigation under the Lokayukta Act, 1986, in respect of the complaint made by (name and address of the complainant) against you and a copy of the complaint is appended/on his own motion and a statement setting out the grounds thereof is appended.

Take notice that you are hereby required on or before..... (date) to file a statement in reply and to offer your comments and explanations supported by an affidavit and to produce true copies under your signature of the documents (if any) on which you want to rely in your defence.

Take further notice that if on or before the date aforesaid, you fail to appear in person to file the reply and offer your comments and explanation or fail to send the reply, etc., by post, or otherwise, the matter may be decided in your absence.

Given under my hand and the seal of the office.

Dated the.....day of.....19.....

Registrar,
Office of the Lokayukta

FORM-F

[See rule 24(i)]

Before the Lokayukta, Gujarat State, at Gandhinagar.

Complaint No.....of 19.....

.....(Complainant)

Versus

.....(Public functionary)

1 Strike off whichever is not applicable.

To.

Take notice that the aforesaid complaint is fixed for hearing at
..... (place).....on.....(date).....

You are, therefore, required to remain present there, with your
witnesses, if any, at.....(time).....

Take notice that if you fail to attend in accordance with this notice,
the matter may be decided in your absence.

Given under my hand and seal of the Office.

Dated.....day of.....19.....

Registrar,
Office of the Lokayukta

FORM-G

[See Rule 29]

SUMMONS TO WITNESS

IN THE OFFICE OF THE LOKAYUKTA, GUJARAT STATE AT
GANDHINAGAR

Complaint No. of 19.....
.....(Complainant)

Versus

.....(Public functionary)

To

..... (Give name, designation and address).
.....

Whereas your attendance is required as a witness before the
Lokayukta, on behalf of.....in the above complaint, you are hereby
required to appear personally before him on the..... (date) at
..... hours, and to bring with you the following document(s)
or to send them through your servant or agent able to prove them.

A sum of Rs.being your travelling allowance, other
expenses and subsistence allowance for one Day is deposited in this
office and will be paid to you after your appearance here. Should you
require the amount prior to your appearance, you should inform this
office accordingly so that the amount will be sent to you by money
order. If you fail to comply with this order without lawful excuse, you
will be subject to consequence of non attendance as laid down in Rule
12 Order XVI in the First Schedule to the Code of Civil Procedure.

1908.

Given under my hand and seal of the office.

Dated..... day of

Registrar.

Office of the Lokayukta, Gujarat State,
Gandhinagar**FORM-H**

[See rule 30]

BOOK OF RECEIPTSReceived from ¹

Complainant	No. of witnesses	Amount	On what account
-------------	------------------	--------	-----------------

Station

Registrar/officer Receiving the money

Date:

Signature of mark of person making payment

FORM-I

[See rule 31]

Registrar of Receipts on account of subsistence allowance/money of the office of Lokayukt required for immediate disbursement.

Date of Receipt	Number of Receipts Form-J	Name of the person who paid the money and on whose behalf the payment is made	On what account	Number of witnesses	Amount of deposit
-----------------	---------------------------	---	-----------------	---------------------	-------------------

1	2	3	4	5	6
---	---	---	---	---	---

Rs. Ps.

¹ Enter the name of the party who is tendering the amount into the office of Lokayukta, also the amount in words.

Daily total carried out to Cash Book	Payment as per Register-L		Lapsed & credited to Government		Remarks
	Date	Amount	Date	Amount	
7	8	9	10	11	12
Rs. Ps.		Rs. Ps.		Rs. Ps.	

FORM-J

[See Rule 32]

Register of payments on account of subsistence/money of the office of the Lokayukta required for immediate disbursement for the year.

Date of payment	Reference to Register Form-K		To whom paid	On what account
	Date	Entry No.		
1	2	3	4	5

Amount paid	Daily total Carried to Cash Book	Acknowledgment of Receipt	Remarks
6	7	8	9
Rs. Ps.	Rs. Ps.		

FORM-K

[See Rule 33]

Cash Book of the office of the Lokayukta

Date	Refer- ence/Com plaint	From whom received	Par- ticulars	Amount	Daily Total
1	2	3	4	5	6

Rs. Ps.

Date	Reference/ Complaint No.	To whom paid etc.	Par- ticulars	Amount	Daily Total
7	8	9	10	11	12

Rs. Ps.

FORM-L

[See rule 35]

IN THE OFFICE OF THE LOKAYUKTA, GUJARAT STATE,
GANDHINAGAR

Complaint No. of 19.....

(Complainant)

Versus

.....(Public functionary)

To

.....
.....

Take notice that under Section 10(4) of the Gujarat Lokayukta Act, 1986, the Lokayukta the refused to investigate/ceased to investigate this complaint as—

- * (a) the complaint is frivolous or vexatious; or is not made in good faith; or
- * (b) there are no sufficient grounds for investigating or, as the case may be, for continuing the investigation; or
- * (c) other remedies are available to the complainant and in the circumstances of the case it would be more proper for the complainant to avail himself of such remedies.

Dated.....day of.....19.....

Registrar,
Office of the Lokayukta

*Strike off whichever is not applicable.

FORM-M

[See rule 36(ii)]

**SUMMONS TO PRODUCE A DOCUMENT UNDER SECTION
11(1) OF THE GUJARAT LOKAYUKTA, ACT, 1986
IN THE OFFICE OF THE LOKAYUKTA, GUJARAT STATE,
GANDHINAGAR**

Complaint No. of 19.....

Whereas a complaint has been made before the Lokayukta, Gujarat, at Gandhinagar by.....(name and address of complainant)..... against public functionary..... (name, designation and address)..... containing grievances allegations in respect of..... and it appears to the Lokayukta desirable for the purpose of inquiry/investigation that the following document(s) should be produced before him:

You are hereby summoned to attend and produce of cause to be produced through your servant, clerk or agent, the said document(s) before him in his office on..... (date)..... at..... (time)..... hours, without fail.

Dated: Given under my hand and seal of the office

Registrar/Authorised Officer
Office of the Lokayukta