

संख्या:गृह(सतर्कता)ए(8)10/2017-लोका
हिमाचल प्रदेश सरकार
गृह (सतर्कता) विभाग

प्रेषक

मुख्य मन्त्री
हिमाचल प्रदेश।

प्रेषित

✓ सचिव,
हिमाचल प्रदेश विधान सभा
शिमला-171004

दिनांक शिमला-2,

24-08-2017

विषय : -

लोकायुक्त, हिमाचल प्रदेश की 30वीं वार्षिक संकलित रिपोर्ट-2016

महोदय,

मुझे उपरोक्त विषय पर जैसा कि हिमाचल प्रदेश लोकायुक्त अधिनियम, 2014(2015 का अधिनियम संख्यांक 23) की धारा 43 में निर्धारित है, आपको सूचित करना है कि मैं विधानसभा के वर्षाकालीन सत्र (दिनांक 22-8-2017 से 25-8-2017 तक) के दौरान लोकायुक्त, हिमाचल प्रदेश की 30वीं वार्षिक संकलित रिपोर्ट-2016 की प्रति स्पष्टीकरण ज्ञापन सहित विधान सभा पटल पर रखने का इरादा रखता हूं। रिपोर्ट की तीन अधि-प्रमाणित प्रतियां संलग्न की जाती है तथा सम्बन्धित रिपोर्ट को ई-विधान के माध्यम से भी भेजा जा चुका है।

संलग्न: उपरोक्त

भवदीय,


मुख्य मन्त्री
हिमाचल प्रदेश।



THIRTIETH ANNUAL REPORT

OF THE

LOKAYUKTA

HIMACHAL PRADESH

2016



THIRTIETH ANNUAL REPORT

OF THE

LOKAYUKTA

HIMACHAL PRADESH

2016

INDEX

Sl. No.	Description	Pages
1.	Thirtieth Annual Report of Lokayukta for the year 2016	1—6
2.	Detail of complaints pending, received and decided (Department-wise) during the year 2016 (Annexure-A)	7
3.	Detail of present staff strength (Annexure-B)	8
4.	Detail of Lokayukta complaints decided during the year 2016 (Annexure-C)	9—153
5.	Detail of complaints of corruption and criminal mis-conduct against Police personnel, decided during the year 2016.	154—166

HIMACHAL PRADESH LOKAYUKTA REPORT ON THE ADMINISTRATION OF THE H.P. LOKAYUKTA ACT, 2014 (ACT NO. 23 OF 2015) FOR THE YEAR, 2016

Thirtieth Annual Report of the Institution of Lokayukta in terms of Section 43 of the Lokayukta Act, 2014 (Act No. 23 of 2015) with respect to complaints against Public Servants, is submitted for kind consideration of His Excellency, the Governor of Himachal Pradesh.

The Lokayukta legislation aims to eradicate the vice of corruption, bring about probity in governance and enforce the norms of integrity and conduct expected of public functionaries. The spirit of the legislation is making the Institution of Lokayukta acceptable to the people, the institution; they can approach, for redressal of their complaints against public servants without incurring expenses. The public gets hearing, public servant also gets hearing and both the parties know their position with respect to the matter at issue.

Issues of corruption and mal-administration are occupying centre stage today. A common citizen faces it in his interaction with the State, local authorities or civic bodies. From a superficial infection, it appears to have penetrated into the blood stream thus calling for drastic and aggressive treatment including infusion of blood or of new ideas to cure the ailment. The basic principle is that the fight between an individual citizen and the State is unequal in nature and thus the institution of Lokayukta would assist in checking the cancer of corruption and mal-administration. Citizens must be encouraged to have trust and confidence in the institution of Lokayukta which in turn requires an environment where there is a premium on transparency, openness, boldness, fairness and justice. There are similarities in the objectives of the Lokayukta and the Judiciary to the extent of duty to eradicate corruption through a mechanism. However, a more informal mechanism is set up under the Lokayukta to facilitate a member of public to make complaints of corruption even when there are no direct lis. Historically, corruption has been acknowledged as the sole cause for the fall of the great Roman Empire. There may be times when one is not able to prevent corruption, but let there never be a time when even one fails to protest against corruption.

Institution of Lokayukta as an anti-corruption body, is the watch dog of the administration as well as the protector of the “little” or the “common man”. It traces its origin to the Ombudsmanic Institutions in Scandinavian countries for redressal of citizen’s grievances based on justice and equity.

The first Administrative Reforms Commission recommended the setting up of Lokpal at the Centre and Lokayuktas in the States.

In the circumstances, State of Himachal Pradesh has set up the Lokayukta under the Act called “The Himachal Pradesh Lokayukta Act 1983” (Act No.17 of 1983) to get the complaints of the ordinary people against public servant resolved about failure of the public servant to act or public servant has knowingly and intentionally abused his position as such to obtain any undue gain or favour to himself or to any other person or to cause undue harm to any other person or was actuated in the discharge of his functions as such public servant by corrupt motives or is guilty of corruption etc. By this time, although a number of complaints may not be very large, yet whatever has been filed before the Lokayukta stands adjudicated to the satisfaction of the parties.

The first Lokayukta of the State of Himachal Pradesh appointed was Chief Justice (Retd) Late Shri T.V.R. Tatachari, who was succeeded by Justice Late Shri R.B Misra, Former Judge Supreme Court of India, Justice Late Shri P. C. Balakrishna Menon, Chief Justice (Retd.) High Court of Himachal Pradesh, Justice Late Shri Om Prakash, Chief Justice (Retd.) Kerla High Court, and Justice Shri Bhawani Singh, Chief Justice (Retd.) High Courts of Jammu & Kashmir, Madhya Pradesh and Gujrat. This Institution progressed significantly during their tenure and earned public appreciation. From May 5, 2011 to February 2, 2012 the Office of Lokayukta remained vacant. I assumed the Office of Lokayukta, Himachal Pradesh on February 3, 2012.

The State and executive need change in mindset to accept the Lokayuktas as an ally in good governance. Inquiry by the Lokayukta should not be perceived as motivated or at the behest of the opposition or seen as an attempt to find fault with the Government/public functionary. The benefit of an inquiry in removing discontent and bringing in satisfaction by redressal of grievance is often not realized. There are cases where the Lokayukta stands up for redressal of Common man's grievance, who does not have either the capacity to pay the prohibitive cost of litigation or take cudgels for redressal of his grievances caused on account of acts of high and mighty.

There are several road blocks in making the Institution of Lokayukta effective. Each State has its own Act and Rules for setting of Lokayuktas with varying jurisdiction and power to search, seize and prosecute. It would be desirable to have uniformity in the provisions to the extent possible all over the country.

Shri Pranab Mukherjee, President of India in his inaugural address of the 11th All India Lokayuktas Conference, 2012 has said :-

“Our Constitution provides two fold mechanisms for containing corruption in the executive. Firstly, Judiciary which, as an independent organ of the State, is free from the influence of executive and secondly, the mechanism within the executive, i.e investigating agencies like CBI, Police and Vigilance *etc.* which are subject to the control of the executive. Judiciary can only have a limited pro-active approach in checking corruption. On the other hand investigative agencies within the executive are not considered effective because of the control of the political executive over them. A feeling of skepticism and mistrust in the administration by the public at large is prevailing. There is, thus, a need for in an institution which can inspire confidence of the public at large, an institution which is not fettered with the formal procedures and limitations of the judiciary in taking a pro-active approach and an institution which is not under the influence or control, direct or in direct of the executive, in its functioning *i.e.* an institution which can independently, impartially, informally and in pro-active manner probe into allegations against public functionaries.

It is also imperative that the Lokayuktas who are currently in saddle inspire confidence of the people by conducting impartial and independent inquiries in pursuit of truth and making it known to the public. Simultaneously, it is incumbent upon the Government to sufficiently empower the Lokayuktas, so that they can conduct inquiries effectively and without any obstruction. Undisputedly, there is need for relentless exposé of every corrupt practice including of those indulging in it, be it in politics, in business or in social life. Every person, who, from any platform makes such an efforts, undoubtedly needs to be commended, provided it is truthful and not motivated. Protecting the whistle blowers is important because they are eyes and ears of the Anti-corruption bodies”.

The Supreme Court in *Institute of Andhra Pradesh Lokayukta etc. Vs. T. Rama Subha Raddi* (1997) 9 Supreme Court Cases(SCC)-42, emphasized that Lokayukta's must be armed with appropriate powers and sanctions so that their orders may not become mere paper directions. These authorities are, then, not be mere paper tigers but must be armed with proper teeth so that their recommendations, suggestions and reports are not shelved by disciplinary authority concerned. Long back Privy-Council said, we do not want a decree which is a paper tiger.

The Union of India had enacted The Lokpal Bill which was introduced in the Parliament for eight times in total starting from 1968 and, latest in 2011. The Lokpal Bill, 2011 became a priority decision for the Parliament and resulted in the Joint Parliamentary Committee being set up to scrutinized the Bill and its effect. This was the first time in the recent past that the Civil Society has placed an effective role in such a large scale in the drafting and development of efficiency, socio and political legislation.

The objective of the Lokpal Bill is to have a body which has both supervisory as well as enforcing power with respect to corruption. There are more than 38 lakh employees in the Central Government alone as per the 2001 census which was more than a decade ago. Roughly, it is estimated that around 20 millions people are employed as Government Employees across the country, which is rising every year. To effectively have a watch dog over the plethora employees it is quite daunting task. This led to various discussions at the national level with both the Government and Civil Society having its representations in the committee. The Lokpal represents India's vision of reducing corruption in tandem with increasing transparency as well as curb corruption of all sorts can be seen as a strong move towards a better and corruption free future.

It is in this view of the matter that the Union of India has seriously considered to enact a law for maintaining efficiency, effectiveness, majesty and honour and strengthen the Lokpal and Lokayuktas institution to enable the Union of India and the States to deal with the evil of corruption with strong hands with effective methods and measures. Therefore, the Parliament in its wisdom had enacted Act called the Lokpal and Lokayuktas Act, 2013 (Act No. 1 of 2014) to provide for establishment of the bodies of Lokpal for the Union and of Lokayuktas for the States to enquire into allegations of 'corruption' against certain public functionaries and for matters connected there with or incidental thereto. The Lokpal and Lokayuktas Act, 2013 (Act No. 1 of 2014) came into force on 1st January, 2014 on which date the Act was published by the authority in the Official Gazette of India . Part-III of the Lokpal and Lokayukta's Act, 2013 deals with establishment of the Lokayuktas. Section 63 of the Act provides that every State shall establish a body to be known as the Lokayukta for the State, if not so established, constitute or appointed by a law made by the said legislature to deal with complaints relating to corruption against certain public functionaries within a period of one year from the date of commencement of this Act.

It seems that by virtue of Section 63, Part-III of Act No. 1 of 2014, the State of Himachal Pradesh has decided to enact a new law to make the Himachal Pradesh Lokayukta for the State more effective and strong and to bring out the law on parity and in consonance with the provisions of the Lokpal and Lokayukta Act, 2013.

Consequently, the State Legislative Assembly of Himachal Pradesh has enacted Act called "The Himachal Pradesh Lokayukta Act, 2014 "(Act No. 23 of 2015) which came into force on 30th June, 2015. Thus, the H.P. Lokayukta Act, 1983 stands repealed *w.e.f.* 30th June, 2015.

By virtue of Section-4 of the Act No. 23 of 2015, Lokayukta has to be appointed on recommendations of Selection Committee consisting of:

- | | | |
|----------------------------------------------------------|----|---------------------|
| (a) the Chief Minister | .. | <i>Chairperson;</i> |
| (b) the Speaker of the Legislative Assembly | .. | <i>Member;</i> |
| (c) the Leader of Opposition in the Legislative Assembly | .. | <i>Member;</i> |
| (d) the Chief Justice of High Court | .. | <i>Member.</i> |

The Lokayukta shall, on the recommendations of the Selection Committee, be appointed by the Governor by warrant under his hand and seal and would hold office as such for a term of five years from the date on which he enters upon his office or until he attains the age of seventy years, whichever is earlier. (See Section 6).

New Chapters were incorporated in Act No. 23 of 2015, ‘complaint’ as defined under Section 2(b) means a ‘complaint’ accompanied by an affidavit, made in such form as may be prescribed alleging that ‘public servant’ has committed an offence punishable under the Prevention of Corruption Act, 1988 or the Himachal Pradesh Prevention of Specific Corrupt practices Act, 1983. The ‘public servant’ as defined under Section 2(i) of Act No. 23 of 2014 means the Chief Minister, Minister of State Government (by whatever named called) that is to say, Minister, Minister of State, Deputy Minister and shall also include the Chief Parliamentary and Parliamentary Secretary and all officers and officials of the State Government, from amongst the public servants defined in sub-clauses (I) and (II) of clause (c) of Section 2 of the Prevention of Corruption Act, 1988 or the Himachal Pradesh Prevention of Specific Corrupt Practices Act, 1983, when serving or who has served in connection with the affairs of the State, besides officers and officials who are covered under Sections 4,5,6,7,8,9,10,11,12 and 13 (Chapter-II) and under Chapter-III, Chapter-IV, Chapter-V, Chapter-VI, Chapter-VII, and Chapter-VIII of the Himachal Pradesh Prevention of Specific Corrupt Practices Act, 1983.

By virtue of Section 10 (Chapter-III) of Act No. 23 of 2015, Lokayukta is empowered to constitute the Inquiry Wing headed by the Director of Inquiry for the purpose of conducting preliminary inquiry into any offence alleged to have been committed by a public servant punishable under the Prevention of Corruption Act, 1988 or the Himachal Pradesh Prevention of Specific Corrupt Practices Act, 1983. Similarly, Under Section 11 (Chapter-IV), the Lokayukta is empowered to constitute a Prosecution Wing headed by the Director of prosecution for the purpose of prosecution of public servant in relation to any complaint to the Lokayukta under the Act. The Director of prosecution shall, after having been so directed by the Lokayukta, file a case in accordance with the findings of investigation report before the Special Court which is to be constituted by the State Government under Section 30 (Chapter-IX) as recommended by the Lokayukta to hear and decide the cases arising out of the Prevention of Corruption Act, 1988 or the Himachal Pradesh Prevention of Specific Corrupt Practices Act, 1983 or under the Act.

The Lokayukta is also empowered to grant sanction for prosecution under clause (a) of sub-section (6) of Section 15 to file charge sheet or direct the closer of report before the Special Court against the public servant or he may direct the competent authority to initiate the departmental proceedings or any other appropriate action against the concerned public servant. The Lokayukta shall have the powers of superintendence over and to give directions to any Inquiry Officer or Investigating Officer as well as the prosecuting wing in terms of Section 20. The State Government shall make available such funds as may be required by the Lokayukta for conducting effective inquiries or investigation into complaints or cases.

By virtue of Section 21, Lokayukta is empowered to authorized any agency to search for and to seize documents which in the opinion of the Lokayukta shall be useful for or relevant to any investigation under the Act. Section 22 provides Lokayukta to have powers of Civil Court in matters enumerated at serial numbers (i) to (vi). The Lokayukta is also authorized to make attachment of assets of a person who is accused of having committed an offence related to corruption and is in possession of any profits of corruption (see Section 24). Under Section 25, the Lokayukta can pass order of confirmation of attached assets. By virtue of Section 27 Lokayukta is authorized to recommended transfer or suspension of public servant connected with allegation of corruption during the preliminary inquiry.

Undoubtedly, the picture that emanates from the above stated provisions on the face of the Act, is very attractive, clear and certain, but the provisions are not implemented and complied with by the authority concerned in letter and spirit till date.

I acknowledge and appreciate the outstanding assistance rendered by S/Shri R. K. Sharma, Secretary-cum-Registrar (District & Sessions Judge) Lokayukta, Ms. Ranjana Chauhan, IPS, Superintendent of Police, Lokayukta, Bhawani Singh, Tehsildar (Revenue Officer) Lokayukta, Rajender Kumar, Under Secretary, Lokayukta, R. C.Kapil, Reader, P.S.Chandel, Section Officer, Daulat Ram, Private Secretary, Harish Chander Chauhan, Private Secretary to Lokayukta, Smt. Seema Sharma and Smt; Vijay Laxmi, Junior Scale Stenographers who very ably recorded majority of the orders passed by me during the relevant period commencing from January, 2016 to December, 2016 and other staff of Lokayukta in assisting me in inquiries/investigations into complaints of corruption and other administrative matters.

It is worth mentioning that there were as many as 42 complaints pending in this Institution as on 31.12.2015 and 52 more complaints (Lokayukta 49 and Police 3) were received between 01.01.2016 to 31.12.2016. Department wise detail of complaints received/decided during the year is stated in Annexure-A. During 1st January, 2016 to 31.12.2016 as many as 71 complaints were finally decided.

For the Financial Year 2016-17, budget of Rs 3,57,42,000/- was sought, however, budget of Rs. 3,58,73,000/ was sanctioned. Expenditure upto 31.12.2016 was Rs. 1,83,22,903/- Tentative budget for the Financial Year 2017-18 amounting to Rs. 6, 51, 04,000/-has been demanded. I would earnestly hope that the State Government shall accept this demand sympathetically.

To sum up, H.P. Lokayukta has ensured that fair and just enquiry against those who misused their position and the object of the statute to bring out transparency and efficiency in the working of the public institutions has been carried out to a large measure. Large number of complaints filed before the Lokayukta is really an indication to hold that common people have reposed confidence in this institution as they have realized that immediate action is taken against such complaints.

At the end of the day, I may point out that in order to make “The Himachal Pradesh Lokayukta Act, 2014” (Act No. 23 of 2015) more effective and strong, the following recommendations for consideration of the State Government are made:

1. **Suo-motu cognizance** :— in “Himachal Pradesh Lokayukta Act”, 2014 (Act No. 23 of 2015) there is no provision for taking Suo-motu action on the allegation of corruption against

public servant. This power is felt utmost necessary, because it has been observed that in spite of serious allegations of corruption against public servant, nobody dares and comes forward due to fear and pressure of persons holding very influential /powerful position in the State. In such cases, Lokayukta must be empowered by making amendment in the Act to take cognizance on the basis of information/report on anonymous complaint if found to be believable and verifiable. In the absence of such powers, the desired benefits and results of this important piece of legislation are not coming forth.

2. The State Government should initiate necessary process of filling up the posts of the officers of 'Inquiry Wing', Prosecuting Wing', and constitute Special Court. The delay in the filling up of required posts alongwith supporting staff is affecting adversely the working of the Lokayukta. The required strength of the staff will be helpful to enable him to dispose of the complaints of aggrieved party, expeditiously.

3. The State Govt. should make endeavour to provide adequate and suitable accommodation for the office of Lokayukta befitting to his status as a Judge of Supreme Court of India or Chief Justice of High Court. It is pertinent to point out that the present office accommodation is not adequate and proper, to accommodate the staff members in a congenial atmosphere.

4. The following proposal(s) earlier sent to the Government for early finalization have not yielded any positive result so far, which require immediate solution to make the Lokayukta Institution functional as per provisions of the newly enacted Himachal Pradesh Lokayukta Act, 2014.

- (i) Providing additional staff for the Lokayukta Himachal Pradesh.
- (ii) The Himachal Pradesh Lokayukta Rules, 2016.
- (iii) The Himachal Pradesh Lokayukta (Recruitment, Promotion and other conditions of service of officers and employees of Lokayukta) Rules, 2016.

I hope and trust that the State Government will be obliged to consider the above stated recommendations/suggestions in their true spirit and substance as expeditiously as possible.

Pines Grove Building,
Shimla-171 002.

Justice Lokeshwar Singh Panta,
Lokayukta, Himachal Pradesh.

December 31, 2016.

Department-wise detail of Complaints received/decided during the year 2016

Sr. No.	Name of Department	Brought forward from previous Year	Received during the year	Total	Complaints decided during the year	Balance
Lokayukta Complaints						
1.	Revenue	6	12	18	13	05
2.	Rural Development & Panchayati Raj	19	13	32	22	10
3.	Health & F/ W	1	-	01	01	-
4.	Forests	2	1	03	-	03
5.	H.P.P.W.D	-	1	01	01	-
6.	Irrig. & Public Health	2	-	02	02	-
7.	Education	2	3	05	05	-
8.	M.L.A/Minister	1	1	02	01	01
9.	High Court	-	1	01	01	-
10.	Bank	1	-	01	01	-
11.	State Co-operative Society.	1	3	04	03	01
12.	Agriculture	1	-	01	01	-
13.	Labour & Employment	-	1	01	01	-
14.	Transport	1	-	01	01	-
15.	H.P.University	-	1	01	01	-
16.	Pollution Control Board	1	-	01	01	-
17.	Factory	-	2	02	01	01
18.	Relief & Rehabilitation.	-	2	02	02	-
19.	Others	2	8	10	08	02
20.	Total:	40	49	89	66	23
21.	Police	2	3	05	05	-
22.	G.Total . .	42	52	94	71	23

LOKAYUKTA, HIMACHAL PRADESH

Detail of sanctioned posts

Sr. No.	Name of Posts	No. of posts.	Pay Band
1.	Lokayukta	1	Rs. 90,000 fixed
2.	Secretary	1	Rs. 37400-67000+10000/-Gr. Pay
3.	Registrar	1	Rs. 70290+78450+1000-Sectt. All.
4.	Superintendent of Police	1	Rs. 37400-67000+8600/- Gr.Pay+1200/- Sectt. Pay
5.	Under Secretary	1	15600-39100+6600 Gr. Pay+2500 Sectt. Pay
6.	Sr. Private Secretary	1	15600-39100+6600 Gr. Pay+2500 Sectt. Pay
7.	Reader	1	15600-39100+5400 Gr. Pay+1200 Sectt. Pay
8.	Private Secretary	3	15600-39100+5400 Gr. Pay+2000 Sectt. Pay
9.	Section Officer	1	15600-39100+5400 Gr. Pay+2500 Sectt. Pay
10.	Revenue Officer	1	10300-34800+5000/- Gr. Pay.
11.	Personal Assistant	1	10300-34800+4800/-+1200/- Sectt. Pay.
12.	Superintendent Gr-II	1	10300-34800+4800/-+ 1200/- Sectt. Pay.
12.	Senior Assistants	5	10300-34800+3800/-+900/- Sectt. Pay.
13.	Sub-Inspector Police	1	10300-34800+4600/- Gr. Pay.
14.	Junior Scale Stenographer	2	10300-34800+3600/-+500/- Sectt. Pay.
15.	Clerk	4	10300-34800+3200/-+400/- Sectt. Pay.
16.	A.S.I.(PSO)	1	10300-34800+4400/-Gr. Pay.
17.	Data Entry Operator	4	Rs. 5910-20200+2400/-- Gr. Pay+1400/- Sectt. Pay.
18.	Supervisor (Staff Car)	1	Rs. 5910-20200+2400/-- Gr. Pay+1400/- Sectt. Pay.
19.	Driver	5	Rs. 5910-20200+2400/-- Gr. Pay+1400/- Sectt. Pay.
20.	Jamadar	2	Rs. 4910-10680+1800/-- Gr. Pay+240/- Sectt. Pay.
21.	Process Server	1	Rs. 4910-10680+1800/-- Gr. Pay+240/- Sectt. Pay.
22.	Peon	7	Rs. 4910-10680+1650/-- Gr. Pay+240/- Sectt. Pay.
23.	Frash	1	Rs. 4910-10680+1650/-- Gr. Pay+240/- Sectt. Pay
24.	Mali	1	Rs. 4910-10680+1650/-- Gr. Pay+560/- Sectt. Pay
25.	Chowkidar	1	Rs. 4910-10680+1650/-- Gr. Pay+240/- Sectt. Pay
26.	Sweeper	2	Rs. 4910-10680+1650/-- Gr. Pay+240/- Sectt. Pay
Total Posts . .		52	

DETAIL OF LOKAYUKTA COMPLAINTS DECIDED DURING THE YEAR, 2016

1. Complaint No. 52/2015-1(A)-Loka

06-01-2016

The complaint has been filed by Shri Ram Krishan Kaushik R/0 Village Bareti Patradya Ghatti, Tehsil and District Solan, H.P. alleging therein that the education standard of the Himachal Pradesh State Education Department has deteriorated to large extent due to the reason that a number of vacancies of the teachers are lying vacant and the department has failed in their constitutional duties to fill up the large number of vacancies of the teachers on regular basis.

