

LOKPAL BILL

VIEWS

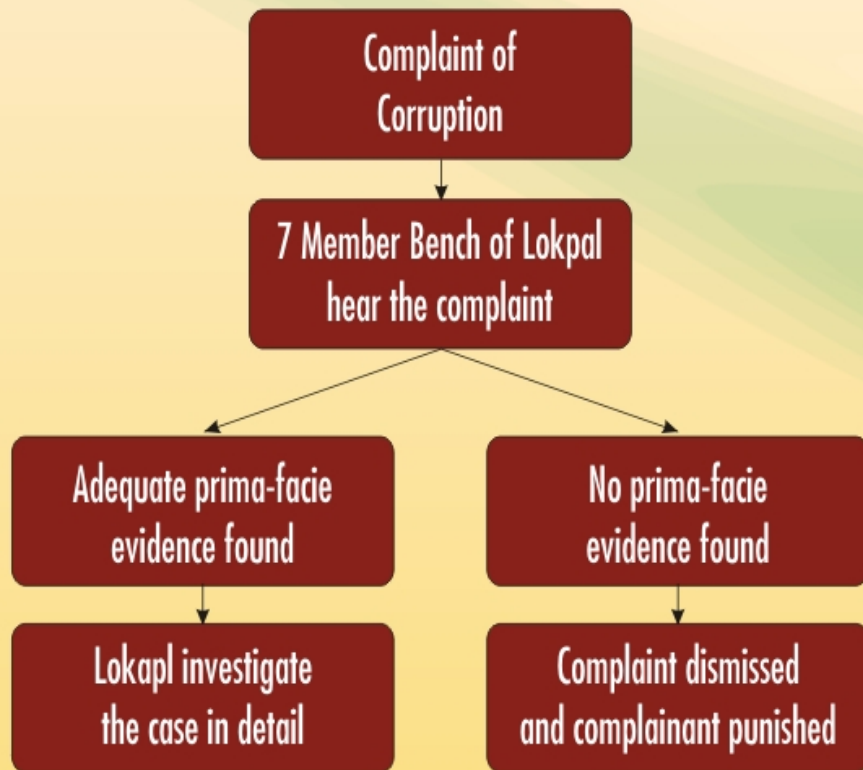
TEAM ANNA
AND
GOVERNMENT

(UPDATED AS ON 19TH AUGUST 2011)

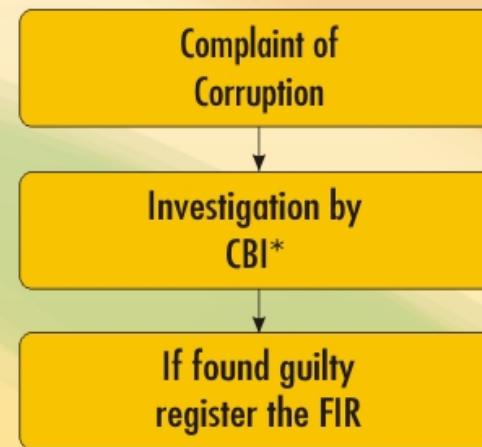


SHOULD THE P.M. COME UNDER THE AMBIT OF THE LOKPAL ?

TEAM ANNA'S VIEW



GOVERNMENT VIEW



*CBI is directly under control of P.M.. Can CBI do honest investigation against its own boss ?

Comments on Government's Proposal

If the government wants to keep PM within the ambit of anti-corruption regime, as it exists today, but out of Lokpal, this means that the PM wants to continue being investigated by an agency directly under his own control, which is a farce.

SHOULD LOWER BUREAUCRACY COME UNDER THE AMBIT OF LOKPAL ?

TEAM ANNA'S VIEW

YES

All those defined as "Public Servants" would be covered, this includes lower bureaucracy

GOVERNMENT VIEW

NO

Only Group 'A' Officers will be covered

Comments on Government's Proposal

If Lokpal will deal with only higher level corruption, who will deal with lower level corruption? Where should a common man go, who has unearthed corruption in some government scheme through RTI?

SHOULD M.Ps BE COVERED UNDER LOKPAL?

TEAM ANNA'S VIEW

YES

Allegation of bribery for vote or
speak in Parliament

Seven Member Bench of Lokpal (majority of
the Members are from Judiciary) enquire the case

Found the complaint
frivolous

Penalise the
complainant

Found prima-facie
evidence

Grant permission to
register FIR

Police/CBI investigate
the case

If a case is made out
prosecute the accused

GOVERNMENT VIEW

NO

Lokpal will not deal with corruption
allegations against MPs for
how they voted or spoke in Parliament.

