SUPREME COURT OF INDIA

Mohd. Saeed Siddiqui

Vs.

State of U.P.

(P.Sathasivam CJI., Ranjan Gogoi and N.V.Ramana JJ.)

24.04.2014

JUDGMENT

P.SATHASIVAM, CJI.

Writ Petition (C) No. 410 of 2012

1. The above writ petition, under Article 32 of the Constitution of India, has been filed by the petitioner seeking a writ of quo warranto against Mr. Justice N.K. Mehrotra (retd.), Lokayukta for the State of Uttar Pradesh, Respondent No. 2 herein, for continuing as Lokayukta after 15.03.2012. The petitioner is also challenging the constitutional validity of the Uttar Pradesh Lokayukta and Up-Lokayuktas (Amendment) Act, 2012 (for short the Amendment Act) to the extent being ultra vires to the provisions of the Constitution of India.

2. Brief facts:

(a) Mr. Justice N.K. Mehrotra (retd.), Respondent No. 2 herein, was appointed as Lokayukta for the State of Uttar Pradesh on 16.03.2006 under the Uttar Pradesh Lokayukta and Up-Lokayuktas Act, 1975 (for short the Act).

(b) Section 5(1) of the Act provides that the term for which Lokayukta shall hold office is six years from the date on which he enters upon his office. Further, Section 5(3) provides that on ceasing to hold office, the Lokayukta or Up-Lokayukta shall be ineligible for further appointment, whether as a

Lokayukta or Up-Lokayukta or in any other capacity under the Government of Uttar Pradesh. Respondent No. 2 completed his term of six years on 15.03.2012.

(c) On 15.03.2012, the new government formed after the Uttar Pradesh State Assembly elections. On the same day, an Ordinance for amending the Act was passed by the Cabinet and sent to the Governor of Uttar Pradesh for assent. However, the same did not receive the assent of the Governor.

(d) On 18.03.2012, another Ordinance on the same subject matter was sent for the assent of the Governor and after receiving the assent of the Governor, the same was published which came into effect from 22.03.2012. Under the said Ordinance, Section 5(1) of the Act was amended and the term of the Lokayukta was extended to eight years with effect from 15.03.2012.

(e) Subsequently, Respondent No. 1 " State of Uttar Pradesh enacted the Amendment Act which received the assent of the Governor on 06.07.2012. By the said Amendment Act, the term of the U.P. Lokayukta and Up-Lokayukta was extended from six years to eight years or till the successor enters upon his office. The said Amendment Act also seeks to limit the ineligibility of the Lokayuktas or Up-Lokayuktas for further appointment under the Government of Uttar Pradesh only on ceasing to hold office as such, and for making the said provisions applicable to the sitting Lokayukta or Up- Lokayukta, as the case may be, on the date of commencement of the said ordinance, i.e., 15.03.2012.

(f) Challenging the said Amendment Act, the petitioner is before us by way of writ petition under Article 32 of the Constitution of India.

3. Similar prayers have been made by the petitioners in Writ Petitions (C) Nos. 228 of 2012 and 289 of 2013. Similar petitions were also filed in the High Court of Judicature at Allahabad. In view of the similarity of the issues involved in these petitions, transfer petitions, viz., T.P. (C) Nos. 1228 & 1230 of 2012, T.P. (C) Nos. 1248 & 1250 of 2012, T.P. (C) No. 1425 of 2012 and T.P. (C) Nos. 1412-1413 of 2012 have been filed before this Court. However, T.P.(C) No. 1229 of 2012 was directed to be transferred to this Court by an order dated 01.02.2013 and, accordingly, the same is numbered as T.C.(C) No. 74 of 2013.

Civil Appeal @ SLP (C) No.27319 of 2012

4. Leave granted in Special Leave Petition.

5. This appeal is directed against the order dated 27.08.2012 passed by the Division Bench of the High Court of Judicature at Allahabad in Civil Misc. Writ Petition No. 24905 of 2012 whereby the High Court, while allowing the amendment application to the writ petition and holding the writ petition to be maintainable, directed to list the petition on 27.09.2012 for hearing on merits.