On examination of this complaint, it is noticed that the same has not been filed in accordance with the provisions contained in the Himachal Pradesh Lokayukta Act, 2014 (Act No. 23 of 2015) as the complaint has not been signed by the complainant nor it is accompanied by a sworn affidavit duly attested by the competent authority against a particular public servant for committing an offence punishable under the Prevention of Corruption Act, 1988 or the Himachal Pradesh Prevention of Specific Corruption Act, 1983, (see Section 2 (b) of Act No. 23 of 2015).

As the complaint suffers from legal infirmity, hence the same is ordered to be filed at the preliminary stage of proceedings.

However, I am making it clear that any observation made in this order shall not be construed as an expression of opinion on the merits of the grievances raised by the complainant in appropriate authority/forum to redress his grievances in accordance with law.

2. Complaint No. 01 /2016-1 (A) Loka

07-01-2016

This complaint has been filed by Shri Ravi Mehta complainant herein alleging that an illegal Bar has come up on Scandal Point, The Mall Sheila with the connivance of staff/officers of Excise Department, Revenue Officials, Police Department and Head local bodies. He alleges that the owner of the illegal Bar is a top influential person of the town. According to the complainant, the distance of the location where the illegal bar has been made functional is just two meters away from a school, whereas no Bar could come up within a distance of 100 meters from any school, religious place *etc.* as per the excise policy of the Himachal Pradesh Government as well as directions of the Hon'ble High Court. He submitted repeated numerous representations to the concerned departments, but of no result rather all the representations have fallen upon deaf ears. The complainant has enclosed copies of Tatima Jamabandi and Satellite Pictures of the ownership and location of the Bar.

On the above said premises, the complainant has requested the Lokayukta to hold inquiry against the errant officers/officials and unveil this racket to establish the rule of law and dignity of the High Court.

On scrutiny of the complaint, it is found that the grievances of the complainant can not be dealt with and entertained by the Lokayukta as these do not come within the purview, jurisdiction,

power and authority of the Lokayukta in terms of the provisions contained in the Himachal Pradesh Lokayukta Act, 2014 (Act No. 23 of 2015) or under Himachal Pradesh Prevention of Specific Corrupt Practices Act, 1983(Act No. 3 of 1984). Hence, this complaint is ordered to be filed.

However, I am making it clear that any observation made in this order shall not be construed as an expression of opinion on the merits of the grievances made in this complaint. The complainant is at liberty to redress his grievances before appropriate Court/forum or authority in accordance with law.

3. Complaint No. 33/2014-1(A) Loka

12-01-2016

This complaint has been filed by Shri Jai Ram Bharti complainant herein against Shri Ratna Bharti, Gram Panchayat Ropa. The allegations levelled by the complainant against the Pradhan are that an amount of about Rs. 8.75 lacs has been spent by the Pradhan for construction of about 700 meters long road from main road to Panchayat Ghar Ropa. The construction work of the said road was started in 2012 and was completed in the same year, but in the year 2014 an amount of Rs. 1,50,000/- more was again sanctioned for this road and was shown having been spent. The road has been constructed inside the fertile land and plain fields of the villagers for which JCB has been used for about 12 hours for construction of the road, whereas fictitious bills have been presented by the Pradhan showing the construction of the road. He has also alleged that an amount of Rs. 3,00,000/-(three lacs) has been spent for construction of the road but the Pradhan Gram Panchayat has swindled the government money to the tune of Rs. 6,00,000/- by submitting fictitious bills. He next alleged that the Pradhan has allotted one house to Shri Raj Kumar his son-in Law under Indira Awas Yojna (IAY) who is not covered under BPL category. The contents of the complaint are supported by sworn affidavit duly attested by Shri Dev Kumar Sharma, Public notary Sub-division Rampur Bhushar, District Shimla.

The nature of the contents of the complaint reveals that the grievances of the complainant are such which would need a detailed preliminary inquiry by some higher authority of the Panchayati Raj Department Himachal Pradesh. Therefore, in the facts and circumstances of the subject matter in issue, Lokayukta by order dated 09-09-2014 requested the Director Panchayati Raj Department to conduct preliminary inquiry himself or get the inquiry conducted by a Joint Director/Dy. Director stationed at Shimla into the genuineness and truthfulness of the allegations alleged in complaint against the Pradhan. The Inquiry Officer was requested to record the statement(s) of the complainant and his witness(s) if any, in support of the contents of the complaint and also statement of the Pradhan against whom the allegations are allegedly made in the complaint as well as statement(s) of his witness(s) if any, produced by him. The Inquiry Officer was at liberty to take any documentary evidence into consideration if any, produced by the parties involved in the complaint and the inquiry report alongwith the entire record shall be furnished to the Secretary Lokayukta within one month from the date of receipt of a copy of the order.

It appears from the record that pursuant to order dated 09-09-2014, the Director, Panchayati Raj Department has got the inquiry conducted by Shri Rakesh Kr. Korla, Dy. Secretary (Panchayati Raj)-cum-Inquiry Officer, Himachal Pradesh relating to the allegations made by the complainant against the Pradhan. The Inquiry Officer conducted the inquiry on 01-11-2014. He recorded the statements of the complainant and Pradhan Gram Panchayat., Ropa and also took into consideration Photostat copies of material documents produced by the parties and BDO Anni, District Kullu as

well as Secretary “Zila Parishad” Kullu besides cash /credit vouchers of the materials purchased from the contractors and suppliers of all kinds of machinery. He has also taken into consideration Photostat copies of characteristic wise report of BPL families in respect of Panchayat and muster-rolls of the labourers allegedly engaged for the construction of the roads etc. On conclusion of the inquiry, the Inquiry Officer submitted detailed inquiry report alongwith statements and documents brought on record during the course of inquiry. On bare perusal, the inquiry report reveals that the Inquiry Officer prima-facie concluded that the allegations numbers 1,2,& 3 made against Pradhan appeared to be not genuine and allegation No. 4 alleged stood proved relating to the tempering with the proceedings about the inclusion of new names and deletion of the in-eligible persons from the BPL category list.

On the basis of the inquiry report, Lokayukta by order dated 30-12-2014 had requested the Director, Panchayati Raj Department to take consequential appropriate action against the erring Pradhan of the Gram Panchayat in accordance with law and the action report so taken shall be supplied to the Secretary, Lokayukta within two months from the receipt of a communication of this office. No compliance report of the order of Lokayukta dated 30-12-2014 was placed on record of this case by the Director, Panchayati Raj within the stipulated period. Therefore, by order dated 16-06-2015 a reminder order was sent to the Director to comply with the order in true spirit and substance without further delay, demur and default. He was also reminded that the directions/orders made by the Lokayukta are mandatory and of binding nature on the administrative authority(s) and it is his bounden duty and obligation to see complete implementation of such direction/order. He was also apprised that non-compliance of the directions/orders can entail serious consequences as provided under Section 11-A of the Himachal Pradesh Lokayukta Act, 1983(Old Act No.17 of 1983) which provides power to punish for contempt under the provisions of the Contempt of Courts Act, 1971 For doing the needful further time of one month from the date of receipt of a copy of the order dt. 16-06-2015 was given to the Director. Again, the Director has not cared to comply with the earlier order of the Lokayukta till 01-08-2015. Therefore, by way of indulgence and in the interest of justice and fair play one more opportunity came to be provided to the Director to comply the earlier orders within in one month from the date of receipt of copy of the order. In response to the latest order of the Lokayukta dated 01-08-2015, the Joint Director-*cum*-Dy. Secretary Panchayati Raj Department vide letter dated 25th August, 2015 has intimated that the Dy. Commissioner, District Kullu, Himachal Pradesh on 19-01-2015 has issued show cause notice to the Pradhan on the basis of inquiry report and also has appointed the Assistant Engineer (development) District Rural Development Agency as Technical Inquiry Officer with a clear direction to submit charge sheet against erring official(s) of the Panchayat to the Block Development Officers, Anni.

Pradhan Gram Panchayat, Ropa on 07-02-2015 has filed reply to the show cause notice stating that the allegations levelled by the complainant were false and these were made due to personal grudge.

The Assistant Engineer (Development) District Rural Development Agency, Kullu has submitted a technical inquiry report and concluded that the cost of construction work done by use of JCB for formation cutting of the road during the year, 2012, would come to Rs. 4,60,179/- only against the expenditure of Rs. 4,25,000/- (3,65,000/-+60,000/-) resulting net saving of Rs. 35, 179/- only. Regarding the use of JCB for 47 hours for removal of slips and maintenance of road during the year 2014, it is submitted that measurement could not be under taken at site. The valuation of the work i.e. construction of Bridge and retaining wall during original construction and

its subsequent repairs executed through Muster-Rolls and Contractor would work out to Rs. 5,22,710/- only against expenditure of Rs. 4,98,500/- resulting a net saving of Rs. 24, 210/- only. Hence, the over all expenditure seems to be genuine.

The Joint Director-Cum-Deputy Secretary Panchayati Raj has submitted that a report has been received in this office from the Assistant commissioner (Development) Development Block Anni on dated 11-05-2015 which would show that there was cutting/tempering with the proceedings about inclusion of new names and deletion of the in-eligible persons from the BPL category list and hand writing was also different in resolution numbers of the Gram Sabha. In order to know the truth the statement of Shri Hira Lal, Panchayat Sahayak was mandatory, who during the inquiry conducted by Dy. Secretary (Panchayati Raj-cum-Inquiry Officer was not present. Accordingly, the Assistant Commissioner (Development) has been requested on dated 18-05-2015 to record the statement of Shri Hira Lal, Panchayat Sahayak and initiate disciplinary proceedings against him for tempering with the proceedings and to submit his report immediately without any further delay.

Besides, the above action taken against erring Panchayat Official, the Deputy Commissioner, District Kullu vide letter dated 11-08-2015 was requested to intimate about the action taken by the authority concerned. The Deputy Commissioner by letter dated 29-08-2015 has intimated the Director Panchayati Raj that the Chief-Executive Officer, Jilla Parishad, District Kullu on dated 24-08-2015 has issued a show cause notice to Shri Hira Lal, Panchayat Sahayak and directed him to submit his reply to the show cause notice within period of one month. The Joint Director-cum-Deputy Secretary Panchayati Raj vide this office letter dated 13-10-2015 sent to him was again requested that concerned authority shall submit its final action taken report within further period of one month from the date of receipt of communication of this office.

It was on 27th November, 2015 that Joint Director-Cum-Dy. Secretary, Panchayati Raj through fax message has informed this office that the Chief- Executive Officer, Jila Parishad Kullu, District Kullu vide his office order 31-10-2015 has terminated contract agreement of Shri Hira Lal, Panchayat Secretary and consequently, he has been removed from the post of Panchayat Secretary with immediate effect for tempering the record/list of IAY beneficiaries and making cuttings in the proceedings of Gram Sabha.

In view of the inquiry report submitted by the inquiry Officer, no irregularities or misappropriation of Government funds were found by the Inquiry Officer against Shri Ratna Bharti, Pradhan Gram Panchayat Ropa and only one allegation was proved against Shri Hira Lal, Panchayat Secretary for which necessary appropriate action has been taken by the competent authority against him.

In view of the inquiry report of the Joint Director-Cum-Inquiry Officer and technical inquiry report of the Assistant Engineer (Development) District Development Agency, Ropa, coupled with the action taken report by Chief-Executive Officer Jila Parishad Kullu, District Kullu against Shri Hira Lal Panchayat Secretary, no further action now needs to be taken in this matter. Hence, the complaint shall stand filed.

However, I am making it clear that I have not expressed any opinion on the merits of the alleged grievances made by the complainant in this complaint and nothing said by me in this order should be interpreted or construed as an expression of opinion on the merits of the case.

4. Complaint No. 19/2015-1(A) Loka

01-03-2016

Shri Beli Ram Sharma, the above named complainant claiming himself a handicap person, has filed this complaint alleging that the above named opposite parties except Shri Lachi Ram opposite party No. I, are public servants employed in the Himachal Pradesh Forest Corporation and a teacher in Govt. Middle School Malat and an employee in Govt. School Chundrada have encroached upon his ancestral land. He alleged that natural water source and “Baan” trees standing on his land have forcibly been occupied by the opposite parties, who have removed some “Baan” trees for their domestic use. He has also alleged that he is a co-sharer in Khata-Khatoni No. 68/165 Khasra No. 871 land measuring 0-46-07, as per jamabandi for the years 2010-2011, whereas the total area of Khasra No. 871 was 8 bighas 14 biswas before the Settlement operation which was conducted in the years 2005-2006.

It is further case of the complainant that in the year 2009, Shri Lachi Ram was Pradhan Gram Panchayat Malat and in-connivance with Shri Roshan Lal, Secretary Gram Panchayat, he had diverted natural water for his personal use from natural source located at his private land.

On the basis of the above said allegations, by way of this complaint, he has requested that appropriate legal action shall be initiated against the above said public servants and justice be done to him.

The contents made in the complaint are supported by an affidavit and a photostat copy of medical certificate of physically handicap person, BPL category and photostat copies of jamabandi for the years 1999- 2000, and photostat copy of an application dated 13-03-2015 submitted to the Tehsildar, Tehsil Kupvi for demarcation of the land in dispute and one copy of application submitted to Sub-Divisional Officer, Chopal, Tehsil Chopal, requesting him to direct Tehsildar Kupvi to demarcate the land in dispute.

Nature of the case is such which may require a thorough probe by high authority of the Revenue Department. Consequently, by order dated 22-06-2015 recorded by the Lokayukta, the Sub-Divisional Magistrate, Chopal was requested to conduct the preliminary inquiry in to the allegations and submit action taken report, if any based on the subject mentioned in the applications dared 09-04-2014, addressed by the complainant to the Sub-Divisional Magistrate and dated 13-03-2015 to the Tehsildar Kupvi. The Needful was to be done within one month from the receipt of copy of the communication of this office. Subsequently, by order dated 17-06-2015 a reminder was sent to the Sub-Divisional Magistrate, Chopal asking him to comply with the order of the Lokayukta dated 22-06-2015 which came to be communicated by the Reader on the same date and he was also advised to do the needful within further period of one month from the date of receipt of communication from this Institution.

Pursuant to the order dated 22-06-2015, SDM Chopal has submitted his report alongwith a copy of the order recorded by him in case No. 09/2015 dated 12-12-2015 under Sections 107/150/145 CrPc. The said case was filed by the complainant against Shri Lachi Ram, Narayan Singh and Smt. Priyanka, the opposite parties in the present complaint. A bare perusal of the order would show that the SDM after recording the evidence of the parties in dispute has observed that the complainant was never in possession of the “Baan” trees located on the margin of Khasra No. 866 nor he ever used those trees for domestic purpose. On the contrary, the opposite parties in the

said proceedings were found chopping the trees since the time of their ancestors, hence, the possession of the trees always remained with them. He has concluded that the opposite parties in the litigations shall remain in possession of the said trees and they are entitled to chop those trees for their domestic use until they are dis-possessed by following due course of law.

On the basis of the findings and reasonings recorded by the SDM, "Kelendra" filed by the police on the complaint of the complainant was ordered to be filed and the persons against whom the case was instituted were discharged under Section 107/150/ CrPc.

Further, the Tehsildar Kupvi got the land in dispute demarcated through the help of Field Kanungo and Halka Patwari on the basis of jamabandi for the years 2011-2012, on the basis of an application allegedly filed by the complainant before him and the demarcation was conducted on the spot on 5th June, 2015 in the presence of the complainant. According to the report of the Tehsildar, the complainant is co-sharer of Khata-khatoni No. 68/165 Khasra No. 871 ad-measuring 0-46-07 hectare as per the jamabandi for the years 2010-2011, whereas the complainant claims to be owner in possession of the said land ad-measuring 8 bighas 14 biswas before settlement which was conducted in the year 2005-2006. After detailed perusal of revenue records of Patwar Khana Malat Sabik No. 2752/43, area measuring 8 bighas 14 biswas was bifurcated into two khasra nos. 871 and 870 ad-measuring 0-46-07 hectare and 0-19-32 respectively. Hence, the total area of khasra Nos. 871 and 870 comes to 0-65-39 hectare or 8 bighas 14 biswas approximately.

However, in Khasra No. 870 Shri Layak Ram has been found as a "Kabis" (in possession) by the order of settlement Sub-Tehsildar dated 23-03-2006. Similarly, land comprising khasra No. 866 measuring 0-07-50 hectare, which comes to 1 bigha approximately is under the ownership of Devta "Bejut Maharaja" and is being cultivated by Shri Beli Ram and other. The complainant has claimed both lands to the extent of 1 bigha 17 biswas before the settlement which is factually incorrect as he has not attached jamabandi of land comprising khasra No. 866 or Sabik No. 2585. However, he has attached jamabandi of 61/99 khasra Nos. 2745 and 2748 measuring 01-17 bighas and Sabik khasra No. 2745 was bifurcated from khasra Nos. 631, 656 and 659 total area about 1 bigha 10 biswas. Further, Sabik khasra No. 2745 was changed to khasra No. 844, area measuring 0-02-73 hectare or 0-7 biswas approximately. Therefore, the total area of khasra nos. 631,656, 659 and 844 would come to 1 bigha 17 biswas approximately. The Tehsildar has attached a hand written demarcation report duly signed by the Field Kanungo Kupvi and Patwari Halka alongwith photostat copies of jamabandi for the years 1999-2000 and 2005-2006 and jamabandi for the years 2010-2011 alongwith his report.

Having carefully considered the report of the Sub-Divisional Officer, Chopal and other documents mentioned here-in-above, I am of the view that the complainant at this stage has not made out a prima-facie case to initiate any proceedings against the above said public servants, in terms of the provisions of the Himachal Pradesh Lokayukta Act, 2014(Act No. 23 of 2015) and Himachal Pradesh Prevention of Specific Corrupt Practices Act, 1983. The dispute interse the parties is of revenue and civil nature which has to be decided by the competent authorities. Hence, no further action needs to be taken on this complaint and the same shall stand filed.

However, I am making it clear that I have not expressed any opinion on the merits of the grievances alleged by the complainant in this complaint and nothing said by me in this order should be interpreted or construed as an expression of opinion on the merits of the case.

The complainant if he so desires is at liberty to approach the competent authority/court for redressal of his grievances as permissible under law.

5. Complaint No. 14/2015-1 (A) Loka

04.03.2016.

This complaint has been addressed by Shri Sanjeev Mehta, R/o Village Sultanpur, District Chamba to the Additional Director of Vigilance, Himachal Pradesh and copy thereto was addressed to the Lokayukta Himachal Pradesh. The complainant proclaims himself as a RTI Activist. The grievances of the complainant are that one Shri Kamal Singh, S/o Shri Gian Singh, R/O Sultanpur has encroached upon government land near fish farm to the extent of ten Bighas and twelve Biswas. The cost of the encroached land would be about 70-80 lakh. He also stated that the land has been encroached by the encroacher with the connivance of Shri Shiv Kumar Patwari, who has also encroached upon government land to the extent of eight Bighas and nine Biswas adjoining to his house at Udaypur.

On the basis of the above premises, the complainant by way of this complaint has requested to get the encroached land vacated from Shri Kamal Singh and appropriate legal proceedings be initiated against the Patwari as well.

On receipt of the complaint, it has been noticed that the same has not been filed by the complainant in accordance with the provisions envisaged Under Section 9 of H.P. Lokayukta Act, 1983 (Act No. 17 of 1983), and Rules 4 and 5 of H. P. Lokayukta (Proceedings) Rules, 1983 (for short 'Rules 1983'). The complainant was requested to do the needful within one month of the receipt of a copy of communication of this office.

Reader to Lokayukta by letter dated 16-05-2015 has requested the complainant to file the complaint, if he so desired, on Form-I duly supported by an affidavit on Form No.-II. Photostat copies of Form-I (Complaint) and Form-II (Affidavit) were also sent to him for ready reference and guidance and he was advised to get the affidavit prepared on non-judicial stamp paper worth Rs. 3/- only and get the same attested from the competent authority. He was also advised that if he would feel any difficulty and problem in understanding the required procedural formalities as suggested to him, he was at liberty to visit the office of the Lokayukta on any working day or contact any official of the Lokayukta on telephone Nos. 2623339 and 2624908 during office hours on any working day.

The complaint file would reveal that despite the letter of this office dated 16-05-2015, the complainant has not responded thereto, nor has he submitted fresh complaint as suggested to him till date, whereas more than nine months have elapsed.

In the backdrop of the case, it appears that the complainant may not be interested in pursuing this matter further and incomplete complaint cannot be kept pending for indefinite period for want of appropriate and complete complaint from the aggrieved party. Hence, this complaint shall stand filed without embarking upon the merits of the grievances made in this complaint.