Such allegations are left to be
probed by Parliament itself

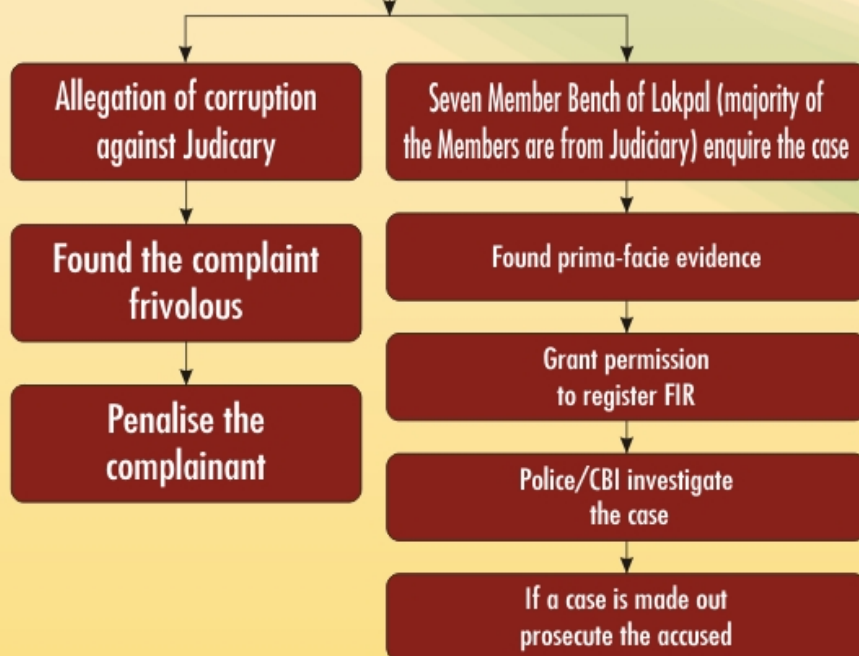
Comments on Government's Proposal

Can a panel of MPs take action against an MP of their own party? Government refusal give a licence to MPs to take bribes with impunity.

SHOULD JUDICARY BE BROUGHT UNDER THE PURVIEW OF LOKPAL BILL?

TEAM ANNA'S VIEW

YES



GOVERNMENT VIEW

NO



Comments on Government's Proposal

Judicial Accountability Bill drafted by the Government does not talk of bribery by the judges, it only talks of misbehaviour. Can the Judges of the court to which the accused Judge belongs to scrutinize the case properly and grant permission to register FIR?

LOKAYUKTA

TEAM ANNA'S VIEW

The same bill should provide for
Lokpal at Centre
and
Lokayutas in States

GOVERNMENT VIEW

Only Lokpal at the centre



CMs have objected to providing
Lokayuktas through the same bill

Comments on Government's Proposal

As per government's proposal, every state will have different bill for Lokayuktas.

SHOULD EACH DEPARTMENT HAVE A CITIZEN'S CHARTER FOR GRIEVANCE REDRESSAL?

TEAM ANNA'S VIEW

YES

Each department should have a Citizen's Charter specifying which work will be done by which Officer in how much time

Violation of Citizen's Charter

Complaint to Public Grievance Redressal Officer

If complaint is not redressed within 30 days report to Lokpal

Lokpal hear the Grievance Redressal Officer and impose suitable penalty to be recovered from the Officer's salary and given to the

Issue directions to appropriate Authority to get the grievance redressed within the time fixed by Lokpal

GOVERNMENT VIEW

NO

No provision for citizen's charter at all

Comments on Government's Proposal

The government's retraction on the citizen's charter means that citizens shall have no remedy for their grievances against the government's dereliction of duty or inefficiency.

WHISTLEBLOWER PROTECTION

TEAM ANNA'S VIEW

Lokpal to provide protection to whistleblower, witnesses and victims of corruption



Investigation in complaints by whistleblowers facing physical or professional victimization should be fast tracked

GOVERNMENT VIEW

Protection to whistleblowers provide through a separate law

Comments on Government's Proposal

The so-called separate law is so bad that it has been badly trashed by the standing committee of Parliament, headed by Ms. Jayanti Natrajan, who is now a Minister.

FALSE, FRIVOLOUS AND VEXATIOUS COMPLAINTS

TEAM ANNA'S VIEW

No imprisonment

Only fines on complainants

Lokpal will decide whether a complaint is frivolous or vexatious or false

GOVERNMENT VIEW

2 to 5 yrs. imprisonment and fine

The accused has a right to file a complaint against complainant in special court

Prosecutor will be provided by the Government to the accused

The complainant will have to pay a compensation to the accused

Comments on Government's Proposal

This will give a handle to every accused to browbeat complainants. No one will dare file any complaint. Interestingly, minimum punishment for corruption is six months but for filing false complaint is two years,

DISMISSAL OF CORRUPT GOVERNMENT SERVANT

TEAM ANNA'S VIEW

Completion of investigation



Filing a case in a court for prosecution



Also a Bench of Lokpal will hold open hearings and decide whether to remove the public servant



Lokpal's order can be challenged in High Court

GOVERNMENT VIEW

The Minister will decide whether to remove a corrupt officer or not

Comments on Government's Proposal

Is it not better that decision to remove an accused were taken by a bench of independent Lokpal in an open hearing rather than whimsically by the Minister?