6. By way of the said amendment application, the writ petitioner sought to add two grounds in the writ petition, viz., the Amendment Act is violative of the provisions of the Constitution of India and the same was wrongly introduced as a Money Bill in clear disregard to the provisions of Article 199 of the Constitution of India. Accordingly, it was prayed to issue a writ, order or direction in the nature of mandamus declaring the Amendment Act as ultra vires the provisions of the Constitution of India.

7. Being aggrieved of the judgment and order dated 27.08.2012, the State of U.P. has filed the afore-said appeal by way of special leave.

8. By an order dated 24.09.2012, this Court stayed the further proceedings in CMWP No. 24905 of 2012.

9. Heard Mr. K.K. Venugopal, learned senior counsel for the petitioners in W.P.(C) Nos. 228 and 410 of 2012, Mr. Ashok H. Desai, Dr. Abhishek Manu Singhvi, learned senior counsel for the State of Uttar Pradesh and Dr. Rajeev Dhawan, learned senior counsel for Mr. Justice N.K. Mehrotra (retd.), Respondent No. 2 herein in W.P.(C) Nos. 228 and 410 of 2012.

Contentions:

10. Mr. K.K. Venugopal, learned senior counsel for the petitioner, submitted that, by way of the Amendment Act, the State of U.P. has, in substance and effect, reappointed Justice N.K. Mehrotra (retd.), Respondent No. 2 herein, as Lokayukta of the State of

U.P. notwithstanding the fact that his six years term had already expired on 15.03.2012. There is a statutory bar against the reappointment of the Lokayukta in terms of Section 5(3) of the Act.

11. Mr. Venugopal further submitted that by passing the Amendment Act, the State Government handpicked a person who they believe would ensure that the Chief Minister, his Ministers and political supporters would be protected, despite the acts of corruption in which they may indulge in. The reappointment of Justice Mehrotra (retd.), who had demitted the office and was prohibited from holding any post, bypassed the safeguards contained in Section 3 of the Act, which stands unamended.

12. It was further submitted that the Amendment Act was not even passed by the State Legislature in accordance with the provisions of the Constitution of India and is, thus, a mere scrap of paper in the eyes of law. The Bill in question was presented as a Money Bill when, on the face of it, it could never be called as a Money Bill as defined in Articles 199(1) and 199(2) of the Constitution of India. Since the procedure for an Ordinary Bill was not followed and the assent of the Governor was obtained to an inchoate and incomplete Bill which had not even gone through the mandatory requirements under the Constitution of India, the entire action was unconstitutional and violative of Article 200 of the Constitution of India.

13. Mr. Ashok H. Desai, learned senior counsel for the State of U.P., submitted that the writ petition itself is not maintainable in law or on facts. In the absence of any violation of fundamental rights of the petitioner himself, the present writ petition under Article 32 is not maintainable. Moreover, the present writ petition has not been filed with clean hands. Mr. Desai pointed out that the petitioner has merely stated, in a passing manner, that he is a practicing Advocate, which is not a fair and candid statement. The petitioner has filed the writ petition as a proxy of Shri Naseemuddin Siddiqui, ex-Cabinet Minister, U.P. (presently the Leader of Bahujan Samaj Party/Leader of Opposition in the U.P. Legislative Council), against whom, along with others, Respondent No. 2 has recommended action on grave charges of corruption. The petitioner herein, Mohd. Saeed Siddiqui, was the agent/representative (pairokar) of the son of Shri Naseemuddin Siddiqui in the complaint against Shri Naseemuddin Siddiqui before Respondent No. 2 and he has filed the present writ petition, as also his earlier writ petition, as a proxy of Shri Naseemuddin Siddiqui.

14. It was further submitted that the petitioner, for oblique motives, is questioning the valid legislative and executive actions. The writ petition, which has been filed under the guise of redressing a public grievance, is lacking in bona fides and is an outcome of malice and ill- will, which the petitioner nurses against Respondent No. 2 for making the reports specifically those against Shri Naseemuddin Siddiqui. In the present writ petition as also in his earlier writ petition, the petitioner has made yet another collateral attack by questioning the title of Respondent No. 2 to the office of Lokayukta in order to stall the action/enquiry in respect of the grave charges of corruption that has been ordered pursuant to the reports of Respondent No. 2.