However, the complainant if he so desires can approach the appropriate authority/Tribunal/Court for redressal of his grievances as permissible under law.

6. Complaint No. 21/2015-1 (A) Loka

22.03.2016.

Smt. Neelam Devi, complainant herein has filed this complaint against the above said officers/officials of the I & PH Department, IPH Circle, Hamirpur. According to the complainant, her husband Shri Raj Kumar was appointed as Pump Operator in I & PH, Sub-D ivision Galor, under I & PH Division, Barsar. He unfortunately, expired on 28-06-2014, due to pro-longed illness. She alleged that after the death of her husband, she met with Shri Kuldeep Singh, Clerk I & PH Division, Barsar, requesting him to process her family pension case and to provide employment on compassionate ground to her son Shri Ankush Sharma, but, Shri Kuldeep Singh, Clerk had not paid any heed to listen her grievances and he harassed her mentally and threatened her that her dependant would not be given employment on compassionate ground.

On the above said premises, the complainant by way of this complaint has requested that Shri Kuldeep Singh, Clerk I & PH Division, Barsar be immediate transferred from the said posting and further that she may be granted pension and her son shall be granted employment on compassionate ground.

Having given thoughtful consideration to the grievances addressed by the complainant in this complaint, Lokayukta vide order dated 25-06-2015, has requested the Executive Engineer, I & PH Division, Barsar to process the family pension case of the complainant on priority basis and furnish the action taken report to the Lokayukta within two months time positively. Reader to Lokayukta by registered confidential letter conveyed the gist of the said order to the concerned Executive Engineer on the same day. Pursuant to letter dated 25-06-2015, Executive Engineer I & PH Division, Barsar has conveyed that Shri Raj Kumar husband of the complainant was initially appointed as Pump Operator on contract basis vide order of Superintending Engineer, I & PH Circle Hamirpur dated 09-11-2006 and he had joined his duty on the same day (A.N.) He was regularized by order of the Superintending Engineer, I & PH circle Hamirpur dated 27-04-2013, and he accordingly, joined his duty as regular Pump Operator on the same day, but unfortunately, later on he died on 28-06-2014. He also submitted that the employees appointed on contract basis prior to 14-05-2003 and regularized in the Government duty on or after 15-05-2003 are not covered under the CCS (Pension) Rules, 1972, hence, Smt. Neelam Devi was not found eligible for family pension under the relevant Rules.

Subsequent to the receipt of the letter of the Executive Engineer, I & PH Division, Barsar dated 15-07-2015, he was again requested to file detailed reply meeting the entire substance of the grievances made by the complainant being a widow of deceased employee of the department. The needful was to be done within one month from the date of receipt of communication of this office. Reader to Lokayukta conveyed the gist of the said order on 27-07-2015 to the Executive Engineer. In response to the order, the Executive Engineer has informed by letter dated 17-08-2015 that the complainant by letter No. 17335 dated 18-11-2014 sent to her by the office was requested to submit the application supported by relevant documents. Her complete application was received by Assistant Engineer on 11-02-2015. The complainant visited the office of the Executive Engineer in November 2014 to submit her legal heir certificate and she tried to put pressure on an employee of the office to pay to her entire amounts of the relief fund of her deceased husband. The complainant was not entitled to the entire relief fund in view letter No. Fin-A-C (5) / 2014-III, received from Section Officer (Budget), Himachal Pradesh Secretariat. Therefore, Shri Kuldeep Singh, Clerk of the office could not pay the entire amount of relief to her and she was advised that the entire relief

fund has to be distributed amongst the legal heirs, which was already paid to all the legal heirs in November, 2014. It has also stated that Shri Madan Singh, Clerk was also present in the office when Shri Kuldeep Singh, Clerk apprised the complainant about policy of the State Government for distribution of relief funds. Shri Madan Singh, Clerk during the preliminary inquiry has also stated that Shri Kuldeep Singh, Clerk has not harassed or humiliated the complainant as alleged by her and in view of the factual situations; her allegations against Shri Kuldeep Singh, Clerk were found baseless and un-founded. Photostat copy of the reply filed by Shri Kuldeep Singh, Clerk before the Executive Engineer I & PH Division, Barsar is also enclosed with the letter of the Executive Engineer dated 17-08-2015.

Having pursued the reply of the Executive Engineer, Lokayukta vide order dated 19-11-2015, again requested Executive Engineer, I & PH Division, Barsar to submit fresh status report in regard to providing appointment of the dependant of the deceased on compassionate ground within one month from the date of receipt of a communication from this office. In response thereto, the Executive Engineer by letter dated 08-12-2015 has informed that the matter for providing employment on compassionate ground to Shri Ankush Sharma, son of the complainant has already been submitted to the Additional Chief Secretary, I & PH to the Government of Himachal Pradesh vide Engineer in Chief, I & PH Department letter No. IPH-ES-III-Emp-Assis. (HZ) Vol-IX/2015-3384-85 dated 21-07-2015 (Copy of the said letter is also attached for information). Thereafter, Lokayukta vide order dated 29-02-2016, requested Additional Chief Secretary, (IPH) to the Government of Himachal Pradesh to take appropriate decision in response to the request of Engineer in Chief, I & PH Department made on 21-07-2015, on priority basis without further delay. He was also requested to submit status report of the action so taken to the Secretary, Lokayukta within a period of one month from the date of receipt of copy of communication of this office. A photostat copy of the said order was sent to the Additional Chief Secretary (IPH) to the Government of Himachal Pradesh by Reader to the Lokayukta on 29th February, 2016. In response to the said letter, Under Secretary (IPH) to the Government of Himachal Pradesh by letter dated 09-03-2016 has requested the Special Secretary (Finance) to the Government of Himachal Pradesh that the matter regarding providing him assistance on compassionate ground to Shri Ankush Sharma, son of Late Shri Raj Kumar, Pump Operator was already under submission to the Finance Department vide department file bearing of even No. dated 11-08-2015 and the approval is still awaited. The Special Secretary (Fin) to the Government of Himachal Pradesh is requested by the Secretary (I & PH) to the Government of Himachal Pradesh to send the status report of the action to be taken of this department immediately, so that the office of Lokayukta could be informed accordingly.

In view of the backdrop of the factual and legal situation, no further action needs to be taken on this matter. The concerned authority are already seized the case of the dependant of the deceased and as soon as the Finance Department of the State Government take final decision, the same shall be conveyed to the concerned I & PH authorities. Hence, this complaint shall stand filed.

However, I am making it clear that I have not expressed any opinion on the merits of the case of the complainant and she is at liberty to redress her grievances if any, before the competent authority/Tribunal in accordance with law.

7. Complaint No.56/2013-1(A) Loka

28-03-2016

A hand written un-signed copy of complaint allegedly has been filed by residents of Gram Panchayat Bamta Block & Tehsil Sadar, District Bilaspur, against Shri Arjun Singh the above named opposite party. The grievances of the complainants are that Shri Arjun Singh had contested election of Ward Member of the Panchayat during the pendency of encroachment proceedings on Government land, initiated against him by the State Government before the Sub-Divisional Collector Sadar. He has not been removed from the post of Ward Member by the competent authority because he is an influential and political connected person of the area.

On the above said premises, the complainants, by way of this complaint have requested that appropriate legal action shall be taken against the erring Ward Member in accordance with law and he should be ejected from the encroached land forth with. The contents of the complaint are not supported by an affidavit as required under the provision of the Himachal Pradesh Lokayukta Act, 1983(Act No. 17 of 1983) and relevant Rules framed there under which were in vogue at the relevant time. The complainants have also filed photostat copies of revenue records and other documents alongwith this complaint.

However, looking to the seriousness of the grievances made against the public servant of the Panchayat, Lokayukta vide order dated 28-12-2013, requested the Sub-Divisional Collector, Sadar, Bilaspur to submit status report in regard to the outcome of the encroachment case pending before him against Shri Arjun Singh, Ward Member, within a period of one month from the receipt of a copy of the order which was sent to him by Reader, Lokayukta alongwith complete copy of the complaint by registered confidential letter dated 30th December, 2013.

Pursuant to the said order, the Sub-Divisional Collector Sadar, Bilaspur by letter dated 27th January, 2014, informed the Principal Secretary, Lokayukta that Shri Arjun Singh was found to have encroached upon land of the Himachal Pradesh Public Works Department comprising Khasra Nos. 533/2 and 533/4 measuring 114.08 Sq. Mtrs., by way of erecting Gair Mumkin shop with "boundary wall" in Up-Muhal, Diara, MC area Bilaspur. Legal proceedings under the provision of Himachal Pradesh Public Premises and Land (Eviction and Rent Recovery) Act, 1971 were pending before him which was fixed for recording defense evidence.

Subsequent to the said letter of Sub-Divisional Collector, Lokayukta vide order dated 03-03-2014, requested the Sub-Divisional Collector, Sadar to furnish status report of the pending case within further period of one month from the date of receipt of communication of this office. Reader to Lokayukta vide letter dated 3rd March, 2014, conveyed the said order to the concerned Collector for compliance. Despite, order dated 03-03-2014, recorded by the Lokayukta and duly conveyed to the concerned authority, no response was received from the Sub-Divisional Collector. Consequently, by order dated 31-05-2014, a reminder was sent to the Collector to comply with the earlier orders of the Lokayukta in letter and spirit without demur and delay within further period of one month from the date of receipt of a gist of said order, which was conveyed to him on 3rd June, 2014.

Sub-Divisional Collector, Sadar by letter dated 20-06-2014 has again conveyed that proceedings for recording the statements of the remaining defense witnesses were fixed on 17-07-2014. Subsequently, vide letter dated 19-08-2014, Sub-Divisional Collector, Sadar has

informed the Principal Secretary, Lokayukta that the ejection proceedings were fixed for final order on 18-09-2014. Thereafter, again one month further period was granted to the concerned authority to submit the final status report. He accordingly was informed by Reader to the Lokayukta on 12th September, 2014.

Finally, by letter dated 22/25 September, 2014 the Sub-Divisional Collector, Sadar has informed the Principal Secretary, Lokayukta that eviction order has been passed on 18-09-2014 against encroacher and directed him to vacate the premises and report has been called for from the concerned revenue authorities before dated 30-10-2014.

It was with repeated and persuasive reminders that the Sub-Divisional Collector, Sadar, Bilaspur by letter dated 29th November, 2014 has informed the Pr. Secretary, Lokayukta that the encroacher has filed a statutory appeal against the order of the Collector before the Divisional Commissioner, Mandi, District Mandi being Appellate Authority.

Lokayukta thereafter, by order dated 12-02-2015 has requested the Divisional Commissioner, Mandi, District Mandi to furnish outcome of the pending appeal within one month of the receipt of the communication of this office.

Pursuant to the said order, the Learned Divisional Commissioner by letter dated 25th February, 2015 has informed that the appeal was fixed for 30-05-2015 for the receipt of the summoned record from the court of Sub-Divisional Collector, Sadar Bilaspur. Thereafter, reminder letter was sent to the Learned Divisional Commissioner whereby he was requested to intimate the final order recorded by him in the appeal pending before him. Subsequently, two reminder letters dated 29th July, 2015 and 14th March 2016 were sent to the Divisional Commissioner requesting him to comply with the orders of the Lokayukta in their true spirit and substance without demur and delay. The needful was to be done within one month from the date of receipt of a gist of the order dated 14-03-2016.

Pursuant to the said orders of the Lokayukta, Assistant Commissioner to Divisional Commissioner Mandi, has informed the Secretary Lokayukta that the appeal No. 363/214 titled Arjun Singh Vs State of Himachal Pradesh filed by the encroacher against the order of the Collector has been dismissed on 15-12-2015. Photostat copy of said order was attached with the letter.

In the backdrop of the factual and legal situation stated herein, no further action needs to be taken in this matter. The concerned authorities have already decided the subject matter of the complaint against the encroacher. Hence, this complaint shall stand filed.

However, I am making it clear that any observation made in this order shall not be construed as an expression of opinion on the merits of the complaint. If the complainants are still not satisfied with the legal proceedings initiated against the encroacher and decided by the competent revenue authorities, they are at liberty to approach the appropriate court /forum in accordance with law.

8. Complaint No. 16/2016- 1 (A)-Loka

31.03.2016.

Shri Ashwani Kumar Avasthi, complainant herein has preferred this hand written complaint dated 20-03-2016, without sworn affidavit against Shri Kulbir Singh alias Sangal Member, Ward No.-5, Gram Panchayat Dhanotu, opposite party herein.

The grievances of the complainant are that the opposite party has misused his official power by refusing complainant's representation sent to the opposite party through speed post for holding a meeting of Gram Sabha Ward No.5.

On the basis of the above said premises, the complainant by way of this complaint has requested that appropriate necessary action under the law of the land may kindly be taken against Shri Kulbir Singh alias Sangal.

Copies of the complaint have also been endorsed to:

1. The Secretary, Panchayati Raj Department, Himachal Pradesh, Shimla.
2. The Director Panchayati Raj, State of Himachal Pradesh, Shimla.
3. The Divisional Commissioner, Kangra at Dharamshala.
4. The Deputy Commissioner, Kangra.
5. Sub-Divisional Magistrate, Kangra.
6. District Panchayat Officer, Kangra at Dharamshala.
7. Block Development and Panchayati Raj Officer, Rait, Kangra and
8. The Secretary, Gram Panchayat Dhanotu, Tehsil Shahpur, District Kangra.

Having gone through the contents of the complaint, it is noticed that the grievances made by the complainant are outside the purview, power and jurisdiction of the Lokayukta in terms of the provision of the Himachal Pradesh Lokayukta Act, 2014 (Act No. 23 of 2015). The complainant has not made any allegation of "corruption" against the Ward Member of Gram Panchayat, which comes within the definition of an offence punishable under the Prevention of Corruption Act, 1988 or the Himachal Pradesh Prevention of Specific Corrupt Practices Act, 1983. Further, the complaint also suffers from legal infirmities in as much as that the contents thereof, are not supported by sworn affidavit duly attested by competent authority as prescribed under the Act No. 23 of 2015. Hence, this complaint shall stand filed on the short ground of not maintainable before the Lokayukta.

However, I am making it clear that any observation made in this order shall not be construed as an expression of opinion on the merits of the grievances of the complainant made in this complaint. The complainant is at liberty to redress his grievances before the above-mentioned Authorities/Tribunal in accordance with law.

9. Complaint No.50/2015-1(A) Loka

02-04-2016

Shri Raj Kumar complainant herein has addressed a complaint to the Secretary Education, Himachal Pradesh School Shiksha Board, Dharamshala, District Kangra, copies thereof were addressed to Hon'ble Prime Minister of India, Lokayukta Himachal Pradesh and Chairman-Managing Director, Himachal Pradesh, State Cooperative Bank, the Mall, Shimla.

The grievances of the complainant made in this complaint are that during the course of holding written test on 13-12-2015, for the selection of employees in the Himachal Pradesh State Co-operative Bank, the authorities have not provided proper sitting arrangements in the examination hall. He alleged that some of the supervisors deputed in the examination hall have

helped their acquaintances and relatives by providing them un-due benefits such as they were permitted to sit in separate rooms where they could do cheating.

By way of this complaint, the complainant has requested that a thorough probe may be ordered and suitable action shall be taken against the erring official(s).

On receipt of the complaint, it was noticed that the same has not been filed in accordance with the provisions prescribed under Section 9 of the Himachal Pradesh Lokayukta Act, 2014 (Act No. 23 of 2015) and relevant Rules. The complainant has not filed this complaint on Form-I duly accompanied by a sworn affidavit prepared on non-judicial stamp paper worth Rs. 3/- only and attested by the competent authority. Therefore, he was informed by letter dated 29-12-2015, that he may file fresh complaint if he so desired within a period of one month from the date of receipt of a communication from this office. He was also provided a copy of Form-I and copy of Form-II for doing the needful with a advise that in case he would feel any difficult or problem in understanding the formalities, he is at liberty to visit the office of the Lokayukta or contact any official of Lokayukta on telephone Nos. 2623339 and 2624908 during office hours on any working day.

The complaint remained pending in this office, when it was noticed that the complainant has not cared or bothered to respond to the said letter of the office nor he has filed complaint as suggested to him. However, Lokayukta by order dated 19th March, 2016, has reminded him to file his complaint within further period of one month from the date of receipt of a communication from this office, in default his complaint shall be filed for non-prosecution. The complainant accordingly, was informed by the Reader to Lokayukta by way of reminder letter dated 19th March, 2016. But the reminder letter has been returned back by the Postal Authority with the report written on the reverse side of the envelope, which reads:

“Windsar Cottage में पूछने पर पता चला कि इस नाम का यहां पर कोई नहीं रहता है। लिहाजा पत्र वापिस किया जाता है। पत्र में मकान का नम्बर भी नहीं लिखा है।

In view of the report of the Postal Authority, it appears on the face of the record that this complaint has been filed by some un-known person, who is not residing in the Windsar Cottage, Rani Ground, Kasumpti, Shimla and who has concealed his genuine identity.

In the backdrop of the situation, no action is required to be taken in this matter. Hence, this complaint shall stand filed.

However, I am making it clear that any observation made in this order shall not be interpreted or construed as an expression of opinion on the merits of the contents of the complaint.

10. Complaint No.10/2016-1(A) Loka

04-04-2016

Shri Rajender Sharma, Member-Managing Committee Lagmanwin, Co-operative Society, complainant herein has filed this complaint against Shri Om Swaroop Abrol alleging inter-alia that Shri Om Swaroop Abrol being a Secretary of Lagmanwin, Co-operative Society has mis-appropriated and mis-utilised the money of Co-operative Society for his personal use in the transaction of his private business and acts of corruption in the discharge of his duties as Secretary of the Society.

In nut-shell the complainant states that Shri Om Swaroop Abrol is working as Secretary of the Society and he has spent more than 50,00,000/- in the construction of his house from the Society's funds. He has opened Wooden Depot in the year, 2013 in a rented accommodation of Shri Roshan Lal, S/O Shri Ram Lal, Village Jahu, District Hamirpur and now the Depot has been shifted to his own shop wherein he has stacked the wooden stock amounting to Rs. 50 lacs approximately. He has purchased valuable land at Sulagwan on road side at the cost of Rs. 34 lacs in the name of his family members as per sale deed/transferred deed got registered on 13-03-2014 in Tehsil Office Bhoranj. He has also purchased land adjoining to his residential house, he owns buses and trucks and in addition he has invested huge amounts in his bank accounts and in the names of his relatives. It is further stated that he has been doing his business activity with his near and dear who are also doing illegal acts with sole purpose to earn black money. The Additional Registrar, Co-operative Societies (RCS) in a inquiry report dated 14th March, 2008 has found him guilty of violation of societies funds in the preliminary inquiry and by order dated 24th June, 2008 and he has directed that a sum of Rs. 1,34,000/- be recovered from him but Managing Committee of the Society has not taken any action against him pursuant to the order of the RCS.

The complainant has stated that Secretary has opened huge fake non-members' accounts in the Co-operative Society without verifying their identity and photographs *etc*, thereby he has violated the Rules and Regulations governing the enrolment of the members of the society. The money so collected is deposited in single head account of the Co-operative Society in the names of different Co-operative Bank accounts which would attract criminal liabilities of the Secretary for misuse of his official power in his personal capacity to earn personal benefits illegally. The complainant also states that before the year, 2002, the salary of the Secretary of the society was approximately Rs. 5,000/- per month and in the financial year, 2003 and 2004, Co-operative Societies Rules were changed for his benefits whereby his salary was revised to Rs. 12,000/- approximately per month. His children are studying in private Public School and Colleges and complainant has been spending huge amounts for their education. He has collected wealth illegally, but has not paid income tax for which he should also be held liable.

On the basis of above said premises, the complainant by way of this complaint has requested that legal action shall be taken against him and his near relatives who are also doing illegal activities, in accordance with law. The complainant is supported by a sworn affidavit of the complainant duly attested by Sushil Kumar Notary, Sub-Division Hamirpur. The complainant has also filed list of the immovable properties owned by Shri Om Swaroop Abrol and names of the relatives who are benefited by him in doing the illegal activity, photostat copies of some resolution of the Co-operative Societies, a copy of the order of Deputy Registrar office of Additional Registrar, Co-operative Society, Himachal Pradesh Dharamshala dated 14th March, 2008 recorded on the basis of complaint filed by the complainant before the authority concerned and some other documents.

Nature of the complaint was such which would require reply from Registrar, Co-operative Societies, Himachal Pradesh to whom Deputy Registrar, Co-operative Society, Dharamshala has submitted the preliminary inquiry report. Therefore, by order dated 18-03-2016, the Lokayukta has requested the Registrar, Co-operative Society to send action taken report if any, based on said inquiry report within a period of one month from the date of receipt of letter of this office. Reader to Lokayukta has sent confidential letter on 18th March, 2016 to the Registrar, Co-operative Society requesting him to do the needful within stipulated time.

In response to the said order of Lokayukta, Joint Registrar (Credit), Cooperative Society, Himachal Pradesh has submitted a letter dated 29th March, 2016 to the Secretary Lokayukta. The contents of the letter read as under :-

“With reference to your letter No. 10/2016 -1(A)-Loka dated 18th March, 2016 on the subject cited above.

In this context, it is submitted that inquiry in the matter was conducted by Deputy Registrar Coop. Societies Dharamshala which was submitted by him to this office and this office has sent the same vide letter dt. 19-04-2008 to Assistant Registrar Coop. Societies Hamirpur for further action as per the provision of law. As per the inquiry report Rs. 1,30,014/- was recoverable from the Secretary of the Lagmanwin CAS. On the basis of finding of inquiry officer, ARCS office had directed the society to recover the said amount from Sh. Om Swaroop, Secretary of the Society. The said Secretary had filed the appeal before the Joint Registrar Coop. Societies Shimla against the order of Dy. RCS Dharamshala and Joint RCS passed the order that it is not appropriate to recover the said amount from the Secretary of the society. After that Shri Rajender Sharma filed an appeal before the Special Secretary (Coop) to the Govt. of H.P. against the decision of Joint RCS, where the appeal was quashed by the Special Secretary (Coop.) to the Govt. of H. P. Thereafter Sh. Rajender Sharma again filed the writ petition No. 9309 /2012 before the Hon’ble High Court against the order passed by the Special Secretary (Coop) and the Hon’ble High Court passed the order not to intervene in the order passed by Special Secy. (Coop.) and dismissed the appeal. Therefore, in view of the above decisions it would not be appropriate to proceed further in the matter. You are therefore, requested to apprise the Hon’ble Lokayukta H.P. accordingly”.