PUNISHMENT FOR CORRUPTION

TEAM ANNA'S VIEW

Maximum punishment
should be life imprisonment



Higher punishment if rank
of accused is higher



Higher fines if accused are business entities



If successfully convicted, a business entity should
be blacklisted from future contracts

GOVERNMENT VIEW

Maximum punishment
raised to 10 years



None of other proposals accepted

PREVENT FURTHER LOSS

TEAM ANNA'S VIEW

Corruption in any ongoing activity
brought to Lokpal's notice



Lokpal make recommendations to
the government



If Government does not accept the
recommendations, Lokpal approach High Court
and obtain necessary orders

GOVERNMENT VIEW

No such duties and powers
to Lokpal

SHOULD ANTI-CORRUPTION BRANCH OF CBI BE MERGED WITH LOKPAL?

TEAM ANNA'S VIEW

YES

Make CBI (Anti-corruption Bureau)
completely independent

CBI works as the investigation team
of Lokpal

GOVERNMENT VIEW

NO

CBI to work under control of
Central Government

CBI should seek Govt.'s permission
for investigation of any corruption charges

If sufficient evidence is found, then also
CBI cannot file the case in court without
government's permission

Comments on Government's Proposal

Sometimes CBI has to seek permission from the same people, who are either accused or could be influenced by the accused. Can CBI investigate the case properly under these circumstances?

WHO WILL LOKPAL BE ACCOUNTABLE TO?

TEAM ANNA'S VIEW

Lokpal accountable to people



Citizen can make a complaint against any Lokpal Member to the Supreme Court and seek removal

GOVERNMENT VIEW

Lokpal accountable to government



Only the government can seek the removal of Lokpal member

Comments on Government's Proposal

With selection and removal of Lokpal in government's control, it would virtually be a puppet in government's hands.

SELECTION OF LOKPAL MEMBERS.

TEAM ANNA'S VIEW

Selection Committee consisting of 4 Judges,
2 Politicians and 2 Bureaucrats

↓

Independent Search Committee consisting of
Retd. Constitutional Authorities to
prepare first list

↓

A detailed transparent and participatory
selection process

GOVERNMENT VIEW

Selection Committee consists of 5 politicians,
2 Judges along with Jurist and an
eminent person nominated by the government.

↓

Search Committee to be
selected by Selection Committee

↓

No selection process, all depend
on Selection Committee

Comments on Government's Proposal

With two government nominees and three ruling party members, there is little independence in the 9-member Selection Committee.

INTEGRITY OF LOKPAL STAFF.

TEAM ANNA'S VIEW

Complaint against Lokpal staff



Public hearing by an
Independent Complaints Authority



Lokpal staff found guilty



Complaints Authority pass the prosecution order,
subject to the writ jurisdiction of High Court

GOVERNMENT VIEW

Complaint against Lokpal staff



Lokpal itself completes the enquiry



If found guilty, pass the prosecution orders

Comments on Government's Proposal

Lokpal itself will investigate complaints against its own staff, thus creating serious conflicts of interest. Therefore, Government's proposal creates a Lokpal, which is accountable either to itself or to the government.

FINANCIAL INDEPENDENCE

TEAM ANNA'S VIEW

Lokpal budget charged
to Consolidated Fund of India



Quantum of budget determined by Lokpal
Members collectively (Not exceeding 0.25%
of total revenue)

GOVERNMENT VIEW

Lokpal budget charged
to Consolidated Fund of India



Quantum of budget determined by
Ministry of Finance

Comments on Government's Proposal

Quantum of finance being determined by Ministry of Finance is seriously compromises with the financial independence of Lokpal.

DELEGATION OF POWERS

TEAM ANNA'S VIEW

Lokpal Members will only hear cases against senior officers and politicians or cases involving huge amount



Other cases will hear by Officers working under Lokpal

GOVERNMENT VIEW

All work will be done by 9 members of Lokpal

Comments on Government's Proposal

This is a sure way to kill Lokpal. The members will not be able to handle all cases. Within no time, they would be overwhelmed.

SPECIAL BENCHES IN H.C.

TEAM ANNA'S VIEW

High Courts to set-up special benches to hear appeals in corruption cases to fast track them



Any appeal to be disposed within six months

GOVERNMENT VIEW

No such provision

Comments on Government's Proposal

It takes approx. 25 years at appellate stage in corruption cases

AMENDMENTS TO CRPC

TEAM ANNA'S VIEW

Anti-corruption cases take long time in courts



Agencies lose the case



Suggested some amendments
to CrPC

GOVERNMENT VIEW

Not included

TAP PHONES

TEAM ANNA'S VIEW

Lokpal bench will grant permission
to tap phones

GOVERNMENT VIEW

Home secretary would
grant permission to tap phones

Comments on Government's Proposal

Home Secretary may be under the control of precisely those who would be under the scanner.

NGOs

TEAM ANNA'S VIEW

Only government funded
NGOs covered

GOVERNMENT VIEW

All NGOs, trusts, movements, big or small
and even unregistered, whether government
funded or not, are covered

Comments on Government's Proposal

This is a method to arm twist NGOs.

LOKPAL

TEAM ANNA'S VIEW



GOVERNMENT VIEW