15. Besides, learned senior counsel for the State submitted that the petitioner has made a collateral attack by seeking a writ of quo warranto to enquire by what authority Respondent No. 2 is holding the office of the Lokayukta, Uttar Pradesh and at the same time, he has challenged the validity of that very law under which the Respondent No. 2 is holding the said office, which is impermissible under the settled law. It is the stand of the State that in a writ of quo warranto, while enquiring by what authority a person holds a public office, it is impermissible to make a collateral attack on the validity of law or statutory provision under which that office is being held. Thus, the scope of a writ of quo warranto is a limited one, by virtue of which it may be enquired by what authority a person holds a public office, but the validity of that authority cannot be questioned. In this light, it is submitted that the writ petition is not maintainable for making such a collateral attack.

16. Mr. Desai also submitted that the Bill in question was manifestly a Money Bill in view of Article 199(1) of the Constitution of India. Furthermore, the claim of the petitioner is barred by the constitutional provisions, such as Articles 199(3) and 212 of the Constitution. The claim of the petitioner that the Bill was passed only by the Legislative Assembly and not by both the Houses, is misconceived. The petitioner has overlooked that since the Bill in question was a Money Bill, therefore, the contention that it was passed by the Legislative Assembly alone is per se misconceived. Finally, Mr. Desai submitted that Respondent No. 2 is duly holding the office of the Lokayukta under a valid law enacted by the competent legislature, viz., the Amendment Act.

17. Dr. Abhishek Manu Singhvi reiterated the submission made by Mr. Desai and also pointed out the relevant provisions.

18. Dr. Rajeev Dhawan, learned senior counsel for Justice N.K. Mehrotra (retd.), Respondent No. 2 herein, reiterated the contentions raised by Mr. Desai. In addition to the same, it is submitted that the real purpose of filing the writ petition and other connected matters is to stall action on the reports of Respondent No. 2 in respect of grave charges of corruption against several ex-Ministers, Government of U.P., one of whom is Shri Naseemuddin Siddiqui, ex-Cabinet Minister, U.P.

19. Dr. Dhawan further submitted that the petitioner is a proxy of Shri Naseemuddin Siddiqui. Further, both Shri Naseemuddin Siddiqui and his wife were members of the U.P. Legislature when the Amendment Act was enacted. Accordingly, any challenge to the said Amendment Act by Shri Naseemuddin Siddiqui or his wife would not be maintainable as they, as sitting members of the State Legislature, cannot assail and disown an action of the same State Legislature.

20. Dr. Dhawan submitted that Respondent No. 2 was appointed as the Lokayukta, U.P. on 16.03.2006 and he is continuing as such after 15.03.2012 under a valid law, viz., the Amendment Act, which has been duly enacted by the competent legislature. It was urged that the contentions of the petitioner regarding Money Bill is baseless and pointed out that the earlier two amendments to the Act in the year 1981 and 1988 were also by way of Money Bills, which is concealed by the petitioner. Further, it was submitted that the finality of the Speakers decision and the legislative process cannot be challenged in a Court of law.

21. We have carefully considered the rival contentions and perused all the relevant materials.

Discussion:

22. Among all the contentions/issues raised, the main challenge relates to the validity of U.P. Lokayukta and Up-Lokayuktas (Amendment) Act, 2012. In order to consider the claim of both the parties, it is useful to refer the relevant provisions. The State of U.P. has brought an Act called the U.P. Lokayukta and Up-Lokayuktas Act, 1975 (U.P. Act 42 of 1975). The said Act was enacted in order to make provision for appointment and functions of certain authorities for the investigation on grievances and elections against Ministers, legislators and other public servants in certain cases. The Act came into force on 12.07.1977.

23. Section 2(e) defines Lokayukta which reads as under:

Lokayukta means a person appointed as the Lokayukta and Up- Lokayukta means a person appointed as an Up-Lokayukta, under Section 3.