The Joint Registrar, RCS has not accepted the inquiry report of the Deputy Registrar and he has observed that it was not appropriate to recover the amounts from the Secretary of the Society. Aggrieved, against the order of the Joint Registrar, the complainant is stated to have filed an appeal before the Special Secretary (Corporation) to the Government of Himachal Pradesh. The said appeal came to be dismissed by the Special Secretary. The complainant has challenged the order of the Special Secretary, Corporation in writ petition No. 9309/ 2012 in the High Court of Himachal Pradesh as well. In the light of the decisions of the appellate authority which later on was upheld by the High Court of Himachal Pradesh, the Joint Registrar has rightly observed that it would not be appropriate to proceed further in the matter. In that view of the matter, there is no substance in this complaint for taking any further action against the Secretary of the Society, as the matter has been finally decided by the High Court. Hence, the complaint is ordered to be filed without expressing any opinion on the merits of the grievances of the complainant made in this complaint.

11. Complaint No.51/2015-1(A) Loka

06-04-2016

Shri Sushil Kumar the complainant herein has filed this complaint against Shri Parveen Kumar Secretary, Rounkher, Agriculture Society alleging inter alia that Shri Amar Chand had worked as Secretary of the Society till the year 2004 whereas he should have retired in the year 1995. The Registrar, Co-operative Societies, Himachal Pradesh by order dated 21st August, 2006 has observed that criminal action shall be initiated against the Ex-Secretary and excess salary received by him for about eight years should be recovered from him followed by surcharge proceedings under Section 69 of the Act.

Shri Parveen Kumar has been appointed as Secretary of the Society on 1st July, 1998 at the age of 17 years in place of his father Shri Amar Chand and his appointment therefore is illegal. The record of the society shows that the appointment of Shri Parveen Kumar has not been made in conformity with the provision of Service Rule by the Managing Committee. He has appointed his wife Smt. Mamta Sharma as Assistant Secretary, whereas many un-employed youths are not provided jobs. Shri Sanjeev Kumar has also appointed his brother's wife Smt. Anjana Sharma as an employee of the Society. He has stated that entire management of the Society remained confined to one family. Prior to the appointment of Shri Amar Chand, his father was also appointed as Secretary of the Managing Committee.

The complainant also states that the selection of the members of the Managing Committee has been made from one particular group only. Shri Raghuvir Singh, a retired officer of the Army is working as Deputy Director with Jilla Sainik Kalyan Board whereas under the Co-operative Societies Act, no employee can be appointed member of the Society. The members of the Managing Committee have shown nepotism and favouritism in appointment of their near and dear as members of Society and they have been collecting essential commodities such as sugar, rice and other essential commodities meant for the general public of the area for their personal use. Nobody, dares to make any complaint against them and who so ever will do so, all the members will start quarrel with them and frame them in false cases. All the members of one family do not collectively join the Managing Committee meeting and Shri Parveen Kumar, Secretary will seldom attend the meeting whereas his wife Smt. Mamta Sharma is discharge his duties as Secretary of the Society. A number of complaints were filed against members of this Managing Committee, but the department of the Co-operative Societies has not taken any action against them as officials of the Cooperation department are protecting the members of the Managing Committee.

On the above said premises, by way of this complaint, the complainant has requested that thorough probe shall be conducted in this matter, so that the culprits can be punished accordingly for their illegal acts of omission and commission and for their mis-deeds. The complaint is accompanied by sworn affidavit duly attested by Chandrakala Thakur Notary, Sub-Division Una and a photostat copy of the order dated 21st August, 2006, recorded by the Registrar, Co-operative Societies, Himachal Pradesh and photostat copy of date of birth of Shri Parveen Kumar.

Having considered the allegations of mis-use of office position by Shri Parveen Kumar Secretary of the Rounkher Krishi Sewa Sahkari Sabha and giving undue benefits to his family members and relatives, Lokayukta by order dated 30-12-2015, requested the Assistant Registrar, Co-operative Societies Una, District Una to hold an independent preliminary inquiry in the matter and submit his report. He shall also suggest as to what action in the matter has been taken by the authority concerned pursuant to the order dated 21st August, 2006, recorded by the Registrar, Co-operative Societies, Himachal Pradesh. During the course of inquiry, the Inquiry Officer shall take into consideration, the oral and documentary evidence, if any, produced by parties involved in this complaint and submit his report to the Secretary, Lokayukta Himachal Pradesh within a period of two months from the date of receipt of a copy of the order alongwith copy of the complaint and other documents enclosed thereto.

Pursuant to the order of the Lokayukta dated 30-12-2015, District Inspection Co-operative Societies Una, directed the parties to appear before him on 19-02-2016, 02-03-2016 and 10-03-2016 respectively. The report of the Inquiry Officer reveals that President, Krishi Sewa Sahkari Sabha Samiti, Rounkher and its Secretary were present, but the complainant has chosen not

to appear as requested by the Inquiry Officer. The Inquiry Officer has examined the Pradhan and Secretary of the Sabha and also pursued the relevant records. On the basis of the oral and documentary evidence, the Inquiry Officer has concluded that various complaints filed by the complainant alleging the same series of allegations were earlier rejected and he has repeated the same allegations in the present complaint. He has also stated that the complainant has already filed writ petition in the High Court of Himachal Pradesh which was also dismissed by the High Court. The Inquiry Officer has concluded that the complainant is in the habits of filing frivolous and false complaints thereby wasting the precious time of the Cooperation Department of the State. The Inquiry Officer has filed a photostat copy of the order dated 01-12-2008 passed by Joint Secretary Cooperation to the Government of Himachal Pradesh in case No. 53/06, titled Amar Chand Vs. Registrar, Co-operative Societies, and Shri Sushil Kumar complainant and others whereby and where under the Joint Secretary Cooperation to the Government has set aside the order of the Assistant Registrar holding Amar Chand Ex-Secretary, father of Parween Kumar Secretary liable to pay the excess salary drawn by him for the period of 01-10-1995 to 30-04-2003.

Feeling aggrieved against the order of the Joint Secretary (Cooperation), the complainant has assailed the impugned order in the High Court of Himachal Pradesh by means of CWP No. 6608 of 2014 which came to be decided by a Division Bench of the High Court on 14th July, 2015. On perusal, the order of the Division Bench of the High Court reveals that the Writ Petition has been dismissed mainly on two grounds. Firstly, the High Court has held that the complainant who was a party before the Revisional Authority, remained satisfied with the order passed by the said authority in the year, 2008 and in the year 2014 *i.e.* lapse of around six years, all of sudden, the petitioner filed the instant writ petition for quashing the order of the Revisional Authority. Further, it is not known as to in which capacity the petitioner has filed the writ petition. Secondly, the High Court has held that the Co-operative Society does not fall within the expression of "State" or an instrumentality of the State within the meaning of Article-12 of the Constitution of India. In holding so the High Court has relied upon three judgments of the High Court itself and the decision of the Supreme Court rendered in Thalappalam Ser. Co-operative Bank Ltd. and others Vs. State of Kerala and others, 2013 AIR SCW 5683. In view of the law laid down in the aforesaid decisions, writ petition is dismissed as not maintainable alongwith pending application, if any.

I have independently applied by mind on the subject in issue and have gone through the order of the Revision Authority and confirmed by the High Court. The subject matter of the present complaint stands finally settled by the highest court of the land and the complainant cannot be permitted to raise all settled issues time and again just to oblige his whims. Hence, no further action is required to be taken in this matter and the complaint is ordered to be filed.

I make it clear that I have not expressed any opinion on the merits of grievances raised in this complaint.

12. Complaint No.12/2015-1(A) Loka

11-04-2016

Shri Aman Awasthy, Advocate proclaiming himself a Private Detective-*cum*-CEO India Protecting Agency, complainant herein has addressed this complaint to Shri Mansoor Ahmad Mir, Hon'ble Chief Justice, Himachal Pradesh and copies thereto were forwarded to the Hon'ble Chief Justice Supreme Court of India, New Delhi, Lokayukta, State of Himachal Pradesh, Mr. Justice Swatantra Kumar, Chairperson, National Green Tribunal and the Superintendent of Police, Central Bureau of Investigation(CBI), Railway Board Building, Shimla.

The contents of the complaint would reveal that the complainant has made serious charges of corruption and accepting bribe money, against Shri Kuldeep Singh Pathania Chairman, Shri Vineet Kumar, Member Secretary and other officers/officials of HPSPCB, whose names and designations are mentioned at page-4 of the complaint.

By way of this complaint, the complainant has requested that strict legal action shall be initiated against the said law breakers and public defaulters.

At the outset, it may be pointed out that this complaint has not been filed in accordance with Section 9 of the Himachal Pradesh Lokayukta Act, 1983(New Act called the Himachal Pradesh Lokayukta Act, 2014 (Act No. 23 of 2015) read with Rules 4 and 5 of the Himachal Pradesh Lokayukta (Proceedings) Rules, 1983(for short "Rules, 1983"). Accordingly, by order dated 22-04-2015, the complainant was requested to file the complaint on a prescribed Form-I (Complaint) supported by sworn affidavit on Form-II prepared on non-judicial stamp paper worth Rs. 3/- only, duly attested by the competent authority. The complainant has been advised to file fresh complaint, if he so desired within a period of one month from the receipt of a copy of the order, which was sent to him by Reader to the Lokayukta on 23rd April, 2015 alongwith photostat copies of Form-I (complaint) and Form-II (affidavit) for ready reference and guidance. He was also advised that if he would feel any difficulty and problem in understanding the procedural formalities as suggested to him, he was at liberty to visit the office of the Lokayukta or he could contact any official of the Lokayukta on telephone Nos. 2623339 and 2624908 during office hours on any working day. The complainant has not bothered or cared to respond to the said order of the Lokayukta nor he has submitted the desired complaint till 8th March, 2016. Therefore, by reminder letter dated 8th March, 2016, he was again requested to do the needful within further period of one month from the date of receipt of copy of second order. The complainant has again not responded to the second order as well till today. In the mean time, the Superintendent of Police, Central Bureau of Investigation, Railway Board Building, Shimla was requested to furnish status report, if any, based upon the allegations levelled in the complaint against Er. Brij Bhushan, EE Parwanoo, District Solan. The Superintendent of Police, CBI was duly requested to do the needful with in a period of one month from the date of receipt of a copy of this order.

Reader to the Lokayukta was directed to send photostat copy of the order to the complainant and the Superintendent of Police, CBI, Shimla for information and compliance. The case file reveals that in response to the said order dated 08-03-2016, a confidential letter dated 04-04-2016 has been received by the office of Lokayukta addressed by Head of Branch, CBI, Shimla wherein, it has been stated that no such complaint has been lodged by Shri Aman Avasthi, Advocate with CBI, Shimla Branch and the allegations made in the complaint, copy thereof has been received from the office of the Lokayukta, are against employees of State, Government of Himachal Pradesh, as such, the matter does not come under the purview of the CBI.

But a copy of the order, which was sent to the complainant alongwith office letter dated 8th March, 2016 has been received back from the postal authority. The postman has made an oral submission to the dispatcher of the letter of this office that it is not possible for the postal authority to deliver the letter to the complainant due to in-complete address, as the address of the complainant is not proper and complete.

In view of the above circumstances, the complainant could not be served with the order of the Lokayukta, whereby he was requested to file the complaint in accordance with the provisions of the Act and Rules, governing the subject matter in issue. This complaint has remained pending

since April, 2015 for the fault of the complainant himself and it is not desirable to keep this complaint pending in the docket of the Institution for in-definite period. Hence, this complaint shall stand filed.

However, I am making it clear that I have not expressed any opinion on the merits of the alleged grievances made by the complainant in this complaint and nothing said by me in this order should be interpreted or construed as an expression of opinion on the merits of the case. The complainant is at liberty to approach the Authority/Tribunal or Court for redressal of his grievances in accordance with law.

Reader to Lokayukta shall send a copy of this order to the complainant on a address given by him in the body of the complaint.

13. Complaint No. 16/2015-1(A) Loka

13.04.2016

Shri Balbir Singh complainant herein has filed this complaint alleging inter alia allegations against Patwari and Kanungo who at the relevant time were posted in Settlement Department Kangra at Dharmshala, that during the year 1985-1986, a small piece of land was sanctioned /reserved for construction of Government Health Dispensary near the house of Shri Milap Chand who was in possession of Malkiyat land:

That Settlement of Gram Panchayat Dhangotta, was conducted by the Settlement Department in the year 2005-06 and a small piece of land admeasuring about 15 Marle reserved for Government Health Dispensary was entered and sanctioned by the revenue authority in favour of Shri Milap Chand in connivance with Patwari and Kanungo of Revenue Department. The fact of converting and sanctioning the said piece of land was brought to his notice in the year 2011, when he obtained the information under the Right to Information Act (RTI), 2005 and at the request of the complainant the Revenue Department deputed local Kanungo to conduct the inquiry into the matter in issue.

That the complainant has requested the concerned authorities of the State Government to take action against Shri Milap Chand and the erring revenue officials, but nothing has been done so far, because Shri Milap Chand is highly political influential person. He stated that a close relative of Shri Milap Chand is working in Settlement office Dharamshala who is helping Shri Milap Chand in his illegal acts.

On the above said premises the complainant by way of this complaint has requested that a piece of land which was earlier sanctioned for construction of Public Health Dispensary and consequently, got sanctioned in the name of Shri Milap Chand in connivance with the Patwari and Kanungo, shall be got re-sanctioned for construction of Public Health Dispensary and suitable action be initiated against the concerned officials/officers of Settlement Department of the State Government who have adopted dilly dallying approach in not settling the issues.

On perusal of the allegations made in this complaint against the public servants who were the employees posted in the Officer of Settlement Officer Kangra at Dharamshala, it was considered necessary and expedient to get the allegations inquired into by higher authority of Settlement Department. Consequently, Lokayukta by order dated 22.07.2014 entrusted preliminary inquiry to Settlement Officer, Kangra at Dharamshala, who was requested to inquire into the

allegations himself and take consequential action, in case the allegations made in the complaint were found correct. Inquiry report with action taken thereof and statement(s) and document(s) if any, taken on record by the Inquiry Officer during the course of the inquiry were to be sent to the Secretary, Lokayukta with his report. Desired report was requested to be filed within two months from the date of receipt of a copy of the said order.

The Settlement Officer Kangra at Dharamshala has not bothered or cared to respond to order of the Lokayukta dated 22.07.2015 which was duly conveyed to the authority concerned by Reader, Lokayukta under registered confidential letter dated 22.07.2015. Therefore, by second order dated 04.03.2016 the Settlement Officer, Kangra at Dharamshala was again requested to submit the desired inquiry report/action taken report to this office within further period of two months from the date of receipt of copy of the order without default, demur and delay. Second order was also duly conveyed to the Settlement Officer on 05.03.2016.

Now the Settlement Officer, Kangra at Dharamshala by letter dated 01.04.2016 has responded that the inquiry as suggested into the allegations made by the complainant against the Settlement officials was got conducted by the Tehsildar, Settlement Circle Barsar, District Hamirpur. On the basis of the inquiry report of the Tehsildar, the Settlement Officer has concluded that the complaint is not based on true facts and the same seems to be outcome of personal grudge between the complainant and Shri Milap Chand.

Having carefully considered the detailed report of the Tehsildar, I am of the view that the complainant has not substantiated his allegations of misuse of position by the alleged public servants and acts of commission and omission by them. The Tehsildar has observed that land bearing Khasra No. 350 measuring 4-0 Kanal 'Mustarka Malkana' was contiguous to Khasra No. 357 and Khasra No. 358 Khasra -2 ad-measuring 7-11 Kanal is owned by Shri Milap Chand and land bearing Khasra No. 349 was in possession of Electricity Department, but by mode of gift deed registered No. 547 dated 30.12.1992, Khasra No. 350 measuring 4-0 Kanal was divided into two Khasra Nos. 350/1 measuring 0-15 Kanal and Khasra No. 350/2 admeasuring 3-5 Kanal. Land measuring 0-15 Kanal bearing Khasra No. 350 was intact as 'Mustarka Malkana' which was gifted on 27.02.1993. The Gram Panchayat Dhangotta by its resolution No. 13 dated 20.11.1999 has given a small piece of land measuring 0-15 Kanal out of total land measuring 4-0 Kanal to Shri Milap Chand, S/o Shri Ram Dyal for providing him passage and construction of a cowshed. But during the settlement operation in 1993 a small piece of land in 'Mustarka Malkana' was wrongly entered in favour of the Health Department and a piece of land belonging to the Health Department was entered in the name of Shri Milap Chand in Khasra No. 469 measuring 0-00-70 Hact. and a piece of land on which cowshed was constructed by Shri Milap Chand was entered in the name of Health Department and after the mistake was detected, Tehsildar Settlement has referred the matter to the revenue authority for correction of revenue entries in the revenue record which will be decided after giving proper and reasonable opportunity to the parties concerned.

On the basis of material information and documents collected by the Inquiry Officer during the course of the inquiry and oral statements of Shri Milap Chand, Shri Kartar Singh, Ex-Up-Pradhan and Shri Kehar Singh S/o Shri Laxman Singh, the Inquiry Officer has concluded that it seems that the complainant has intentionally concealed the true facts in his complaint and this complaint appears to be a outcome of personal grudge of the complainant with Shri Milap Chand. He has also observed that during the inquiry proceedings the complainant was present in person, but he has declined to put his signatures on his statement.

Having independently examined the inquiry report and on the basis of material, information and documents collected by the Inquiry Officer, I am of the view that the complainant has failed to produce sufficient evidence to substantiate the allegations made in the complaint. The Inquiry Officer has given cogent and detailed reasons in his inquiry report and I find no good reasons to differ with the conclusion arrived at by him. The inquiry report therefore, is accepted in its entirety. Hence, this complaint shall stand filed.

However, I am making it clear that I have not expressed any opinion on the merits of the grievances made by the complainant in this complaint and nothing said by me in this order should be interpreted or construed as an expression of opinion on the merits of the case.

Before parting with this case, I am constrained to note that the Settlement Officer, Kangra at Dharamshala has not understood the true spirit and substance of the order of the Lokayukta. By order dated 22.07.2015 he was categorically requested to hold the preliminary inquiry himself into the allegations made by the complainant against the Patwari and Kanungo respectively, of Settlement Department, but instead of doing so, he has entrusted the inquiry to the Tehsildar concerned by exercising delegated powers. The Settlement Officer is reminded that the Lokayukta holds a judicial office and discharge function akin to Judge's functions. It is my pious hope that such indifferent and perfunctory approach and attitude towards orders/directions of the Lokayukta may not be repeated.

Reader to Lokayukta shall send a copy of this order to the complainant and Settlement Officer Kangra at Dharmshala for their information.

14. Complaint No. 40/2015-1(A)Loka

22-04-2016

Shri Subhash Chand the above named complainant herein proclaiming himself a social worker has filed this complaint against Smt. Sarita Kumari, Pradhan Gram Panchayat, Tihri, Tehsil Khundian. According to the complainant Smt. Sarita Kumari has pursued her B.Ed. course in the years 2008-2009 as regular student from Vijay Vallabh College of Education Amatar (Nadaun) District Hamirpur, and simultaneously she has also worked as Lecturer of Commerce under Parents Teacher Associations Scheme (PTA) in Government Senior Secondary School (GSSS) Tihri, District Kangra during the months of September, 2008 to December, 2009 except November and December, 2008 months and March to June, 2009 months.

The complainant alleged that he has brought this fact to the knowledge of Deputy Commissioner as well the Superintendent of Police, District Kangra at Dharamshala. But both the authorities have not responded to his complaint nor they have taken any action against Smt. Sarita Kumari for her mis-deeds and acts of misconduct. The complaint is duly supported by sworn affidavit duly attested by Shri Rajinder Singh Advocate, Notary Public Dehra Sub-Division, Tehsil Dehra accompanied by Photostat copy of complaint dated 01-07-2015 addressed to the Deputy Commissioner and photostat copies of complaint dated 11th May, 2015, and 17-06-2015 addressed to the Superintendent of Police Kangra and Deputy Superintendent of Police Tihri, Sub-Division respectively. He has also filed a Photostat copy of the information conveyed to him by the Principal, Vijay Vallabh College of Education Nadaun dated 09-10-2014 and Principal-cum-PIO GSSS Tihri under RTI Act, 2005. Photostat copies of salary certificate of the PTA Teachers

employed in the GSSS, Tihri during the relevant period including the name of Smt. Sarita Kumari as PTA Teacher working in GSSS School Tihri are also placed on record.

Having considered the nature of the averments made in the complaint, Lokayukta by order dated 28-10-2015 has requested the Deputy Commissioner, District Kangra and the Superintendent of Police, District Kangra to submit action taken reports if any, based upon the alleged complaint submitted to the authorities concerned by the complainant as stated in the present complaint. They were requested to do the needful within a period of one month from the date of receipt of a copy of the order. Reader to the Lokayukta by letter dated 28-10-2015 conveyed the said order to the authorities concerned and copies of the complaint and its enclosures were also sent to them for their information and compliance.

However, both the authorities concerned have not cared or bothered to furnish their action taken reports till 19-03-2016, on which date a reminder order was sent to them to comply with the earlier order of the Lokayukta within further period of one month from the date of receipt of a copy of the order without any default, demur and further delay. They were also reminded that they are legally bound to comply with and implement the order/direction of the Lokayukta who holds judicial office under the statute and discharges functions akin to Judge's functions.

The complaint file would reveal that the Deputy Commissioner, District Kangra has informed the Secretary, Lokayukta that he has taken up the matter with the Superintendent of Police Kangra at Dharamshala, and he was requested to get the inquiry conducted into the matter and took necessary action. Action taken report was to be submitted to the Deputy Commissioner so that the directions of the Lokayukta could be complied with in letter and substance. However, in the meantime, Ms Shalini Agnihotri Additional Superintendent of Police, Kangra has addressed a letter dated 06-04-2016 to the Secretary, Lokayukta. The contents of the letter would reveal that a thorough inquiry of the subject matter in issue has been got conducted through the Station House Officer, Police Station Jawalamukhi. The Inquiry Officer has recorded the statement of Smt. Sarita Kumari Dhimaan and President SMC and Principal GSSS Tihri. The inquiry report reveals that during the year 2008-2009 there was no teacher of Commerce subject in the School and President School Management Committee (SMC) had requested Smt. Sarita Kumari Dhimaan to teach +1 and +2 students during Off Time and she accordingly, taught the students as she has completed her MA in Commerce. It is also stated that during the period when Smt. Sarita Dhimaan had taught the students of Commerce subject, the result of the students was found Good. The complainant has not chosen to make any separate statement before the Inquiry Officer during the course of inquiry and he stated that whatever statement has been made by him in this complaint shall be taken as his statement. The Inquiry Officer has noted in the inquiry report that Smt. Sarita Dhimaan has admitted in her statement that during the relevant period of 2008-09, she had completed the B.Ed. course from Vijay Vallabh College Amatar Nadaun, District Hamirpur. The Inquiry Officer on the basis of oral and documentary evidence brought on record by the parties has concluded that Smt. Sarita Dhimaan has worked as Off Time Commerce Teacher in GSSS Tihri, but she has not received salary from Government grant, but she received salary under PTA. It is pertinent to note that copy of the report of the investigating officer has not been received with the letter of the Additional Superintendent of Police Kangra at Dharamshala.

