**SUPREME COURT OF INDIA**

Just Society

Vs.

Union of India

Tr.(Case)No.25/2015

(Ranjan Gogoi and Navin Sinha,JJ.,)

27.04.2017

**JUDGMENT**

**Ranjan Gogoi, J.,**

1. The petitioner seeks a declaration to the effect that certain provisions of the Lokpal and Lokayuktas Act, 2013 (hereinafter for short 'the Act') namely, Sections 3(2)(a) and 4(1)(d), 4(1) (e), 4(2), the second proviso to Section 4(3), Section 10, the proviso to Section 14(3), Section 16, Section 37(2) and Section 63 are ultra vires Articles 14 and 50 of the Constitution of India. The challenge in the aforesaid transferred case (No.25 of 2015) is primarily founded on the ground that the Chief Justice of India or his nominee Judge of the Supreme Court, under Section 4(1)(d) of the Act, is a mere Member of the Selection Committee and the opinion rendered either by the Chief Justice of India or his nominee judge has no primacy in the matter of selection of Chairperson and Members of the Lokpal. The aforesaid contention is sought to be fortified on the basis that four former judges of this Court had exercised their option to be considered for the post of Chairperson and in such a situation it is the Hon'ble the Chief Justice of India or his nominee Judge alone who would be best situated to decide on the suitability of any such former judge of this Court who has/may have opted to be considered for appointment. It is also contended on behalf of the petitioner, that there are no norms/criterion laid down for appointment of an 'eminent jurist' under Section 4(1)(e) of the Act thereby rendering the aforesaid provision of the Act legally and constitutionally fragile.

2. We fail to see how any of the aforesaid contentions can establish any infirmity or fragility of the provisions of the Act in the light of any of the constitutional provisions so as to render the relevant sections of the Act ultra vires.

3. The fact that primacy of the opinion of the Chief Justice or his nominee is accorded by certain statutes by use of the expression "in consultation", which expression has been understood by judicial opinion to confer primacy to the opinion of the Chief Justice, the absence thereof in the Act, by itself, will not render Section 4(1) (d) thereof ultra vires the basic structure of the Constitution. If the Legislature in its wisdom had thought it proper not

to accord primacy to the opinion of the Chief Justice or his nominee and accord equal status to the opinion rendered by the Chief Justice or his nominee and treat such opinion at par with the opinion rendered by other members of the Selection Committee, we do not see how such legislative wisdom can be questioned on the ground of constitutional infirmity. It is not the mandate of the Constitution that in all matters concerning the appointment to various Offices in different bodies, primacy must be accorded to the opinion of the Chief Justice or his nominee. Whether such primacy should be accorded or not is for the legislature to decide and if the legislative opinion engrafted in the present Act is in contrast to what is provided for in other Statute(s), such legislative intention, by itself, cannot be understood to be constitutionally impermissible.

4. Insofar as the appointment of an eminent jurist is concerned, we do not consider it necessary to delve into the issue except to say that the decision being left to a high power body consisting of high Constitutional functionaries enumerated in Section 4(1)(a) to 4(1)(d) of the Act, no ex-facie illegality can be discerned in the provisions contained in Section 4(1)(e) of the Act. Even if the Act is to lay down norms, it would be difficult to understand the same to be all comprehensive, satisfying all concerned. No declaration of infirmity of the provisions contained in Section 4(1)(e) of the Act can be made on the basis of the grounds urged.

5. Consequently and in the light of the above, we find no merit in this Transferred Case. The writ petition filed by the petitioner-Society is dismissed accordingly.