24. Section 3 relates to appointment of Lokayukta and Up-Lokayuktas which reads as under:

3. Appointment of Lokayukta and Up-Lokayuktas -

(1) For the purpose of conducting investigations in accordance with the provisions of this Act, the Governor shall, by warrant under his hand and seal, appoint a person to be known as the Lokayukta and one or more persons to be known as the Up-Lokayukta or Up-Lokayuktas: Provided that-

(a) the Lokayukta shall be appointed after consultation with the Chief Justice of the High Court of Judicature at Allahabad and the Leader of the Opposition in the Legislative Assembly and if there be no such Leader a person elected in this behalf by the members of the opposition in that House in such manner as the Speaker may direct; (b) the Up-Lokayukta or Up-Lokayuktas shall be appointed after consultation with the Lokayukta:

Provided further that where the Speaker of the Legislative Assembly is satisfied that circumstances exist on account of which it is not practicable to consult the Leader of the Opposition in accordance with clause (a) of the preceding proviso, he may intimate the Governor the name of any other member of the Opposition in the Legislative Assembly who may be consulted under that clause instead of the Leader of the Opposition.

(2) Every person appointed as the Lokayukta or an Up-Lokayukta shall before entering upon his office, make and subscribe before the Governor or some person appointed in that behalf by him, an oath or affirmation in the form set out for the purpose in the First Schedule.

(3) The Up-Lokayuktas shall be subject to the administrative control of the

Lokayukta and in particular for the purpose of convenient disposal of investigations under this Act, the Lokayukta any issue such general or special direction as he may consider necessary to the Up-Lokayukta:

Provided that nothing in this sub-section shall be construed to authorize the Lokayukta to question any finding conclusion or recommendation of an Up-Lokayukta.

25. Section 5 speaks about terms of office and other conditions of service of Lokayukta and Up-Lokayukta which reads as under:

5. Terms of office and other conditions of service of Lokayukta and Up-Lokayukta.-

(1) Every person appointed as the Lokayukta or Up-Lokayukta shall hold office for a term of six years from the date of which he enters upon his office:

Provided that,

(a) the Lokayukta or an Up-Lokayukta may, by writing under his hand addressed to the Governor, resign his office ;

(b) the Lokayukta or an Up-Lokayukta may be removed from office in the manner specified in section 6.

xxx xxx xxx

(3) On ceasing to hold office, the Lokayukta or an Up-Lokayukta shall be ineligible for further employment (Whether as the Lokayukta or an Up-Lokayukta) or in any other capacity under the Government of Uttar Pradesh or for any employment under or office in any such local authority corporation. Government, company or society as is referred to in sub-clause *(v) of clause *(1) of section 2.

(4) There shall be paid to the Lokayukta and Up-Lokayuktas such salaries as are specified in the Second Schedule.

26. Section 20A speaks about salary and allowances which reads as under: "20A. Expenditure to be charged on Consolidated Fund.- It is hereby declared that the salary, allowances and pension payable to or in Expenditure to be respect of the Lokayukta or the Up-Lokayuktas, the charged on expenditure relating to their staff and office and other consolidated expenditure in respect of the implementation of this Act shall be expenditure charged on the Consolidated Fund of the State of Uttar Pradesh."

27. It is highlighted by the State that under the said Act, Justice N.K. Mehrotra (retd.) was appointed as a Lokayukta vide notification dated 09.03.2006. It is also highlighted that since the term of Justice Mehrotra (retd.) was expired on 15.03.2012 after the completion of the period of six years under the provisions of sub-section (1) of Section 5 of the said Act and no decision had been taken for the appointment of another person as the Lokayukta and also taking note of the fact that since the decision to appoint another person would take time, it has been decided to amend the said Act to provide for increasing the term of Lokayukta and Up-Lokayukta from six years to eight years or till his successor enters upon his office. Initially, the State Government promulgated an Ordinance, namely, U.P. Lokayukta and Up-Lokayuktas (Amendment) Ordinance 2012 (U.P. Ordinance No. 1 of 2012). The same was replaced by the Act, namely, U.P. Lokayukta and Up-Lokayuktas (Amendment) Act, 2012 (U.P. Act 4 of 2012). As per the said ordinance and Act, the amendment relating to Section 2 shall be deemed to have come into force on 15.03.2012 and the remaining provisions shall come into force at once. It is also relevant to refer the amendments brought in by this Amendment Act, which are as under:

> Amendment of Section 5 of U.P. Act No. 42 of 1975
>
> 2. In Section 5 of the Uttar Pradesh Lokayukta and Up-Lokayuktas Act, 1975 hereinafter referred to as the Principal Act.-
>
> (a) for sub-section (1) the following sub-section shall be substituted and be deemed to have been substituted on March 15, 2012 namely:-
>
> (1) Every person appointed as the Lokayukta or Up-Lokayukta shall hold office for a term of eight years from the date on which he enters upon his office:

Provided that the Lokayukta or an Up-Lokayukta shall, notwithstanding the expiration of his term continue to hold office until his successor enters upon his office.