In view of the statement made in the letter of the Additional Superintendent of Police Kangra at Dharamshala based on the report of the Inquiry Officer. I find no cogent and sound reasons to differ with the findings recorded and conclusion arrived at by the Inquiry Officer in his report. The Inquiry Officer has conducted fair and transparent inquiry which has been attended to

by the complainant and Smt. Sarita Kumari Dhimaan against whom allegations of misconduct and misdeeds are made. Smt. Sarita Kumari Dhimaan has categorically stated that she has worked as Commerce teacher and taught +1 and +2 students of Commerce subject during Off Time under PTA scheme.

In the facts and circumstances, no further action needs to be taken in this matter as the matter has already been probed by the authorities concerned. Hence, this complaint is ordered to be filed without expressing any opinion on the merits of the averments made in this complaint.

Copies of the order shall be sent to the Deputy Commissioner and Superintendent of Police, District Kangra at Dharamshala as well as to the complainant.

15. Complaint No. 31/2015-1 (A)-Loka

23.04.2016

Having considered the facts and circumstances of the case, as also the joint statement of the complainants coupled with the conclusion of the Inquiry Officer recorded in his inquiry report, I am of the view that no further action needs to be taken in this matter. Hence, the complaint is ordered to be filed.

However, I am making it clear that I have not expressed any opinion on the merits of the alleged grievances made in this complaint against the opposite parties. The complainants, if they so chooses are at liberty to approach the authority/forum for redressal of their grievances in accordance with law.

16. Complaint No.12//2016-1(A)Loka

26-04-2016

Shri Balak Ram, Ex-Serviceman has filed this complaint alleging inter-alia that the Deputy Commissioner, Relief and Re-habilitation posted at Raja Ka Taalab, Tehsil Nurpur is a corrupt officer and he may be removed from his post as he has not been discharging his official duties properly and he has been continuously harassing and humiliating the oustees of Bhakhra Dam. On the aforesaid premises, the complainant by way of this complaint has requested that an appropriate legal action shall be taken against the corrupt officers/officials for acts of omission and commission and corruption.

Though, the complaint has not been supported by an affidavit of the complainant as required under the provisions of Section 2(b) of the Himachal Pradesh Lokayukta Act 2014 (Act No. 23 of 2016), yet, having considered the nature of the case, Lokayukta vide order dated 26-03-2016 has requested the Deputy Commissioner, Relief and Re-habilitation Department, Raja Ka Taalab, to look into the grievances raised by the complainant in the complaint and take just and fair action in the matter. Action taken report was requested to be sent to the Lokayukta within a period of two months from the date of receipt of a copy of the order.

Reader to the Lokayukta has sent a copy of the said order to the concerned authority on 26-03-2016.

Pursuant to the said order, The Deputy Commissioner, Relief and Re-habilitation Department, Raja Ka Taalab has submitted action taken report. In reply to paras Nos. 1-2 of the complaint, the authority concerned has submitted that no allotment certificate is ever issued by the office of the Relief and Re-habilitation Department to the complainant nor any certificate is pending in the Department. He stated that the allegations of corruption levelled by the complainant in the complaint are absolutely baseless.

In reply to para No.-3, the Deputy Commissioner Relief and Re-habilitation Department, has submitted that the claims raised by the aggrieved parties in appeal for the payment of the amounts of compensation for the acquired lands are being settled and decided by the Land Acquisition Officer. The authority concerned has assumed additional charge of LAO on dated 17-02-2016 and the allegations of taking bribe would not arise at all as the awards for the grant of compensation are prepared on receipt of final decision from competent courts of law. The amounts of awards are received from the BBMB Talwara and accordingly are being disbursed amongst the claimants without any deduction. The allegations of corruption levelled by the complainant of the awards amounts have not been substantiated by him.

In addition to the above stated defenses contended by the Deputy Commissioner, Relief and Re-habilitation Department, it is further contended that some people of Rajasthan are in the habits of making applications for obtaining documents in respect of rehabilitated persons of Pong Dam as a result thereof the allotted lands of the deserving claimants were sold by such unscrupulous land mafia. The Deputy Commissioner, Relief and Re-habilitation Department has further submitted that the Chief Minister of Himachal Pradesh, while presiding over the 'State Level Pong Dam Rehabilitation and Advisory Committee' meeting held on 28-11-2014, under demand No. 4 relating to the unfair means by land mafia, has ordered that no documents should be given to any person other than the effected parties. The Deputy Commissioner, Relief and Re-habilitation Department has requested that the allegations of acts of corruption leveled by the complainant in the complaint against the officers/officials Relief and Re-habilitation Department, Raja Ka Taalab, are unfounded and without any substance.

I have given my thoughtful consideration to the contents of the reply submitted by the Deputy Commissioner, Relief and Re-habilitation Department. In my view, the complainant has not substantiated his allegation of corruption made against the officers/officials of the Relief and Re-habilitation posted in the office of the Deputy Commissioner, Relief and Re-habilitation Department, Raja Ka Taalab, Tehsil Nurpur. The allegations made in the complaint are general in nature and in the face of the reply by the authority concerned, no action needs to be taken in this matter. Hence, the complaint shall stand filed.

However, I am making it clear that I have not expressed any opinion on the merits of the grievances made by the complainant in the complaint and the complainant if he still is not satisfied with the reply of the authority concerned, will be at liberty to redress his grievances before an appropriate forum /authority in accordance with law.

17. Complaint No.13/2016-1(A) Loka

27.04.2016

Shri Rishi Kumar complainant herein is practicing Advocate at Barsar, District Hamirpur. He has filed this complaint against public servants whose names and addresses are mentioned in earlier part of the body of the complaint.

The grievances of the complainant made in this complaint against Shri Naresh Kumar Senior Assistant, Shri Davinder Singh Junior Assistant and Shri Ashwani Dogra Reader, are that they have failed to discharge their official duties diligently on four different dates i.e. 02.09.2015, 03.09.2015, 08.09.2015 and 09.09.2015 respectively and effectively. They were found absent from their seats and remained busy in gossip with each others during the office hours without doing their office work. He stated that he has obtained the CCTV Camera footage of those specific dates from the office of the Sub Divisional Officer (Civil) Barsar under Right to Information Act (RTI) 2005 and after going through the documentary record and watching the CCTV Camera footage, it came to his knowledge that the above said officials do not attend the office in time. He stated that Shri Naresh Kumar had entered in to the office at 03.41PM and he had marked his presence in the attendance register only when he has filed an application for obtaining the official record. Shri Naresh Kumar thereafter has marked his half day leave wrongly and illegally and has forged the attendance register just to get benefit for himself and thereby caused loss to the exchequer of the state. According to the complainant the acts and conducts of the above named public servants would amount to corruption and they deserve legal action by lodging FIR under the provisions of Prevention of Corruption Act as well as initiating departmental proceedings against them.

The complainant further stated that he has filed complaint on dated 18.12.2015 before the Sub Divisional Officer (Civil) Barsar requesting him to take suitable legal action against the erring officials of his office, but the authority concerned has not cared or bothered to take any action against them and therefore, the Sub- Divisional Officer (Civil) Barsar has knowingly and intentionally abused his position and has given undue favours and benefits to the erring officials. According to the complainant, the Sub Divisional Officer Barsar, is also liable to be dealt with for his acts of omission and commission and causing undue harm to the general public at large.

The complainant by way of this complaint has requested that suitable legal action shall be taken against the opposite parties and FIR may be lodged against them in the interest of justice and equity. The contents of the complaint are supported by sworn affidavit of the complainant duly attested by Shri Sanjeev Singh, Notary Public, Sub-Divisional Officer (Civil) Barsar and the complainant has also filed photostate copy of show cause notice dated 30.12.2015 issued by the Sub Divisional Officer (C) Barsar to the erring officials and photostate copies of the replies filed by the said officials to the show cause notice as well as the photostate copy of the complaint dated 18.12.2015 allegedly filed by the compliant to the Sub Divisional Magistrate, Barsar.

On scrutiny of the complaint, it was noticed that the nature of the complaint is such, which may require specific reply from the Sub Divisional Officer (C) Barsar with whom a complaint allegedly was filed by the complainant against the officials of his Sub Division. Therefore, by order dated 26.03.2014, the Lokayukta has requested the Sub-Divisional Officer, Barsar to submit detailed reply to the contents of the complaint filed by the complainant.

Reader to Lokayukta vide letter dated 26.03.2016 has conveyed a gist of the order of the Lokayukta to the Sub Divisional Officer (C) under registered confidential letter requesting the later to comply the order of the Lokayukta within a period of one month from the date of receipt of a copy of the letter.

Pursuant to the said order, the Sub Divisional Officer (C) Barsar by letter dated 12.04.2016, addressed to the Secretary, Lokayukta has submitted his para wise reply.

I have gone through the contents of the reply submitted by the Sub Divisional Officer (Civil). It stands admitted by the authority concerned that the complainant had filed complaint on 18.12.2015 to him against three named officials of his office. On receipt of the said complaint, he

had issued show cause notice dated 30.12.2015 to all the three erring officials with a the direction to submit their replies in respect of allegations levelled by the complainant against them within a period of one week positively. The erring officials accordingly, have submitted their separate replies on 31.12.2015. Shri Naresh Kumar, Senior Assistant has denied the allegations levelled against him by the complainant. He submitted that on dated 02.09.2015, he was on causal leave for whole day with the prior permission of the competent authority, but in the evening time, he attended the office on that day to dispose off some urgent official work and that was the reason that he had marked the attendance in the evening column of the attendance register.

Shri Davinder Kumar, Jr. Assistant has also denied the allegations of gossip alleged against him by the complainant. His defense as stated in the reply dated 31.12.2015 was that he was discussing the official matters with his colleague Shri Ashwani Kumar Dogra Reader, while he was occupying seat in the office. Shri Ashwani Kumar Dogra was the Reader to the SDM during the relevant period who is presently working in the office of Naib Tehsildar Kangoo, Tehsil Nadaun. Shri Ashwani Kumar has also denied all the allegations of the complainant and stated that he was discussing official matters with his colleague Shri Davinder Singh, Junior Assistant while he was sitting in the office.

On the receipt of the replies of the erring officials, the Sub-Divisional Officer (C) Barsar has verified the correctness and genuineness of the allegations made by the complainant against the erring officials of the office and has compared their versions with the official record. On assessment of the official record, the Sub Divisional Officer (C) Barsar has found that Shri Naresh Kumar, Senior Assistant, in fact was on causal leave on 02.09.2015 with his permission and he came to the office on that day to dispose off urgent RTI matter, whereas on dated 03.09.2015 he was present in the office and discharged his duty. He also noticed that on dated 08.09.2015 and 09.09.2015 Shri Naresh Kumar was on tour with him to attend the RTI appeal titled Shri Sachiv Kumar Vs. PIO-Cum-SDO(C) Barsar in the office of the State Information Commission, Shimla. Similarly, Shri Ashwani Dogra was also on causal leave on 02.09.2015 and on 03.09.2015, 08.09.2015 and 09.09.2015, he was present in the office and discharged his duty. The Sub Divisional Officer (C) has stated that Shri Davinder Singh, Junior Assistant was present in the office on 02.09.2015, 03.09.2015, 08.09.2015 and 09.09.2015 and discharged his duty. Relying upon the official record and the replies of the erring officials, the Sub Divisional Officer (Civil) Barsar has come to the conclusion that the allegations of forgery in the attendance register and indulging in gossips during office hours made against the three officials were found baseless and unfounded and therefore, complaint of the complainant was ordered to be filed.

Having independently examined the replies of the erring officials coupled with the reasonings recorded and the findings arrived at by the Sub Divisional Officer (Civil) Barsar, I do not find any sound and cogent reason to differ with the said findings. The action taken report submitted by the authority concerned is accepted in its entirety. Hence, no further action needs to be taken in this matter and the complaint shall stand filed.

However, I am making it clear that I have not expressed any opinion on the merits of the grievances made in this complaint and nothing said by me in this order should be interpreted or construed as an expression of opinion on the merits of the case. The complainant, if he, so desires, is at liberty to approach any competent authority/forum for redressal of his grievances and the authority to whom the complainant may choose to approach for redressal of his genuine grievances is requested to consider the matter independently in accordance with law.

18. Complaint No.64//2014-1(A) Loka

29-04-2016

Shri Het Ram Thakur, the complainant herein has filed this complaint alleging inter-alia that the Engineers of I & PH, Sub-Division Anni, have provided approximately 500 drinking water supply pipes to those influential people, who have planted their Apple Orchards on the encroached Government lands within the jurisdiction of Gram Panchayat Kohila, Tehsil Anni. He alleged that despite resolution No.-8 dated 01-04-2012 passed by the Gram Panchayat Kohila whereby and where under it was resolved that the I & PH Department of Anni Division shall provide drinking water supply facilities to village Kutwa as the residents of the said village are facing acute shortage of the drinking water supply and irrigation water supply for their fields, but despite the demand of the general public, the Irrigation Department of Anni Division has provided a water tap to one Shri Jeewan Singh at a place known as Kanduanal. He has stated that his father Shri Maan Dass made a complaint to the Deputy Commissioner Kullu as far back as in the year 2012 whereby the acts of omission and commission of the officers/officials of the I &PH Division were brought to the notice of the authority concerned. The ADM on behalf of the Deputy Commissioner, Kullu by letter dated 20-10-2011 (Photostat copy enclosed) had asked the Executive Engineer, I & PH Division, Anni to take appropriate action at his level on the basis of the complaint dated 03-10-2011 made to the authority concerned by Shri Maan Dass father of the complainant. Despite the said letter of the Deputy Commissioner, no action report was submitted by the Executive Engineer concerned. Consequently, The ADM by reminder letters dated 13-02-2012 and 06-06-2012, again requested the Executive Engineer concerned to take an appropriate action in the matter and report the action taken to the Deputy Commissioner, Kullu. Photostat copies of the official reminder letters of the Deputy Commissioner are placed on record of this complaint. The complainant has also filed sworn affidavit duly attested by Executive Magistrate Anni Division, District Kullu in support of the contents of the complaint.

Nature of the complaint would reveal that the subject matter pertained to the basic need of the general public within the jurisdiction of the Panchayat Kohila for which the I & PH Department has sanctioned Water Supply Scheme in the year, 2010-2014, but as per the allegation of the complainant, the I & PH Department of Anni Division has started providing drinking water supply and water for irrigation to hand full influential people of the area, thereby a large number of public has been left high and dry.

Therefore, by order dated 12-11-2014 recorded by the Lokayukta, the Executive Engineer, I & PH Division, Anni was requested to furnish the action taken report to this office within a period of one month from the date of receipt of the letter based on resolution No.-8 dated 01-4-2012 passed by the Gram Panchayat Kohila in the presence of the Shri Dhuni Chand Pradhan, Development Block Anni. A copy of which was stated to have been sent to the Executive Engineer for further necessary action. Reader to Lokayukta by confidential letter dated 12th November, 2014 had requested the Executive Engineer to send the desired action taken report within the stipulated period and a photostat copy of resolution of the Gram Panchayat was also sent to him for ready reference.

The Executive Engineer, has not cared or bothered to respond to the said letter sent to him nor he has submitted desired action taken report till 05-06-2015, on which date the Lokayukta recorded the order again requesting the Executive Engineer, I & PH Division, Anni to comply with his earlier order/direction in its true spirit and substance without fault, demur and delay within a

further period of one month from the date of receipt of a letter of this office. Reader to Lokayukta vide reminder N0.-1 dated 05th June, 2015, had conveyed gist of the order of the Lokayukta to the authority concerned. The Executive Engineer, I & PH Division, Anni vide office letter dated 03-07-2015, has informed the Reader to the Lokayukta that a public tap has been provided to Shri Het Ram, complainant. Therefore, the complainant has withdrawn his complaint and he has no complaint with the Department. Photostat copy of an application submitted by the complainant to the Executive Engineer where under he has stated that a public tap has been provided to him and the water is running properly in the tap. Therefore, he has no complaint with Department and wanted to withdraw the present complaint. The said application was made by him on 13th June, 2015.

On receipt of the letter of the Executive Engineer whereby he has furnished Photostat copy of the application of the complainant requesting for withdrawal of this complaint, the Lokayukta by detailed order dated 23-07-2015 has observed that the complainant has secured a water tap from I & PH Department for himself only and has compromised the matter with the Department without informing the office of the Lokayukta, where this complaint was still pending for final decision. The contents of the complaint duly supported by sworn affidavit would reveal that the complainant has filed the complaint in the public interest, alleging acts of omission and commission and favoritism against the public servants working in the I & PH Division, Anni and later on, he has compromised the matter with the Department for his personal gain without seeking permission of the Lokayukta being a judicial body. Therefore, it was considered necessary and expedient in the public interest to direct Shri Het Ram Thakur complainant to present himself before the Lokayukta on 20th August, 2015 at 11.00 AM and to explain the circumstances under which he has compromised the cause of the general public raised in this complaint. A copy of the said order was also ordered to be sent to him and to the Executive Engineer, I & PH Division, Anni, District Kullu.

Pursuant to the order dated 23-07-2015, the complainant has not appeared on the specified date. However, in the interest of justice and fair play, one more opportunity was afforded to the complainant, requesting him to appear in person on 30-09-2015 at 11.30. AM without any default and demur. The record of the complaint reveals that the complainant had appeared before the Secretary, Lokayukta on 30th September, 2015 pursuant to the order of the Lokayukta dated 20-08-2015 and pleaded that he could not appear in person as directed on 30-09-2015 due to some circumstances beyond his control and for his absence he may be excused. On the said date, he has stated that public tap has been provided by I & PH Department, on the basis of a resolution passed by the Panchayat, but the rest of the allegations made by him against the office bearers of the I & PH Division have not been settled so far. He requested that inquiry may be got conducted from independent agency. He has tendered apology for his absence that was found satisfactory and his apology was accordingly, accepted. In view of the subsequent development, the Lokayukta by order dated 06-11-2015 has requested the Executive Engineer, I & PH Division, Anni to comply with the earlier order dated 23-07-2015 in its true spirit and substance without any default, demur and delay, within a further period of one month from the date of receipt of a copy of this order. The order was duly conveyed to the authority concerned by Reader to Lokayukta on 06-11-2015.

Pursuant to the said order of the Lokayukta dated 06-11-2015, the Executive Engineer, I & PH Division, Anni has sent a letter dated 18-02-2016 to the Reader, Lokayukta saying that, as per the resolution dated 01-04-2012 there was only one grievance regarding installation of public tap in village Kanda which has already been resolved by providing public tap in the said village as earlier stated and hence, no further action was to be taken by this office and If any other action, was to be taken by the office please clarify the same.

Having received the said letter of the Executive Engineer, the Lokayukta by order dated 02-03-2016 has ordered that a complete copy of the complaint alongwith a copy of the application dated 30-09-2015 made by the complainant to this office be sent to the Executive Engineer, I & PH Division, Anni for submitting action taken report, if any on all issue raised in the complaint. The authority concerned was requested to do the needful within one month from the date of receipt of a copy of the order and other documents.

Pursuant to the said order of 2nd March, 2016, the Executive Engineer, I & PH Division, Anni has now submitted parawise reply to all the issues raised by the complainant in the present pending complaint. He has also furnished photostat copy of the names of the residents and their wards numbers of the Gram Panchayat alongwith one photostat copy of a receipt dated 28-09-1992 for rupees sixty only issued by the Assistant Engineer, I & PH Division, Anni to Shri Jeewan Singh, on account of security charges and connection fee of water tap installed at his residence under Water Supply Scheme, Nagot Pali.

I have independently examined the report of the Executive Engineer and on my thoughtful consideration, I find that the I & PH Department has provided taps for the supply of drinking water to the general public of the Gram Panchayat, Kohila as per the statement of the Executive Engineer, I & PH Division, Anni and he has reported that no un-warranted water taps were provided in Gram Panchayat, Kohila, as asserted by the complainant in the complaint. The Executive Engineer has also stated that the Water Supply Scheme, Nagot Pali came to be sanctioned in the year 2010-2011 and for making it functional a sum of Rs. 84,789/- was spent. He further stated that in Gram Panchayat Kohila, as many as 89 water taps for the use of the public were installed and as many as 103 private water supply taps were also provided.

In view of the status report submitted by the Executive Engineer, I & PH Division Anni, I find no sound and cogent reasons to differ with the contents of the report. The report is accordingly, accepted in its entirety. Hence, no further action needs to be taken in this matter. The complaint shall stand filed.

However, I am making it clear that any observation made in this order shall not be interpreted or construed as an expression of opinion on the merits of the grievances raised by the complainant in this complaint.

19. Complaint No.18//2015-1(A) Loka

02-05-2016

Smt. Sumitra Devi, Ward Panch Dogri, and others complainants here in have addressed a compliant dated 08-05-2015 to the Deputy Commissioner Kullu, District Kullu and a copy amongst other authorities has been endorsed to this office. The allegations levelled by the residents of Village Badri against the Pradhan, Gram Panchayat Chaya, are that a sum of Rs. 3,00,000/- sanctioned for construction of 'Pulli Badri' under the jurisdiction of GP Chayal may be diverted to other place as 'Pulli Badri' was already constructed under MGNREGA Scheme. The complaints have also alleged that the Pradhan has allotted the construction work of 'Pulli' to his relative Shri Desh Raj, a Member of BDC.

On the above said premises, the complainants by way of this complaint have requested that thorough independent inquiry may be conducted in the matter and the culprits may be punished according to law for their acts of omission and commission, mis-utilisation and mis-appropriation

of the Government grants sanctioned for the general public of the Gram Panchayat, under different social schemes.

