

LOKPAL OF INDIA
[Plot No. 6, Institutional Area, Phase-II, Vasant Kunj]
New Delhi

Complaint Nos. : 56/2023
Date : 1st March, 2023.
Coram : **Justice Pradip Kumar Mohanty**
Hon'ble Acting Chairperson
Justice Abhilasha Kumari
Judicial Member
Shri Dinesh Kumar Jain
Member
Smt. Archana Ramasundaram
Member
Shri Mahender Singh,
Member.
Dr. Indrajeet P. Gautam
Member

ORDER

Perused the complaint.

2. The present complaint is directed against a Union Cabinet Minister, hereinafter referred to as the public servant. It is alleged that the public servant has filed false affidavits before the Returning Officer during her elections, from the years 2004 to 2019, wherein false educational qualifications have been mentioned. It is further alleged that since the election of the concerned public servant was on the basis of such false affidavits, she is liable to be disqualified. The complainant further alleges that the public servant has, therefore, violated the provisions of Section 13(2) of the Prevention of Corruption Act, 1988, as amended in 2018 (the PC Act), as she has allegedly amassed immense wealth in the form of salary, perquisites and ancillary benefits. The complainant goes on to allege that the public servant has also

violated sections 33 A (2) and 135 of the Representation of People act, 1951 (the RP Act). The complainant has, therefore, prayed that the public servant concerned be disqualified and her election be declared as being *void ab initio*. In addition, it is prayed that the matter be got inquired into and recovery be made of the salary, perquisites and other benefits given to the said public servant. Along with the complaint, the complainant has annexed copies of the election affidavits filed by the public servant before the Returning Officer from the years 2004 to 2019.

3. We have perused the contents of the complaint, the documents annexed thereto, and given our thoughtful consideration to the matter. We find that apart from the allegations regarding the filing of false affidavits regarding the educational qualifications of the public servant, there are no allegations regarding the public servant being involved in any corrupt activities. The material attached to the complaint is regarding the affidavits filed by the public servant before the election authorities. The present complaint appears to be, in essence, a challenge to the election of the public servant. The complainant has asked for an inquiry into the matter and the disqualification of the public servant. A declaration is sought that her election is *void ab initio*. The consequential relief prayed for, on this premise, is the recovery of the salary, perquisites and other benefits given to the public servant as a result of her position, upon being successful in the elections contested by her. Thus, all the reliefs prayed for by the complainant are based upon the premise, that the election of the public servant is not valid for the reasons stated in the complaint.

4. In this context, it may be noted, that the prayers made by the complainant fall squarely under the election law and are governed

by the provisions of the RP Act, for which the appropriate forums and procedure have been clearly defined in the said Act and the Rules framed under it. The RP Act, being a special law, holds the field in this regard. The mandate provided to the Lokpal of India, under the Lokpal and Lokayuktas Act, 2013, does not extend to a challenge to an election, *per se*. As already noted above, the complainant has not levelled any allegations regarding indulgence in corruption by the public servant, leave alone provided any evidence in this regard, so as to attract the provisions of the Lokpal and Lokayuktas Act, 2013.

5. In view of the above position, we are not inclined to entertain this complaint. The complainant is at liberty to avail of the appropriate remedy, before the appropriate forum, if he so desires.

6. Accordingly, the complaint is disposed of.

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