Provided further that,-

(a) the Lokayukta or an Up-Lokayukta may, by writing under his hand addressed to the Governor, resign his office:

(b) the Lokayukta or an Up-Lokayukta may be removed from office in the manner specified in Section 6.

(b) for sub-section (3) the following sub-section shall be substituted and be deemed to have been substituted on March 15, 2012 namely:-

(3) On ceasing to hold office, the Lokayukta or an Up-Lokayukta shall be ineligible for further employment under the Government of Uttar Pradesh

(c) After sub-section (5) the following sub-section shall be inserted, namely:-

(6) The amendment made by the Uttar Pradesh Lokayukta and Up- Lokayuktas (Amendment) Act, 2012 shall be applicable to the sitting Lokayukta or Up-Lokayuktas as the case may be, on the date of commencement of the said Act.

Amendment of Section 13

(5-b) After the investigation of any allegation under this Act, if the Lokayukta or the Up-Lokayukta is satisfied that such investigation has resulted in injustice or caused defamation to the concerned public servants, he may on their application, award compensation recording reasons therefore not exceeding the maximum amount of the cost, out of the cost as imposed on the complainant under sub-section (5-a) to such public servant, who has suffered any loss by reason of injustice or defamation, and such compensation shall be charged on the Consolidated Fund of the State.

Amendment of Section 20-A

For section 20-A of the principal Act, the following section shall be substituted, namely:-

20-A. It is hereby declared that the salary, allowances and the pensions payable to or in respect of the Lokayukta or the Up- Lokayuktas, the expenditure relating to their staff and office and the amount of compensation awarded to the Public Servant under sub-section (5-b) of section 13 by reason of injustice or defamation and other expenditure, in respect of implementation of the provisions of this Act, shall be an expenditure charged on the Consolidated Fund of the State.

28. We have already noted the object of bringing the ordinance and the Act for amendment of certain provisions. In order to further understand the intention of the Government for bringing such amendment, it is useful to refer the statement of objects and reasons, which is as under:

Statement of objects and reasons:-

The Uttar Pradesh Lokayukta and Up-Lokayuktas Act, 1975 (U.P. Act no. 42 of 1`975) has been enacted to make provision for the appointment and functions of certain authorities for the investigation grievances and allegations against minister, Legislators and other public servants in certain cases. Under the said Act Shri Narendra Kishor Mehrotra was appointed as Lokayukta vide notification no. 40 Lo.Aa/39- 4-2006-15(5) 2006, dated March 9, 2006 from the date he resumes office. Shri Mehrotra resumed his office after taking oath on March 16, 2006. The term of Shri Mehrotra as such was expired on March 15, 2012 after the completion of the period of six years under the then provisions of sub-section (1) of Section 5 of the said Act and no decision had been taken for the appointment of another person as the Lokayukta. Since the decision to appoint another person would take time, it has been decided to amend the said Act to provide for increasing the term of Lokayukta and Up-Lokayuktas from six years to eight years or till his successor enters upon his office, to limit the ineligibility of the Lokayukta or Up-Lokayuktas for further appointment under the Government of Uttar Pradesh only on ceasing to hold office as such and for making the said provisions applicable to the sitting Lokayukta or UP-

Lokayuktas as the case may be, on March 15, 2012.

Since the State Legislature was not in session and immediate Legislative action was necessary, the Uttar Pradehs Lokayukta or Up- Lokayuktas (Amendment) Ordinance, 2012 (U.P. Ordinance No. 1 of 2012) was promulgated by the Governor on March 22, 2012.

29. Though elaborate arguments have been made by Mr. K.K. Venugopal as well as Mr. Desai about the merits of the various recommendations/orders passed by Respondent No. 2 - Lokayukta in respect of former Ministers and persons connected with the government in these matters, we are primarily concerned about the validity of the Amendment Act and continuance of Respondent No. 2 as Lokayukta even after expiry of his term.