On scrutiny of the complaint, it was noticed that the complaint suffers from the basic requirements as provided under Section 9 of the Himachal Pradesh Lokayukta Act, 1983(New, The Himachal Pradesh Lokayukta Act, 2014(Act No. 23 of 2015)) read with Rules of 4 and 5 of the Himachal Pradesh Lokayukta (Proceedings) Rules, 1983. Therefore, by letter dated 19th June, 2015, Reader to Lokayukta has requested Smt. Sumitra Devi, Ward Panch to file complaint on Form No.-I (complaint) supported by an affidavit on Form No.-II which shall be prepared on non judicial stamp paper worth Rs. 3/- only and the same shall be got attested from the competent authority. She was advised to file a complete complaint in original to the Secretary, Lokayukta within a period of one month from the date of receipt of a communication of this office and if she would still feel any difficulty or problem in understanding the procedural formalities as suggested to her, she was at liberty to visit the office of the Lokayukta or she could contact any official of the Lokayukta on telephone Nos. 2623339 and 2624908 during office hours on any working day. Photostat copies of Form-I (complaint) and Form-II (affidavit) were also sent to her for reference and guidance.

Smt. Sumitra Devi, Ward Panch has not responded to the order of the Lokayukta dated 19th June, 2015 which was duly conveyed to her by Reader to Lokayukta on the same date till 16th March, 2016 on which date she was reminded to file a complaint as suggested to her within further period of one month from the date of receipt of communication of this office, failing which the complaint pending before the Lokayukta shall be filed for non prosecution. Smt. Sumitra Devi, Ward Panch has again not cared or bothered to respond to the communication of this office till date.

This compliant in the present form is not valid as the same has not been filed in accordance with provisions of the Act which was in vogue at the time of receipt of a copy of this complaint. In the absence of the valid complaint, no action needs to be taken in this matter.

Hence, the complaint shall stand filed on this short legal ground without embarking upon the merits of the allegations made against the Pradhan of the Gram Panchayat. As stated here in above since the residents have already addressed their grievances to the competent authorities of the State Government, they are at liberty to pursue their remedy for redressal of their grievances before the competent authorities/forum, in accordance of law.]

20. Complaint No.42/2015-1-Loka

03.05.2016

Shri Hem Singh Jamwal complainant herein has filed this complaint supported by sworn affidavit duly attested by Shri Pushap Raj Advocate, District Court Mandi, alleging inter alia acts of corruption, mis-using their official positions, adopting dilatory tactics in the public dealings and not maintaining independent and impartiality while discharging their official duties, against the above said public servants.

Briefly, stated the facts of the complaint are that the complainant had moved an application before the Assistant Collector 1st Grade (AC, 1st Grade), Sadar Mandi, under section 123 of the H.P. Land Revenue Act,1954 for partition of land comprising in Khata Khatauni Nos. 153/176 and 177 Kita, 5 land measuring 6-12-3 Bighas. The application was registered as case No. 107/2012

against Shri Chaman Lal. The AC 1st Grade on dated 02.05.2013 had settled mode of partition and forwarded the partition proceedings to Field Kanungo for partition of the land. The Field Kanungo on 12.07.2013 had submitted his report of partition alongwith relevant documents to the AC 1st Grade, Sadar Mandi. The AC 1st Grade, had inspected the spot on 21.09.2013. The AC 1st Grade, Sunder Nagar, District Mandi, observed that during the partition proceedings the complainant was not behaving properly and therefore, on 16.12.2013, he had transferred the case file to AC 2nd Grade for further proceedings. The Collector, District Mandi thereafter on dated 02.05.2014 had transferred the case file to the AC, 1st Grade Sundernagar who continued the proceedings further and fixed the spot inspection on 11.11.2014, but due to some un-avoidable circumstances, he could not inspect the spot on the specified date. The AC, 1st Grade subsequently, inspected the spot on dated 18.11.2014, but no decision was taken on the spot.

The AC 1st Grade Sundernagar, by order dated 03.12.2014 had sent the case file to the Sub Divisional Collector, Mandi with a request to issue necessary order to modify the mode of partition by exercising power of review as envisaged under section 16(a) of the H.P. Land Revenue Act, 1954. The Sub Divisional Collector Mandi, by order dated 22.12.2014 had returned the case file back to the AC, 1st Grade Sundernagar, without granting permission to modify the mode of partition and further observed that permission should be taken within 90 days from the date of order of the subordinate revenue authority. Finally, the AC, 1st Grade Sundernagar, decided the objection raised by the complainant before him on 07.02.2015.

The complainant has alleged that Dr. Madan Kumar HAS Collector, Sub Division Sundernagar, District Mandi has decided the case No. 17/2015 titled Shri Chaman Lal and others Vs. Hem Singh and others vide his order dated 24.08.2015 and has concluded as under :

“In view of reasons discussed hereinabove, I am led to conclude that this appeal is deserves to be accepted. Thus, the appeal is ordered to be allowed and case is remanded back to the AC 1st Grade Balh with the direction to decide the case afresh after affording adequate opportunity being heard to all the interested parties and decide the objections raised. Record requisitioned form the office of AC, 1st Grade Balh be returned back alongwith a copy of this order. Case file of this court be consigned to the General Record Room after due completion.

Announced in open court on the day of 24th August, 2015”.

-Sd-
Collector,
Sub-Division, Sadar Mandi,

A perusal of the complainant would also reveal that the complainant has taken up the matter with the Deputy Commissioner, Mandi, District Mandi with a request that concocted inquiry report has been submitted by the SDM Sadar, Mandi to the Deputy Commissioner just to protect the erring revenue officers and he should review the matter and justice be done to him, but the complainant has not got any response from the concerned authority.

On the above said premises the complainant by way of this complaint has requested that suitable legal action shall be taken against the above said public servants who have failed to

discharge their official duties honestly, efficiently, diligently and in the light of the settled preposition of laws of the land, so that general public including the complainant should be protected from the acts of corruption, omission and commission and misuse of official positions by the corrupt public servants. The complainant has filed a number of documents in support of this complaint.

Nature of the case was such which would require an inquiry from higher revenue authority of District Mandi. Therefore, the Lokayukta vide order dated 17.11.2015 requested the Deputy Commissioner, Mandi, District Mandi to inquire into the matter and submit action taken report within a period of one month from the date of receipt of communication of this office. Reader to Lokayukta by registered confidential letter dated 17.11.2015, has conveyed a gist of the said order to the Deputy Commissioner concerned. The case file reveals that the Deputy Commission Mandi has not responded to the order/direction of the Lokayukta dated 17.11.2015 despite the fact that four months period has already expired. Therefore, on dated 21.03.2016, the Lokayukta passed order where under he has expressed pious hope that the high responsible authority of the State Administration would ensure compliance of the orders/directions of the Lokayukta who discharges judicial function akin to the Judge's function. The Deputy Commissioner accordingly has been requested to act swiftly and promptly to send the desired action taken report to the Lokayukta within further period of one month from the date of receipt of a copy of the order without default, demur and delay. Reader to Lokayukta by registered letter dated 16.04.2016 has sent a copy of the said order to the Deputy Commissioner for compliance. Now the Deputy Commissioner has submitted inquiry report got conducted by him by the Additional Deputy Commissioner, Mandi, District Mandi. He stated that on perusal of the inquiry report it would reveal that acts of omission and commission and mis utilization of official positions levelled against the Revenu Officers of the District are not supported with any authentic evidence. However action for the dereliction of duties on account of procedural lapse on the part of Shri Ajay Prashar, the then Tehsildar, Sadar, Mandi in the disposal of the land partition case of the complaint has already been initiated by the Government under CCS (CCA) Rules, 1965. Therefore, no action is required to be taken on the complaint filed by Shri Hem Singh Jamwal. A copy of the detailed inquiry report conducted by the Additional Deputy Commissioner, Mandi, District Mandi alongwith its enclosures is enclosed with the letter of the Deputy Commissioner Mnadi, District Mandi.

Having independently examined the inquiry report and on the basis of material, information and documents collected by the Inquiry Officer, I am of the view that the Inquiry Officer has considered the entire factual and legal situation of the grievances of the complainant and has recorded findings that the Revenue officers against whom allegations of corruption, mis-utilization of official position etc. are not substantiated by the complainant by leading satisfactory evidence in support of his complaint. He has concluded that whatever action for the dereliction of duty on account of procedural laps on the part of Shri Ajay Prashar, the then Tehsildar, Sadar Mandi in the disposal of land partition case of the complainant, has already been initiated by the government under rule 3 of CCS (Conduct) Rules, 1954 and disciplinary action under CCS(CCA) Rules, 1965 against the erring revenue officer has already been initiated and charge sheet was also issued to him on June 6,2014 and thereafter he has been put under suspension by competent authority by order dated 19.01.2015.

The Inquiry Officer has also concluded that the case of partition of land of the complainant was pending before the AC, 1st Grade which was quasi judicial in nature and any aggrieved person if not satisfied with the order of Lower Revenue Court, is legally entitled to file appeal before the

next higher competent court, instead of making any sort of complaint alleging that the Sub-Divisional Officer (Civil) Sadar Mandi, has failed to comply with the direction of the Deputy Commissioner Mandi, District Mandi, whereby the former was asked to hold inquiry against Shri Ajay Prashar, Tehsildar. All the allegations are found baseless and unfounded. The Inquiry Officer has also said that the revenue officers while dealing with the partition proceedings of land, are empowered to discharge their quasi judicial duties under the H.P. Land Revenue Act, 1954. The request of the complainant that letter addressed by him to the Hon'ble Governor of H.P. regarding the alleged false spot inspection report prepared by Tehsildar, Sundernagar, should have been incorporated in the partition proceedings, is erroneous. Similarly, the complainant has failed to produce sufficient evidence to substantiate the allegations acts of omission and commission and misuse of the official positions by Shri Sunil Kaith, Tehsildar and Dr. Madan Kumar SDM. The complainant has vaguely stated in the complaint that the named revenue officers have committed corruption but no supporting and cogent evidence has been led by him.

Having given my thoughtful consideration to the facts and circumstances of the case, I find no sound and cogent reasons to differ with the well-reasoned findings of the Inquiry Officer and the inquiry report is accepted in its entirety. Therefore, no action needs to be taken in this matter as the grievances alleged by the complainant raised in this complaint have been properly and thoroughly examined by the competent revenue authority. Hence, the complaint shall stand filed.

However, I am making it clear that I have not expressed any opinion on the merits of the grievances alleged in this complaint and nothing said by me in this order should be interpreted or construed as an expression of the opinion on the merits of the case.

21. Complaint No.34//2015-1(A)Loka

04-05-2016

Shri Suresh Kumar, the above named complainant has filed this complaint alongwith some documents against Shri Satpal Pradhan, Gram Panchayat Bandal Kaflah.

According to the complainant's version, he made representation dated 18-06-2105 to the Hon'ble Governor of Himachal Pradesh making allegations of embezzlement of public funds by the Pradhan, Gram Panchayat, sanctioned for the development of social public schemes within Gram Panchayat Bandal Kaflah. He stated that he received a letter dated 7th July, 2015 from the Under Secretary to the Hon'ble Governor of Himachal Pradesh that his complaint has been referred to the Deputy Commissioner, Shimla, District Shimla for necessary action, but the Deputy Commissioner has not dared to take any action on his complaint till date. His grievance is that the Pradhan, Gram Panchayat has not issued Below Poverty Line (BPL) cards to him and other eligible and deserving persons of the Gram Panchayat, but instead, the Gram Panchayat has lodged a false FIR against him in the Police Station Kupvi, Tehsil Chopal and the police officials of the Police Station have summoned him in the Police Station.

On the above said premises, by way of this complaint, the complainant has requested that the matter may be got enquired into through independent agency, so that justice be done to all the BPL families of the Gram Panchayat and for this act they shall feel highly be obliged. In support of this complaint, the complainant has enclosed some newspapers cuttings and a copy of the letter dated 05-06-2015 addressed by Shri Virender Tomar SP/HQ office of the Additional Director General, State Vigilance and Anti Corruption Bureau (SV & ACB) Himachal Pradesh, Shimla to

the Deputy Commissioner, Shimla regarding not releasing of the installment of sanctioned amounts for construction of house and development of land.

On scrutiny of the complaint, it was noticed that the same has not been filed in accordance with the legal formalities as prescribed under the Himachal Pradesh Lokayukta Act, 2014(Act No. 23 of 2015). Therefore, Lokayukta by order dated 14-08-2015, requested the complainant to prepare a complaint on Form-I supported by an affidavit on Form-II. The affidavit shall be prepared on non judicial stamp paper worth Rs. 3/- only, and the same shall be attested by the competent authority. After completing the desired formalities, complaint alongwith affidavit and other supporting document(s), if any, shall be sent in original to the Secretary, Lokayukta within a period of one month from the date of receipt of letter of this office.

Reader to Lokayukta by letter dated 18th August, 2015 conveyed the gist of the said order to the complainant. He was also advised that if he would feel any difficulty or problem in understanding the procedural formalities as suggested to him, he was at liberty to visit the office of the Lokayukta or he could contact any official of the Lokayukta on telephone Nos. 262339 and 2624908 during office hours on any working day. Photo copies of Form-I (complaint) and Form-II (affidavit) were also enclosed alongwith letter for ready reference and his guidance. Despite the said letter of this office, the complainant has not cared or bothered to respond to the same nor he has filed the desired complaint within the stipulated period. Therefore, by order dated 17-03-2016, the Lokayukta has granted one more opportunity to the complainant to comply with the earlier order within a further period of one month, failing which the complaint in hand shall be filed for non prosecution. A gist of the said order has been conveyed to the complainant by Reader to Lokayukta by reminder letter dated 17th March, 2016. The complainant despite the repeated reminder letter has not responded to the communication nor he has complied with the earlier orders /direction of the Lokayukta till date. It is presumed that the complainant may not be interested in pursuing this matter further. Hence, It would not be in the fitness of things to keep this complaint pending in the docket of this Institution for indefinite period for the fault of the complainant. The complaint accordingly, stands filed.

However, I am making it clear that I have not expressed any opinion on the merits of the grievances raised in this complaint against the Pradhan, Gram Panchayat and any observation made in this order shall not be interpreted or construed as an expression of opinion on the merits of the case. The complainant is at liberty to redress his grievances before any appropriate authority /forum in accordance with law.

22. Complaint No. 41/2015-1-A-Loka

06.05.2016

Shri Kewal Krishan, proclaiming himself Ex.Pradhan of Gram Panchayat Chaproh (Chintpurni) and 16 others have filed this complaint against Shri Sanjeev Sharma, Pradhan Gram Panchayat Gangot, alleging inter-alia that Shri Sanjeev Sharma is a former District Leader of the BJP party. According to the complainant the Deputy Commissioner Una, District Una during the year 2009-2011 had granted approximately a sum of Rs. one crore two lakhs out of the funds of Mandir Trust Mata Shri Chintpurni Ji, for development of social works within the jurisdiction of Gram Panchayat Gangot, but said grant has been misappropriated and mis-utilized by the Pradhan and he has not made any development within the Gram Panchayat, till today.

On the above said premises the complainants by way of this complaint have requested that the Pradhan may be directed to give the details of the social works got started and completed by the

Gram Panchayat out of the granted amounts. They have prayed that proper inquiry may be got conducted in the matter against erring Pradhan for his acts of corruption and misappropriation of money granted out of the funds of Mandir Trust Mata Shri Chintpurni Ji.

On scrutiny of the compliant, it was found that the complaint in the present form suffers from legal infirmities such as the same has not been filed in accordance with the provisions of Section 2(1)(b) of the H.P. Lokayukta Act, 2014 (Act No. 23 of 2015) which came into force on 30th June, 2015.

As per the provisions of Section 2(1)(b) “compliant” means a complaint accompanied by an affidavit, made in such form as may be prescribed alleging that a public servant has committed an offence punishable under the Prevention of Corruption Act, 1988 or the Himachal Pradesh Prevention of Specific Corrupt Practices Act, 1983.

“Public Servant” in terms of Section 2 (I) (i) of the Act means a person referred to in clauses (a) to (h) of sub-section (1) of Section (13) of this Act”.

Therefore, Lokayukta by order dated 05.11.2015 requested Shri Kewal Krishan, Ex-Pradhan, Chaproh to prepare the complaint on Form No. 1 supported by an affidavit on Form No. II which shall be prepared on non-judicial stamp paper worth Rs. 3/- only and the same shall be got attested from the competent authority. He was advised that after completing formalities suggested to him, the complainants shall file the complaint alongwith attested affidavit and other supporting document(s), if any, to the Secretary, Lokayukta within a period of one month from the date of receipt of a letter of this office. He was also advised that if he would feel any difficulty or problem in understanding the procedural formalities as suggested to him, he was at liberty to visit the office of Lokayukta or he could contact any official of the Lokayukta on telephone Nos. 262339 and 2624908 during office hour on any working day. Photocopies Form No.I (Complaint) and Form No.II (Affidavit) were also sent to him for ready reference and his guidance by the Reader to Lokayukta by letter dated 05.11.2015. Shri Kewal Krishan one of the complainant has not responded to the letter, nor he has filed desired complaint, despite the fact that more than four months have elapsed. However, in the interest of justice and fair play, one more opportunity was granted to the complainants to do the needful within one month from the date of receipt of a reminder letter of this office, failing which this complaint which is not valid shall be filed for non prosecution.

Reader to Lokayukta has addressed a reminder letter dated 15.03.2016, to Shri Kewal Krishan Ex. Pradhan, requesting him to do the needful within a stipulated period. However, the complainants have still not cared or bothered to respond to any letter addressed to Shri Kewal Krishan by this office, nor any one of them has complied with the orders/directions of the Lokayukta till date.

In the facts and circumstances, it appears that the complainants may not be interested in pursuing this matter further and this improper complaint cannot be kept pending indefinitely for the fault of the complainants who have not even bothered to put their signatures on the alleged complaint, nor they have given their proper residential addresses for communication.

Hence, no further action needs to be taken in this matter and the complaint shall stand filed without expressing any opinion on the merits of the grievances made against the Pradhan Gram Panchayat.

23. Complaint No.20//2014-1(A)Loka

07-05-2016

Shri Kishori Lal, the above named complainant has filed this complaint against Shri Ramesh Chand, Ex-Pradhan and Shri Sanjay Kumar, Secretary(on contract) Panchayat alleging Inter-alia that the Ex-Pradhan and Secretary both have mis-appropriated and mis-utilised the public money which was granted to the Gram Panchayat under various social schemes for the welfare of the people of the Gram Panchayat. They have also alleged that both the office bearers of the Gram Panchayat have given benefits of the grants to some selective persons of the Gram Panchayat who are either their relatives or friends or acquaintances.

It appears from the contents of the complaint that the complainant prior to filing of this complaint before this Institution has already taken up the matter with the Additional Director of Panchayati Raj, Department, Himachal Pradesh, but nothing seems to have been done by the authority concerned, the complainant has approached the Lokayukta by way of this complaint. He has filed a sworn affidavit in support of the complaint alongwith some documents.

On the above said premises, the complainant has requested that thorough inquiry may be got conducted in the matter and suitable action be taken against the erring office bearers of the Gram Panchayat for their acts of corruption, mis-appropriation of the Government funds and mis-utilisation of the money for their personal use or for giving undue favour to their nears and dears.

Having examined the nature of the case, Lokayukta by order dated 23-05-2014, requested the Additional Director, Panchayati Raj Department, State of Himachal Pradesh, Shimla to submit action taken report, if any, based on the complaint of the complainant allegedly submitted long time back to him. The desired report was to be furnished to the Lokayukta within one month from the date of receipt of communication of this office. Reader to Lokayukta by letter dated 24-05-2014, requested the Additional Director, Panchayati Raj, Department to do the needful within the stipulated period. No, report came to be submitted by the Additional Director, Panchayati Raj Department till 06-08-2014, on which date, one more reminder letter was ordered to be sent to the Additional Director requesting him to submit the desired action taken report within further period of one month from the date of receipt of communication of this office and the said order was communicated to the authority concerned on 07-08-2014.

The case file would reveal that despite reminder letter dated 07-08-2014, the Additional Director, Panchayati Raj has not cared or bothered to comply with the earlier orders of the Lokayukta till 03-11-2014. Consequently, last reminder letter was ordered to be sent to him to submit the desired action taken report to the Lokayukta within further period of one month from the date of receipt of communication of this office. Again, no response has been received from the Additional Director to the letter issued to him, nor he has submitted the desired action taken report till 01-06-2015, on which date detailed order expressing the displeasure came to be recorded by the Lokayukta whereby and where under the authority concerned has been reminded that the orders/directions of the Lokayukta, who has to hold judicial office and discharge functions akin to Judge's function, should be implemented promptly and effectively without causing any serious consequences to the authority concerned who can be punished in respect of contempt of orders/directions of the Lokayukta under Contempt of Courts Act, 1971. Reader to Lokayukta had sent a copy of the said order to the authority concerned on 0-3-06-2015.

Pursuant to the said order, Deputy Director, Panchayati Raj Department, Shimla *vide* his letter dated 12-06-2015 has intimated the office of the Lokayukta that the matter was got enquired into through the District Panchayat Officer, Sirmour at Nahan. The District Panchayat Officer has conducted inquiry on 14-07-2014, 21-07-2014, 22-07-2014 and 22-09-2014 in the presence of Smt. Kiran Bala, Pradhan, Shri Geeta Ram Up-Pradhan, Shri Neeraj Kumar, Shri Balveer Singh, Smt. Raj Devi and Smt. Laxmi Devi Ward Members, Gram Panchayat Neharpab and Shri Kishori Lal, Shri Neeraj Kumar, Shri Dinesh Kumar complainants and the statements their statement of the witnesses were also recorded. The Inquiry Officer has also taken on record relevant documents during the course of the inquiry. On conclusion of the inquiry, the Inquiry Officer has recorded findings that the Ex-Pradhan and Secretary, Gram Panchayat Neharpab were found guilty for mis-utilisation of the Government funds. Therefore, he has reported that the defaulted amounts shall be recovered from both the erring office bearers of the Gram Panchayat.

On receipt of the inquiry report alongwith the letter of the Joint Director, the Lokayukta by order dated 23-06-2015 has again requested the Joint Director to file a comprehensive action taken report relating to the findings recorded by the Inquiry Officer against item Nos. 1, 2 and 3 recorded at page No. 3 of the report. The needful was to be done within month from the date of receipt of communication of this office without any fault, demur and delay. Reader to Lokayukta on dated 23-06-2015 has conveyed a gist of the order to the Joint Director, Panchayati Raj.

The case file would further reveal that the matter has remained pending between the Deputy Director, Panchayati Raj Department and District Panchayat Officer, District Sirmour, and they have simply exchanged various correspondences with each other without showing any fruitful result. Consequently, on 28-07-2015, Joint Director, Panchayati Raj Department has again been reminded to submit the desired comprehensive action taken report within further period of one month. Finally, the Joint Director-cum-Deputy Secretary, Panchayati Raj, Department *vide* his letter 12th August, 2015 has submitted item wise action taken report based on the inquiry report submitted by District Panchayat Officer in which following irregularities of mis-appropriation of funds have been detected:—

- (1) “The water shed tank has been constructed at Chourwadhar for the total cost of Rs. 13975/- instead of village Pirag in the name of Shri Bihari Lal, S/O Shri Paras Ram. Thus, irregularities of Rs. 13975/- has been committed by the Ex-Pradhan and Secretary respectively.
- (2) That no water shed tank has been constructed to Shri Amar Singh, S/O Bhagat Ram at Village Pirag. Thus, a sum of Rs. 13975/- has been mis-appropriated by the Pradhan and Secretary which was required to be recovered from them.
- (3) That water shed tank has been constructed at Village Bhayanaghat at total cost of Rs. 13975/- instead of Village Tikkari in the name of Shri Geeta Ram, S/O Shri Kaltu Ram. Thus, irregularities of Rs. 13975/- has been committed by the Ex-Pradhan and Secretary which was required to be recovered from them”.

On the basis of the inquiry report, the District Panchayat Officer, District Sirmour has written a letter dated 31-07-2015 to Shri Ramesh Chand Sharma, Ex-Pradhan and Shri Sanjay Kumar, Secretary Gram Panchayat, Neharpab to deposit total mis-appropriated amounts of Rs. 41,925/- *i.e.* Rs. 20,962.50 paisa each in equal shares in the Panchayat Ledger Account, failing which further action will be initiated against them in accordance with law.

It is pertinent to note that no confirmation in regard to depositing the said amount by the erring office bearers has been intimated by the Panchayat Director-cum-Deputy Secretary Panchayati Raj, therefore, the Lokayukta by order dated 21-07-2015, further requested the authority concerned to intimate as to whether the defaulted amount has been deposited by the Ex-Pradhan and Secretary, Gram Panchayat or not. He was requested to do the needful within one month from the date of receipt of communication from this office. But, the authority concerned has still not cared or bothered to send any intimation to this office, despite the fact that more than seven months have already lapsed since the date of order of the Lokayukta dated 21-08-2015. In the facts and circumstances the Lokayukta was left with no other alternative to pass detailed order 17-03-2016, reminding the authority concerned again and again that directions/orders made by Lokayukta are mandatory and imperative in nature on the administrative authority and it is his boundant duty and obligation to see complete implementation of such orders/directions in its true spirit and substance. The authority was also reminded that non-compliance of the orders of Lokayukta can entail serious consequences as provided under Section 53 of the Himachal Pradesh Lokayukta Act, 2014 (Act No. 23 of 2015). However, by way of indulgence one more opportunity was granted to the authority concerned to comply with earlier orders of the Lokayukta. Reader to Lokayukta has conveyed the said order to the Joint Director-cum-Deputy Director, Panchyati Raj Department, Shimla for compliance.

Now, after long journey of repeated reminders and orders, the District Panchayat Officer, District Sirmour at Nahan by letter dated 27th April, 2016, has addressed to Joint- Director-cum-Deputy Secretary, Panchyati Raj Department Shimla, a copy thereto has been sent to Secretary, Lokayukta whereby and where under, he has informed that as per the report of Block Development Office, Rajgarh dated 21-04-2016, Shri Ramesh Chand, Ex-Pradhan and Shri Sanjay Thakur, Secretary, Panchayat (contract) have deposited total defaulted amount of Rs. 41,925.50p in equal shares on 11-04-2016 in the Panchayat Accounts recorded at pages 105 to 118 respectively of its Ledger.

In the backdrop of the facts and circumstances, no further action needs to be taken in this matter as the mis-utilised amount of the grants has been received by the Panchayat from the erring office bearers. Hence, this complaint shall stand filed without embarking upon the merits of the case.

24. Complaint No.30//2015 (A) Loka

11-05-2016

Smt. Ratni Devi complainant herein has filed this complaint through Shri Rajinder Kumar her son and General Power of Attorney. The complainant is stated to be a old and Senior citizen women. According to the complainant, she filed a partition suit No. 180/2008 against one Omkar Singh of the land in dispute before the Assistant collector, 1st Grade, Jawali, which came to be decided on 16-06-2011 in her favour.

Feeling aggrieved against the decision of the Assistant Collector, Shri Omkar Singh preferred an appeal before the Sub-Divisional Officer (Civil) Jawali, which was also decided on 03-12-2013 in her favour and against the appellant Shri Omkar Singh has not preferred any revision against impugned order of the appellate authority before the Divisional Commissioner till date. Consequently, on 21-05-2014, the complainant had applied before the revenue authority for

ejection of Shri Omkar Singh from the land in dispute and accordingly, on 06-06-2014, he was ejected from the land.

Based upon the order of the authority concerned, the revenue authority of Sub-Tehsil Kotla had entered mutation No. 420 on 11-06-14 in favour of the complainant. According to the grievances of the complainant, Naib Tehsildat, Sub- Tehsil Kotla, has demanded bribe money from the complainant for attestation of the mutation entry in the revenue record. The complainant has declined to accept the illegal demand of the Naib-Tehsildar as a result thereof, he has not attested the mutation entry and has continued to call the complainant and her son regularly to Sub-Tehsil Kotla and in the evening he has been asking them to go home without doing their work. The complainant has emphasized that the Naib-Tehsildar has pressurized her to give him bribe money for doing the work of attestation of mutation entry in the revenue record in her favour and in default he would not attest the mutation entry.

The complainant further stated that in the month of May, 2015, Naib-Tehsildar, Kotla has called her and her son on two occasions to Kotla and repeated the demand of bribe money, when they again refused to oblige him, the Naib-Tehsildar asked Shri Omkar Singh to challenge the order of the appellate authority by way of revision before the Divisional Commissioner.

On the above said premises, the complainant by way of this complaint has requested that appropriate legal action may be taken against Naib-Tehsildar, Kotla and he may be penalized under Citizen Chartered Act/Service Guarantee Act as he has not attested Mutation entry in the revenue record in favour of the complainant within period of three months as provided under the Himachal Pradesh Land Revenue Act/Manual. The complainant has also requested that she shall be compensated for the default of the Naib-Tehsildar who for the past one year has failed to discharge his official duties fairly and honestly and justice be done to her.

Copies of this thumb marked complaint made by the complainant are also addressed to Shri Virbadhra Singh Ji, Hon'ble Chief Minister, State of Himachal Pradesh, the Financial Commissioner Revenue, Himachal Pradesh, Shimla. The Divisional Commissioner, District Kangra at Dharamshala and the SDO Jawali, District Kangra.

On scrutiny of the complaint, it was noticed by the office that the complainant suffers from legal infirmities in terms of the provision of Himachal Pradesh Lokayukta Act, 2014 (Act No. 23 of 2015). Therefore, the Lokayukta by order dated 22-07-2015, requested the complainant to prepare the complaint on Form-I (complaint) supported by affidavit on Form-II. The affidavit was to be prepared on non-judicial stamp paper worth Rs. 3/- and the same shall be got attested from the competent authority. She was requested to submit the desired complaint alongwith sworn affidavit and other supporting document(s) if any, to the Secretary Lokayukta within a period of one month from the date of receipt of communication of this office. She was also advised that in case she would feel any difficulty or problem in understanding the procedural formalities as suggested to her, she was at liberty to visit the office of the Lokayukta or she could contact any official of the Lokayukta on telephone Nos. 262339 and 2624908 during office hours on any working day. Reader to Lokayukta vide letter dated 22nd July, 2015 has conveyed the order of the Lokayukta to the complainant and Photostat copies of Form-I (Complaint) and Form-II (Affidavit) were also enclosed alongwith the letter for ready reference and guidance of the complainant.

The complainant has not responded to the letter of the Reader nor she has filed a desired complaint till 9th March, 2015, on which date a reminder letter was sent to her by Reader to Lokayukta to do the needful as suggested to her in earlier letter dated 22nd July, 2015 within further

period of one month from the date of receipt of a copy of the order. She was also apprised that if she would fail to do the needful within the stipulated period, her complaint in the present form shall be filed in accordance with law. A photostat copy of the said order was ordered to be sent to the complainant for compliance. Reader to Lokayukta on 9th March, 2016 has sent one letter to Smt .Ratni Devi and second letter to Shri Raj Kumar, General Power of Attorney alongwith photostat copies of the order of the Lokayukta dated 09-03-2016 for compliance. But, despite reminder letters addressed to the complainant and her son, they have not cared or bothered to respond to the letters sent to them nor they have filed desired complaint till date. In the facts and circumstances, it is presumed that the complainant and her General Power of Attorney may not be willing and interested to pursue the present complaint further as more than two months have already lapsed from the date of issue of reminder letters dated 09-03-2016.

In the backdrop this complaint in the present form cannot be kept pending for indefinite period for the fault of the complainant and her General Power of Attorney. Hence, no further action needs to be taken in this matter and the complaint shall stand filed.

However, I am making it clear that any observation made in this order shall not be interpreted or construed as an expression of opinion on the merits of the grievances made by the complainant and her General Power of Attorney in this complaint against Naib Tehsildar, Sub-Tehsil Kotla. The complainant and her General Power of Attorney, if they so choose, are at liberty to redress their grievances before an appropriate authority in accordance with law.

25. Complaint No. 46/2015-1(A) Loka

12.05.2016

Shri Suren Uppal Advocate, complainant herein has filed this complaint with request to make an inquiry and consequent legal prosecution against the Government officials whether or not working in Transport Sector of the State of Himachal Pradesh who have acted in collusion with the Private Companies, namely: M/S Linkpoint Infrastructure Private Limited, M/S Utsav Safety Systems Pvt. Ltd. and M/S Rosmerta Technologies Limited opposite parties herein and compromising the Safety and the Security of the public at large in the State of Himachal Pradesh.

The main grievances alleged by the complainant are in regard to implementation of the High Security Registration Plates (HSRP) Project in the State of H.P. has witnessed the commission of various illegalities like manufacturing and supply of un-certified, un-registered and sub-standard registration plates from un-known, un-inspected and un-certified manufacturing establishments and supplying and affixing the same on the vehicles across the whole of the State of Himachal Pradesh by cheating of innocent and un-suspected vehicles owners. He alleged that the commission of the illegalities both in terms of violation of the Security Norms and the order passed by the Hon'ble Supreme Court of India have been brought to the notice of the respective State Transport Authorities right from the year 2012 onwards. However, blinded in their consciousness and influence casted by the private concessionaire companies, the State Transport Authorities have failed in discharging their sacrosanct duties in taking cognizance of the Statutory and legal violators by task.

On the above premises the complainant by way of this complaint has requested to initiate appropriate legal action against the State Transport officials for committing acts of commission and omission, and corrupt practices prevalent in the Transport Department in the State of Himachal

Pradesh and violation of HSRP in collusion with the private companies in the larger interest of Rule of Law and up-holding the supremacy of administration of justice in the public domain.

The complaint has filed large number of documents running into 280 pages including judgment of the Supreme Court in writ-petition(C) No. 41 of 2003 titled Association Registration Plates-Vs. U.O. India and others decided by the Supreme Court of India vide its judgment dated 30th November, 2004 and copy of I.A. No.-of 2014

In

Contempt petition (Civil) No. 483 of 2013

In

Writ petition (C) No. 510 of 2005

In Matter of

Maninderjeet Singh Bitra Vs. Vijay Chibber and others

And In the Matter of

M/S Utsav Safety System Pvt.Ltd.

6/7, D.B. Gupta Road, Paharganj- Delhi.

On scrutiny, it was noticed by the office that the complaint has not been filed in terms of the provision of the Himachal Pradesh Lokayukta Act, 2014 (Act No. 23 of 2015). The relevant provision of Act No. 23 of 2015, provides that a complaint shall be filed in such form as may be prescribed under the Himachal Pradesh Lokayukta (Proceedings) Rules, involving an allegation against specific public servant, who has committed an offence punishable under the Prevention of Corruption Act, 1988 or the Himachal Pradesh Prevention of Specific Corrupt Practices Act, 1983. The contents of the complaint shall be supported by sworn affidavit to be prepared on non-judicial stamp paper worth Rs.3/- only and then it should be got attested from Competent Authority or an Oath Commissioner. Thus, present complaint suffers from legal infirmities. Yet in the peculiar facts and circumstances and in the interest of fair play and justice, the Lokayukta by order dated 28.11.2015, ordered that the complaint shall be referred to the Additional Chief Secretary (Transport) Himachal Pradesh for taking appropriate action in the matter expeditiously against the erring public servant(s) in accordance with law. Action taken report was to be furnished to the Secretary, Lokayukta as well to the complainant. Reader to the Lokayukta has duly conveyed the order of the Lokayukta to the Additional Chief Secretary (Add.C.S) Transport and Shri Suren Uppal, Advocate on 30th November, 2015.

The case file would reveal that the Add.C.S. (Transport) to the Government of Himachal Pradesh has not responded to the earlier order of the Lokayukta dated 28.11.2015 within the stipulated period. Shri Suren Uppal, Advocate in the meantime has submitted a fresh representation dated 01.03.2016 alongwith a large number of documents containing as many as 445 pages, whereby and where under he has again requested the Lokayukta to order the prosecution into the acts of public bids and cheating perpetrated by a syndicate of companies namely : M/S Rosmerta Technologies Limited, M/S Linkpoint Infrastructure Private Limited, M/S Celex

Technologies Private Limited and M/S Utsav Safety Systems Pvt. Ltd. in the implementation of HSRP Project, across eight States in India including State of Himachal Pradesh.

The Lokayukta vide order dated 14.03.2016 again requested the Add.C.S. (Transport) to the Government of Himachal Pradesh to submit a desired action taken report on the subject matter in issue to the Secretary, Lokayukta, Himachal Pradesh within further period of one month from the date of receipt of a copy of the order so that Shri Suren Uppal, Advocate could be apprised of the outcome of the result of the complaint pending before the Lokayukta. He was requested to ensure compliance of the earlier orders/directions of the Lokayukta without default, demur and delay within the stipulated period.

Reader to Lokayukta vide confidential letter dated 14.03.2016, has sent a copy of the said order alongwith complete file of the representation submitted by Shri Suren Uppal Advocate, to the Addl.C.S. (Transport) to the Government of Himachal Pradesh for his information and taking urgent necessary action on the subject matter in issue.

Pursuant to the earlier order of the Lokayukta, the Under Secretary (Transport) to the Government of Himachal Pradesh has addressed letter No. TPT-E(3)49/2012-V dated 05.05.2016 to the Reader to Lokayukta, Himachal Pradesh whereby he has submitted point wise/para wise reply to the contents of the complaint/ representation made by Shri Suren Uppal Advocate.

Having independently bestowed my thoughtful consideration to the para wise comments furnished by Principal Secretary (Transport) to the Government of Himachal Pradesh, I am of the view that the Transport Department of the State of Himachal Pradesh at the time of awarding contract of HSRP in the State of Himachal Pradesh to M/S Utsav Safety Systems Pvt. Ltd. has accepted a bid of successful bidder in accordance with the terms and conditions of the bid documents. The allegations of gross violation and corruption being levelled by Shri Suren Uppal Advocate, on behalf of the competing firms who could not qualify in the bidding process, are not found substantiated with authentic, cogent and convincing evidence. The allegations of corruption against officers/officials of the Transport Department of the State Government in awarding the award affixing the HSRP on the vehicles being applied in the State of Himachal Pradesh are general in nature without naming any particular 'public servant' as defined under the provision of Act No. 23 of 2015. Therefore, in that view of the matter, no further action needs to be taken at this end in this matter. Hence, the complaint shall stand closed.

However, I am making it clear that I have not expressed any opinion on the merits of the alleged grievances made by the complainant in this complaint and nothing said by me in this order should be interpreted or construed as an expression of opinion on the merits of the case.

Reader to Lokayukta shall send a photo copy of this order to Shri Suren Uppal Advocate, alongwith a copy of the letter addressed by Under Secretary (Transport) to the Government of Himachal Pradesh to the Secretary, Lokayukta and a copy of para wise comments submitted by the Transport Department. A copy of this order be sent to the Principal Secretary (Transport) to the Government of Himachal Pradesh.

26. Complaint No.24/2016-I(A)Loka

26-05-2016

This complaint not supported by sworn affidavit as prescribed under the provision of the Himachal Pradesh Lokayukta Act, 2014(Act No. 23 of 2015) has been received from

Shri Devendra Kumar, Director, M/S Microautotec, complainant herein whereby and whereunder allegations of commission of scam of Rs. 15 Thousand crore in selling of Speed Limiting Device/Speed Governor in PAN India through tender process, have been levelled against the opposite party.

The complainant has alleged that monopoly has been created in India in guise in Ministry of Road Transport and Highway (MORT & H) letter dated 21-08-2009 for the supply of Speed Limiting Device (SLD) /Speed Governor.

The complainant has enclosed the copies of various documents and copy of IA NO. 1/2015 in writ petition (C) No.-793 of 2015 in the matter of Suraksha Foundation Vs. Union of India and others alongwith order of modification passed by the Supreme Court of India.

On the aforesaid premises, the complainant by way of this complaint has requested that an appropriate inquiry shall be ordered in regard to creation of monopoly in the hands of influential companies whose tenders have been accepted and thereby exploited the market through their dominate position.

On scrutiny, it was noticed that the complaint suffers from fundamental legal infirmities such as the same has not been filed on Form-I supported by sworn affidavit on non judicial stamp paper worth Rs. 3/- duly attested by competent authority *i.e.* Executive Magistrate or Oath Commissioner or Notary Public. It is pertinent to observe that the grievances of the complainant alleged in this complaint are against private company whose tender was accepted by the competent authority for the supply of SLD/Speed Governor in some of the states of India. The complainant has not whispered a word in this complaint that a 'public servant' of the State of Himachal Pradesh has committed an offence punishable under the Provision of Corruption Act, 1988 or the Himachal Pradesh Prevention of Specific Corrupt Practices Act, 1983.

"Complaint" as defined in Section 2(1) Sub-Section clause (b) of the Himachal Pradesh Lokayukta Act, 2014(Act No. 23 of 2015) means a complaint accompanied by an affidavit, made in such form as may be prescribed alleging that a public servant has committed an offence punishable under the Prevention of Corruption Act, 1988 or the Himachal Pradesh Prevention of Specific Corrupt Practices Act, 1983. "public Servant" means a person in terms of Section 2(1) (i) of Act No. 23 of 2015 means a person referred to in clauses, (a to h) of Sub-Section of Section 13 of the Act.

Chapter-Vi deals with jurisdiction, in respect of inquiry Section13 of the Act in powers, the Lokayukta shall inquire or cause an inquiry to be conducted into any matter involved in, or arising from, or connected with, any allegation of corruption made in a complaint in respect of "public servant" whose status and positions in the State of Himachal Pradesh are enumerated in clauses (a to h) of Section 13 of Sub-Section (1) of the Act.

In that view of the matter, this complaint shall stand disposed off for want of jurisdiction, power and authority of the Lokayukta.

However, I am making it clear that I have not expressed any opinion on the merits of the grievances made in this complaint and nothing said by me in this order should be interpreted or construed as an expression of opinion on the merits of the case. The complainant, if he so chooses, is at liberty to approach the Tribunal/Authority or Forum for redressal of his grievances, in accordance with law.

27. Complaint No.07/2016-I (A) Loka

03-06-2016

Shri Ravinder Singh Riyal complainant herein has filed this complaint against Shri Mahinder Chand, who held office of Pradhan Gram Panchayat Harsi during the period January 2006 to January 2011. The complainant has levelled allegations of cheating, mis-appropriation and gross mis-utilisation of Government funds allotted for execution of various social schemes and developmental works for the benefits and welfare of the general public of the Gram Panchayat against the Pradhan. He has alleged that during his tenure, the Pradhan had committed forgery and dishonestly and fraudulently made false payment vouchers, bills and falsely marked the presence of certain persons on muster-rolls who have never worked on the execution of the development works alleged by him for which he has received payments for himself. Further, it is alleged that the Pradhan has acquired immovable and movable properties worth lacs of Rupees by illegal means for which criminal proceedings deserve to be initiated against him. The complainant has given details of the public works allegedly executed in Gram Panchayat and details of the amounts so mis-utilised and mis-appropriated by the Pradhan during his tenure as such. The complainant has enclosed photostat copies of various documents obtained by him under the Right to Information Act, 2005, in support of his allegations.

On scrutiny of this complaint, it is noticed that the complaint suffers from legal infirmities such as the same has not been filed on Form-I (complaint) supported by affidavit on Form-II as prescribed under the Himachal Pradesh Lokayukta Act, 2014 (Act No. 23 of 2015).

Therefore, the complainant vide letter dated 3rd March 2016 was informed that if he was interested in pursuing this complaint against Ex-Pradhan, he could prepare the complaint on Form-I supported by affidavit on Form-II which shall be prepared on non-judicial stamp paper worth Rs. 3/- only and the same shall be got attested from the Oath Commissioner, Public Notary or Executive Magistrate. He was also advised to file original complaint as suggested to him along with document(s) if any, in support thereto to the Secretary, Lokayukta within a period of one month from the date of receipt of a letter of this office. He has also been advised that in case he would feel any difficulty or problem in understanding the procedural formalities as suggested to him, he was at liberty to visit the office of the Lokayukta or he could contact any official of the Lokayukta on telephone Nos. 2623339 and 2624908 during office hours on any working day. Photostat copies of Form-I (complaint) and Form-II (affidavit) were also enclosed with the letter for reference and his guidance.

The complainant has not cared or bothered to respond to the said letter of the Reader to Lokayukta, nor he has submitted fresh complaint as suggested to him till 5th March 2016. Consequently, the complainant has been granted one more opportunity to do the needful within further period of one month by order dated 5th May, 2016 failing which his complaint was ordered to be filed for non prosecution.

The complainant in response to letter dated 5th March, 2016 has sent a letter to the Secretary, Lokayukta stating therein that the complainant has filed similar complaint to the Deputy Commissioner, Kangra and Lokpal (MGNREGA) Kangra at Dharamshala and both the authorities have directed the Block Development Officer, Lamba-Gaon to hold preliminary inquiry in to the matter. He has request to forward this complaint to the Block Development Officer, Lamba Gaon

so that there is no chance of the matter being hushed up by the authority concerned as the opposite party is the influential person and there is every possibility that he may put some sort of pressure on the authority who is to hold preliminary inquiry.