30. The main apprehension of the petitioner is that the Bill that led to the enactment of the Amendment Act was passed as a Money Bill in violation of Articles 197 and 198 of the Constitution of India which should have been passed by both the Houses, viz., U.P. Legislative Assembly and U.P. Legislative Council and was wrongly passed only by the U.P. Legislative Assembly. During the course of hearing, Mr. Desai, learned senior counsel appearing for the State of U.P., placed the original records pertaining to the proceedings of the Legislative Assembly, decision of the Speaker as well as the Governor, which we are going to discuss in the later part of our judgment.

31. Article 199 of the Constitution defines Money Bills, which reads as under:

199 - Definition of "Money Bills"

(1) For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely:--

(a) the imposition, abolition, remission, alteration or regulation of any tax;

(b) the regulation of the borrowing of money or the giving of any guarantee by the State, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the State;

(c) the custody of the Consolidated Fund or the Contingency Fund of the State, the payment of moneys into or the withdrawal of moneys from any such Fund;

(d) the appropriation of moneys out of the Consolidated Fund of the State;

(e) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of the State, or the increasing of the amount of any such expenditure;

(f) the receipt of money on account of the Consolidated Fund of the State or the public account of the State or the custody or issue of such money; or

(g) any matter incidental to any of the matters specified in sub- clauses (a) to (f).

(2) A Bill shall not be deemed to be a Money Bill by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered, or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) If any question arises whether a Bill introduced in the Legislature of a State which has a Legislative Council is a Money Bill or not, the decision of the Speaker of the Legislative Assembly of such State thereon shall be final.

(4) There shall be endorsed on every Money Bill when it is transmitted to the Legislative Council under article 198, and when it is presented to the Governor for assent under article 200, the certificate of the Speaker of the Legislative Assembly signed by him that it is a Money Bill.

32. It is also useful to refer Article 212 which reads as under:

212 - Courts not to inquire into proceedings of the Legislature

(1) The validity of any proceedings in the Legislature of a State shall not be

called in question on the ground of any alleged irregularity of procedure.

(2) No officer or member of the Legislature of a State in whom powers are vested by or under this Constitution for regulating procedure or the conduct of business, or for maintaining order, in the Legislature shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.

33. The above provisions make it clear that the finality of the decision of the Speaker and the proceedings of the State Legislature being important privilege of the State Legislature, viz., freedom of speech, debate and proceedings are not to be inquired by the Courts. The proceeding of the Legislature includes everything said or done in either House in the transaction of the Parliamentary Business, which in the present case is enactment of the Amendment Act. Further, Article 212 precludes the Courts from interfering with the presentation of a Bill for assent to the Governor on the ground of non-compliance with the procedure for passing Bills, or from otherwise questioning the Bills passed by the House. To put it clear, proceedings inside the Legislature cannot be called into question on the ground that they have not been carried on in accordance with the Rules of Business. This is also evident from Article 194 which speaks about the powers, privileges of the House of Legislatures and of the members and committees thereof.

34. We have already quoted Article 199. In terms of Article 199(3), the decision of the Speaker of the Legislative Assembly that the Bill in question was a Money Bill is final and the said decision cannot be disputed nor can the procedure of State Legislature be questioned by virtue of Article 212. We are conscious of the fact that in the decision of this Court in Raja Ram Pal vs. Honble Speaker Lok Sabha and Others (2007) 3 SCC 184, it has been held that the proceedings which may be tainted on account of substantive or gross irregularity or unconstitutionality are not protected from judicial scrutiny.

35. Even if it is established that there was some infirmity in the procedure in the enactment of the Amendment Act, in terms of Article 255 of the Constitution the matters of procedures do not render invalid an Act to which assent has been given to by the President or the Governor, as the case may be.

36. In the case of M.S.M. Sharma vs. Shree Krishna Sinha AIR 1960 SC 1186 and

Mangalore Ganesh Beedi Works vs. State of Mysore and Another AIR 1963 SC 589, the Constitution Benches of this Court held that (i) the validity of an Act cannot be challenged on the ground that it offends Articles 197 to 199 and the procedure laid down in Article 202; (ii) Article 212 prohibits the validity of any proceedings in a Legislature of a State from being called in question on the ground of any alleged irregularity of procedure; and (iii) Article 255 lays down that the requirements as to recommendation and previous sanction are to be regarded as a matter of procedure only. It is further held that the validity of the proceedings inside the Legislature of a State cannot be called in question on the allegation that the procedure laid down by the law has not been strictly followed and that no Court can go into those questions which are within the special jurisdiction of the Legislature itself, which has the power to conduct its own business.

37. Besides, the question whether a Bill is a Money Bill or not can be raised only in the State Legislative Assembly by a member thereof when the Bill is pending in the State Legislature and before it becomes an Act. It is brought to our notice that in the instant case no such question was ever raised by anyone.

38. Mr. K.K. Venugopal, learned senior counsel for the petitioner has also raised another contention that the Bill was passed only by the Legislative Assembly and not by both the Houses. In other words, according to him, it was not passed by the Legislative Council and, therefore, the Amendment Act is bad.

39. Chapter III of Part VI of the Constitution deals with the State Legislature. Article 168 relates to constitution of Legislatures in States. The said Article makes it clear that the State Legislature consists of the Governor, the Legislative Assembly and the Legislative Council. After the Governors assent to a Bill, the consequent Act is the Act of the State Legislature without any distinction between its Houses, as projected by the petitioner. We have also gone through the original records placed by the State and we are satisfied that there is no infirmity in passing of the Bill and the enactment of the Amendment Act, as claimed by the petitioner.

40. Though it is claimed that the Amendment Act could not have been enacted by passing the Bill as a Money Bill because the Act was not enacted by passing the Bill as a Money Bill, as rightly pointed out, there is no such rule that if the Bill in a case of an original Act was not a Money Bill, no subsequent Bill for amendment of the

original Act can be a Money Bill. It is brought to our notice that the Act has been amended earlier by the U.P. Lokayukta and Up-Lokayuktas (Amendment) Act, 1988 and the same was enacted by passing the Money Bill. By the said Amendment Act of 1988, Section 5(1) of the Act was amended to provide that the term of the Lokayukta and Up-Lokayukta shall be six years instead of five years.

41. With regard to giving effect to the Amendment Act retrospectively, as rightly pointed out by the State, a deeming clause/legal fiction must be given full effect and shall be carried to its logical conclusion. As observed in K. Kamaraja Nadar vs. Kunju Thevar AIR 1958 SC 687, the effect of a legal fiction is that a position which otherwise would not obtain is deemed to obtain under those circumstances. The materials placed clearly show that the Amendment Act has been enacted by a competent legislature with legislative intent to provide a term of eight years to Lokayukta and Up-Lokayukta, whether present or future, to ensure effective implementation of the Act. We are also satisfied that the aforesaid extension of the term of Lokayukta and Up-Lokayukta from six years to eight years is a matter of legislative policy and it cannot be narrowed down by saying that the same was enacted only for the benefit of Respondent No. 2.

42. As discussed above, the decision of the Speaker of the Legislative Assembly that the Bill in question was a Money Bill is final and the said decision cannot be disputed nor can the procedure of the State Legislature be questioned by virtue of Article 212. Further, as noted earlier, Article 252 also shows that under the Constitution the matters of procedure do not render invalid an Act to which assent has been given to by the President or the Governor, as the case may be. Inasmuch as the Bill in question was a Money Bill, the contrary contention by the petitioner against the passing of the said Bill by the Legislative Assembly alone is unacceptable.

43. In the light of the above discussion, we hold that Respondent No. 2 is duly holding the office of Lokayukta, U.P. under a valid law enacted by the competent legislature, viz., the Uttar Pradesh Lokayukta and Up- Lokayuktas Act, 1975 as amended by the Uttar Pradesh Lokayukta and Up- Lokayuktas (Amendment) Act, 2012. However, we direct the State to take all endeavors for selecting the new incumbent for the office of Lokayukta and Up-Lokayuktas as per the provisions of the Act preferably within a period of six months from today.

44. Under these circumstances, all the writ petitions filed under Article 32 of the Constitution of India before this Court are dismissed. The appeal filed by the State of U.P. and the T.C.(C) No. 74 of 2013 are disposed of on the above terms. Inasmuch as we have not gone into the merit of the decisions taken by Respondent No. 2 " Lokayukta, the matters questioning those decisions which are pending in the High Court of Judicature at Allahabad/Lucknow Bench are to be disposed of on merits in the light of the above conclusion upholding the Amendment Act of 2012. Accordingly, the transfer petitions are disposed of.