I have considered the request of the complainant, but the same cannot be accepted. As stated herein above, this complaint is not properly maintainable before the Lokayukta for the reason that the same has not been filed in accordance with Section 2(b) of the Himachal Pradesh Lokayukta Act No. 23 of 2015. Therefore, no cognizance can be taken on this complaint by the Lokayukta. Hence, the complaint shall stand filed on this short ground.

However, I am making it clear that I have not expressed any opinion on the merits of the grievances made by the complainant and nothing said by me in this order should be interpreted or construed as an expression of opinion on the merits of the case. The subject matter of the complaint is already pending before the Block Development Officer, Jansinghpur for holding preliminary inquiry as recommended to him by the Deputy Commissioner, Kangra and Lokpal (MGNREGA) for redressal of the grievances of the complainant. The authority concerned is requested to consider the matter independently on merits in accordance with law.

28. Complaint No.36/2015-I (A) Loka

04-06-2016

Shri Bhagat Ram Thakur complainant herein has filed this complaint whereby and where under, he has alleged that the Director of Panchyati Raj & Rural Development (PR & RD) Department, Himachal Pradesh and the Deputy Commissioner Chamba, District Chamba have not initiated any action against erring panchayat office bearers and Jilla Parishad Members who have been found guilty by the Deputy Superintendent of Police Vigilance Chamba for commission of penal offences in his report which later on was accepted by the Superintendent of Police, Vigilance Kangra at Dharamshala.

On receipt of the complaint, it was noticed that the same suffered from legal infirmities, as it was not filed in terms of the provision of the Himachal Pradesh Lokayukta Act, 2014 (Act No. 23 of 2015). Consequently, Reader to Lokayukta by letter dated 27th October, 2015, advised the complainant to prepare proper complaint on Form No.-I supported by an affidavit on Form No. -II, prepared on non-judicial stamp paper worth Rs. 3/- only which shall be attested by the Oath Commissioner, Notary Public or Executive Magistrate. He was asked to file proper complaint as suggested to him alongwith document(s), if any, in support thereto to the Secretary, Lokayukta within a period of one month from the date of receipt of a copy of letter of this office. He was also advised that if he would feel any difficulty or problem in understanding the procedural formalities as suggested to him, he was at liberty to visit the office of the Lokayukta or he could contact any official of the Lokayukta on telephone Nos. 2623339 and 2624908 during office hours on any working day. Photostat copies of Form No. -I (complaint) and Form No. -II (affidavit) were also sent to him for ready reference and guidance.

Despite the said communication of this office, the complainant has not filed a fresh complaint, but instead, he has submitted a hand written application dated 11-01-2016, whereby he has asked the Lokayukta to send him the action taken report in regard to his complaint under the Right to Information (RTI) Act, 2005.

The Lokayukta by order dated 15-01-2016 has recorded a detailed order whereby the complainant was reminded that if he was interested in pursuing the matter, he should do the needful as suggested to him within further period of one month from the date of receipt of a copy of the said order. In default, this complaint was ordered to be filed for non prosecution. He was also informed that as apprehended by him there was no delay on the part of this judicial Institution. Indian Postal order of Rs. 10/- enclosed by him with his application was also ordered to be returned to him.

The Under Secretary Lokayukta by registered AD cover letter dated 5th January, 2016 has conveyed the said order to the complainant and Indian Postal Order of Rs. 10/- sent by the complainant was also returned to him.

The complainant, despite letter dated 27th October, 2015, followed by detailed reminder order, which was conveyed to him on 15th January, 2016 has failed to comply with the said order till 01-04-2016, on which date again order was passed by the Lokayukta whereunder last opportunity was granted to the complainant to do the needful within further period of one month from the date of receipt of a copy of the order. He was also reminded that his in-different or casual approach and behaviour in complying with the orders of the Lokayukta will not be tolerated as this complaint is lying pending in this Institution due to his own fault. He was also advised that he should understand the importance of the order/direction of the Lokayukta who has to hold a judicial office and discharge functions akin to Judge's function in its true spirit and substance.

Reader to Lokayukta has sent a copy of the said order to the complainant vide letter dated 1st April, 2016, but despite the last order, the complainant has not cared or bothered to comply with the earlier orders of the Lokayukta till date, after the expiry of the stipulated period from the date of the order dated 1st April, 2016.

In the backdrop of this matter, it seems that the complainant is not interested in pursuing the complaint further. Therefore, this complaint cannot be kept pending for in definite period due to the slackness and in different attitude of the complainant, and the same accordingly, shall stand filed.

However, I am making it clear that any observation made in this order shall not be interpreted or construed as an expression of opinion on the merits of the grievances made by the complainant in this complaint. The authorities concerned with whom the matter is pending shall take appropriate decision to redress the grievances of the complainant in accordance with law.

29. Complaint No.3/2016-I (A) Loka

15-06-2016

Shri Tilak Singh Rana, the complainant herein has addressed a hand written (in Hindi Language) photostat copy of this complaint dated 27-01-2016, which was received by the office of the Lokayukta on 19-02-2016.

The complainant has alleged that the office bearers of the Gram Panchayat and other public servants connected with the execution and implementation of the general public schemes out of the funds provided by the Government for the welfare and benefits of the general public, have mis-utilised and mis-appropriated the allotted funds for their personal use. Further, according to the complainant, the executing agencies have not completed the execution works of the public in accordance with the prescribed procedure and norms.

On the above said premises, the complainant by way of this complaint has requested that an appropriate inquiry may be got conducted in to this matter. Copies of this complaint have been sent to Chairman, Pollution Control Board, Member of State Legislative Assembly, Block Development Officer, Bhatiyat and Pradhan Gram Panchayat Chalama-Kamlani for their information and necessary action.

On scrutiny of the complaint, it was noticed that the complaint suffered from legal infirmities such as the same has not been filed in accordance with the provisions of the Himachal Pradesh Lokayukta Act, 2014(Act No. 23 of 2015) and relevant Rules. The complaint is to be prepared on Form No. - I (complaint) supported by sworn affidavit on Form No. - II. The affidavit is to be prepared on non-judicial stamp paper worth Rs. 3/- only and the same shall be got attested from an Oath Commissioner, or Executive Magistrate or Public Notary or Competent Authority. Accordingly, the Reader to Lokayukta vide letter dated 29th February, 2016 has informed the complainant that he could file the complaint after completing the desired formalities alongwith document(s) if any in support of the complaint within a period of one month from the date of receipt of a letter of this office. He was also advised that in case, he would feel any difficulty or problem in understanding the procedural formalities as suggested to him, he was at liberty to visit the office of the Lokayukta or he could contact any official of the Lokayukta on telephone Nos. 2623339 and 2624908 during office hours on any working day. Photostat copies of Form No. -I (complaint) and Form No. -II (affidavit) were also enclosed with the letter for ready reference and guidance of the complainant.

The complainant has not responded to the said letter of the Reader nor he has submitted the desired complaint despite the fact that more than two months have already expired from the date of issue of the letter dated 29th February, 2016 to him.

By way of indulgence and in the interest of justice and fair play, the Lokayukta by order dated 3rd May, 2016 has granted one month more time to the complainant to do the needful, failing which his complaint shall be filed for non-prosecution. Reader to Lokayukta vide letter dated 3rd May, 2016 has conveyed a gist of the said order to the complainant for compliance. But, the complainant has not filed the desired complaint till today, despite the fact that more than one month has already expired.

In this view of the matter, it is presumed that the complainant may not be interested in pursuing this matter further and this in-complete complaint can not be kept pending for in definite period for fault of the complainant. Hence, the complaint shall stand filed without expressing any opinion of the merits of the grievances made in this complaint against office bearers of the Gram Panchayat and other public servants. The above mentioned authorities, to whom copies of this complaint were addressed, are at liberty to redress the grievances of the complainant on their merits in accordance with law.

30. Complaint No.17/2016-I (A) Loka

16-06-2016

Shri Rikhi Ram Sharma, the above named complainant has addressed a complaint to the Hon'ble Chief Justice, High Court of Himachal Pradesh and copies there of were addressed to the Lokayukta and other authorities of the State Government for redressal of his grievances made in the complaint.

The complainant has stated that since the year 1973, he had worked as Mesan on daily wage basis in the Himachal Pradesh Public Works and Irrigation and Health Department, but the department has not regularized his services but instead, he was removed from the service on 31/08/2005 without giving him service benefits.

According to the complainant, he had filed CWP No. 9269/2012 in the High Court of Himachal Pradesh, which was allowed by the Court. Pursuant to the order of the High Court, his services were regularized and he was accordingly paid a sum of Rs. 70,714/- on account of service benefits but he has not been paid gratuity amount. Therefore, on 22/06/2009, the complainant had filed an application before the Labour Officer, Dharamshala for payment of gratuity amount, but the Labour officer has been lingering on the proceedings of his case without giving any plausible reason. He submitted that he has attained the age of 71-72 years and he is in urgent need of financial help. The Labour Officer for the last about seven years has been un-necessarily harassing him by postponing his claim without deciding the subject matter in issue.

On the above said premises, by way of this complaint, the complainant has requested that justice may be given to him as well as other similar situated aggrieved persons who have become victims due to destructive approach of Shri Raj Kumar Sharma, Labour Officer.

Looking to the grievances of the complainant, Lokayukta by order dated 13-04-2016, requested the Labour Officer, Kangra at Dharamshala to submit detailed reply to the averments made by the complainant in the complaint, within a period of one month from the date of receipt of a letter from this office. The case file reveals that the Labour Officer has not cared or bothered to respond to the said letter nor he has complied with the order of the Lokayukta till 2nd June, 2016. Consequently by a detailed order dated 02-06-2016, the Labour Officer has been reminded the importance and implication of the order/direction of the Lokayukta, who has to hold a judicial office and discharge the function akin to Judge's function. He was further reminded that the orders/directions made by the Lokayukta are mandatory and of binding nature on the administrative authority and it is his boundant duty and obligation to seek complete implementation of such orders/directions in its true spirit and substance.

However, by way of indulgence one more opportunity of one month was granted to the authority concerned to submit the desired reply to the averments made in this complaint.

Pursuant to the reminder order recorded by the Lokayukta on dated 02-06-2016, the Labour Officer Dharamshala, District Kangra has now responded by registered post letter dated 31-05-2016 that final order dated 30-04-2016, under Section 7 of Payment of Gratuity Act, 1972 has been passed by him in favour of the complainant and a copy thereof has also been sent with the letter. He has stated that the allegations of malpractice and vindictiveness made by the complainant against him are baseless, far from facts, un-founded and mis-leading. He has also rendered explanation for the delay in deciding the claim of gratuity amount of the complainant.

On independent scrutiny of the reasonings and findings recorded by the Labour Officer in his order, I do not see any ground to proceed with this matter further as the authority concerned has exercised statutory jurisdiction and power in accordance with law. Hence, no further action needs to be taken in this matter and the complaint shall stand filed.

However, it is made clear that any observation made by me in this order shall not be construed as an expression of opinion on the merits of the case.

31. Complaint No.8/2016(A) Loka

17.06.2016

Shri Himender Kumar complainant has filed this complaint, alleging inter-alia that Shri Jai Gopal Sharma, Tehsildar Balh, Tehsil Balh, District Mandi has not taken ejection proceedings against Shri Roop Singh, the above named opposite party who has encroached on the government land despite the fact that the higher revenue authority has already ordered his ejection from the encroached land.

On the basis of the above said premises the complainant by way of this complaint has requested that suitable legal action may be initiated against the erring revenue officers who have failed to discharge their official duties properly, promptly and in accordance with law for ejection of Shri Roop Singh encroacher of the government land. The complainant has filed affidavit in support of his complaint alongwith other relevant documents.

Having carefully considered the nature of the case, Lokayukta vide order dated 09.03.2016, has requested the Tehsildar, Tehsil Balh to furnish a status report of the proceedings pending before him under section 163 of the Himachal Pradesh Land Revenue Act, 1954 titled State of H.P. Vs. Roop Singh within a period of one month from the date of receipt of a copy of the order without default, demur and delay. Reader to Lokayukta by confidential letter dated 09.03.2016, has sent a copy of the order to the Tehsildar concerned for his information and compliance.

The Tehsildar has not cared or bothered to respond to the letter of the Reader nor he has submitted the desired action taken report despite the fact that more than two months have already expired from the date of the issue of the order passed by the Lokayukta.

Consequently, Lokayukta by order dated 28.05.2016 reminded the Tehsildar concerned that the Lokayukta has to hold a judicial office and discharge function akin to Judge's function and as such the authority concerned cannot have the luxury of adopting dilly dallying approach in complying with the orders/directions of the Lokayukta. He was also informed that such callous, indifferent and perfunctory approach and attitude towards sensitive issues needs to be corrected and improved.

However, by way of indulgence one more opportunity of one month was granted to the Tehsildar, Tehsil Balh, to comply with the order dated 09.03.2016 in its true, spirit and substance without default, demur and delay.

Pursuant to the reminder order dated 28.05.2016 the Tehsildar, Balh has now submitted the desired report dated 31.05.2016 alongwith photostat copies of an application submitted by Shri Roop Singh for regularization of the encroached land and copies of the revenue record *etc.*

On scrutiny of the order of the Tehsildar, it is noticed that the Sub Divisional Officer, Sadar Mandi had sanctioned nautor land measuring 5-0-0 Bighas, situated in Mohal Vahal/111 in favour of Shri Roop Singh S/o Late Shri Mahant Ram vide Intkal No. 148, as at that relevant point of time Shri Roop Singh had not possessed any other land as per the revenue record. He noticed that Shri Roop Singh got land after the death of his father Mahant Ram and on the basis of Will dated 05.06.1995 Intkal No. 311 was attested by Assistant Collector II Grade in his favour. Shri Roop

Singh has filed an application No. 2964/2002 before the Tehsildar, Balh where under and wherein he has requested for regularization of the government land allegedly encroached on by him bearing Khasra No. 178/1190/1 and 192/1, Kita 3, area measuring 1-12-16 Bighas situated in Mohal Vahal/111 on which he has constructed a residential house. The High Court of Himachal Pradesh has directed the State Government not to regularize the lands encroached by the encroachers and the encroachers have to be ejected from the encroached government lands under Section 163 of the Himachal Pradesh Land Revenue Act, 1954. On the basis of the order of the High Court, legal proceedings under Section 163 of H. P. Revenue Act, 1954 were initiated against Shri Roop Singh encroacher. Consequently, the encroacher vide order dated 25.05.2016 is ordered to be ejected from encroachment of the government land bearing Khasra No. 178/1190/1 and 192/1 Kita-3 Area measuring 1-12-16 Bighas situated in Mohal Vahal/111.

In view of the order recorded by the Tehsildar, Balh no further action needs to be taken in this matter. Hence, this complaint shall stand filed.

However, I am making it clear that I have not expressed any opinion on the merits of the case and nothing said by me in this order should be interpreted or construed as an expression of opinion on the merits of the case. The aggrieved party is at liberty to redress his grievances before the appropriate authority /forum in accordance with law.

32. Complaint No.13/2015-I(A) Loka

18-06-2016

Shri Babu Ram Sharma, the complainant herein has filed this complaint against Smt. Sheela Devi, pradhan Gram Panchayat and Shri Brij Mohan Secretary, Gram Panchyat alleging inter-alia that President and the Secretary jointly have mis-appropriated and mis-utilised the Government grants allotted for the welfare schemes sanctioned for the benefits of the Panchayat people.

On examination of the allegations made against the office bearers of the Panchayat, the Lokayukta by order dated 06-05-2015 had requested the Director, Panchyati Raj Department, Himachal Pradesh to conduct the preliminary inquiry into the allegations himself or to get the inquiry conducted through Joint Director/Deputy Director, Panchayati Raj Department stationed at Shimla. The Inquiry Officer so appointed was requested to record the statement(s) of the complainant and his witness(s) if any, and the statement(s) of the opposite parties against whom the allegations of acts of corruption, mis-appropriation and mis-utilisation of the Governments grants were made and statements of the witness(s) if any produced by the opposite parties shall also be recorded. In addition to the oral evidence, the Inquiry Officer was at liberty to take on record any documentary evidence intended to be produced by the parties and after conclusion of the inquiry, the inquiry report was to be furnished to the Secretary, Lokayukta through the Director, Panchayati Raj Department, Himachal Pradesh within two months from the receipt of a copy of the order.

Reader to the Lokayukta by confidential letter dated 7th May, 2015 had sent a copy of the said order to the Director, Panchayati Raj Department for further action and compliance within the stipulated period.

The record of the case would reveal that the Director of the Panchayati Raj Department has not submitted the action taken report within the stipulated period, therefore, on 10-08-2015, reminder letter was sent to him, requesting him to do the needful within further period of one month from the date of receipt of a letter from this office.

Pursuant to the earlier orders of the Lokayukta Joint Director-*cum*-Deputy Secretary, Panchayati Raj Department vide letter dated 12th August, 2015 has informed this office that after conducting the desired inquiry, by the Inquiry Officer Smt. Sheela Devi, Pradhhan Gram Panchayat was found negligent in discharging her official functions and accordingly, the Deputy Commissioner Sirmour, District Sirmour in exercise of the powers and authority under Section 146 of the Himachal Pradesh Panchyati Raj Act, 1994 by order dated 30-05-2015 has removed her from the office of the Pradhan Gram Panchayat.

In the meantime, the complainant has filed an application where under he has requested the Lokayukta to inform him about the status of his complaint filed against Shri Brij Mohan, Panchayat Secretary. His grievances were that higher authorities of the Panchayati Raj Department at the instance of their political bosses were not interested to take any penal action against the Secretary.

On receipt of the said application, the Lokayukta by order dated 15-10-2015 again requested the Director, Panchayati Raj Department to submit parawise action taken report if any, against Shri Brij Mohan, Secretary within period of one month but the authority concerned has not complied with the earlier orders of the Lokayukta till 10-03-2016 on which date a detailed order has been passed whereby and whereunder the authority concerned has been repeatedly reminded that the Lokayukta has to hold judicial office and discharge the judicial function akin to Judge's function and the order/direction made by the Lokayukta is mandatory and of binding nature on the administrative authority and it is his boundant duty and obligation to see complete implementation of such order/direction in its true spirit and substance. The desired action taken report if any, against Shri Brij Mohan, Secretary was to be submitted to the office of Lokayukta within further period of one month from the date of receipt of a copy of the order. Reader to Lokayukta by confidential letter dated 11th March, 2016 has sent a copy of the order to the Director, Panchayat Raj Department for compliance.

Pursuant to the said order, Joint Director-*cum*-Deputy Secretary, Panchayati Raj Department vide letter dated 22nd March, 2016 informed the Secretary, Lokayukta that the matter in regard to the desired action was pending before the Dy. Commissioner Sirmour, District Sirmour for decision. Consequently, the Lokayukta passed the order dated 31-03-2016 requesting the Dy. Commissioner Sirmour, District Sirmour to send the action taken report to this office through the Joint Director-*cum*-Dy. Secretary, Panchayati Raj Department within a period of one month from the date of receipt of a copy of the order. The Reader to Lokayukta on 31-03-2016 has conveyed the said order to the Deputy Commissioner.

The complaint file reveals that the Dy. Commissioner, District Sirmour at Nahan has not cared or bothered to furnish the desired action taken report even after the expiry of the stipulated period. Therefore, by indulgence, one more opportunity of one month period was granted to the Dy. Commissioner by order dated 07-05-2014 to do the needful which was duly conveyed to him on the same day by Reader to Lokayukta.

Now, after repeated reminders, as noticed above, the Dy. Commissioner, District Sirmour, by letter dated 10-06-2016 has informed the Secretary, Lokayukta that the C.E.O. Zilla Parishad Sirmour has appointed Block Development Officer, Pachad as Inquiry Officer to conduct preliminary inquiry against Shri Brij Mohan, Panchayat Secretary (Contract) and the inquiry report is still awaited from the Block Development Officer, Pachad. After receipt of preliminary inquiry, further proceedings can be initiated against the erring Panchayat Secretary as per the provision of Himachal Pradesh Panchayati Raj (Appointments and Conditions of Service of Panchayat Sahyak

in Zilla Parishad) Rules, 2014. He has also informed that Service of Shri Brij Mohan Panchyat Secretary (Contract) was to be regularized after completion of service period of 5 years , but due to the above reasons and of recommendations (to not regularize the service of concerned person) of the Screening Committee of Zilla Parishad, Sirmour, his service has yet not been regularized. Further, it is informed that the concerned employee has filed Original- Application in the State Administrative Tribunal which is under its consideration. The Joint Secretary–cum-Dy. Director, Panchayati Raj Department has addressed a letter dated 25th May, 2016 to the Secretary Lokayukta whereunder a photostat copy of the letter dated 17-05-2016 addressed by the Dy. Commissioner, Sirmour, District Sirmour to the Director, Panchayati Raj Department, conveying the order recorded by the authority is enclosed.

In view of the order of the Dy. Commissioner, a competent authority under the provision of the Himachal Pradesh , Panchyati Raj Act and relevant Rules framed there- under, I am of the view that appropriate legal actions have already been taken by the competent authorities against Pradhan and Secretary Gram Panchayat. Hence, no further action needs to be taken in this matter. The complaint accordingly, shall stand filed.

However, I am making it clear that I have not expressed any opinion on the merits of the grievances made by the complainant in this complaint and any observation made in this order shall not be interpreted or construed as an expression of opinion on the merits of the case. The aggrieved party (s) is at liberty to redress his/her grievances before the appropriate authority/forum/Tribunal in accordance with law.

33. Complaint No.43/2013-1 (A) Loka

20-06-2016

Thakur Joginder Singh complainant herein is a retired Ward Master. He has filed this complaint thereby alleging inter alia that Dr. M. L. Gupta opposite party being one of the members of Board of Doctors had issued a disability certificate dated 19-02-2005 to Shri Ram Lal, s/o Shri Anant Ram, Tehsil Renuka, whereby it was certified that Shri Ram Lal had 40% disability of his right hand and on the basis of the disability certificate, Shri Ram Lal has got government Job in the handicap category. According to the complainant, the disability certificate was issued to Shri Ram Lal in-conivance with other members of the Medical Board of R. H. Nahan. The complainant has stated that he had challenged the authenticity and correctness of the said disability certificate issued to Shri Ram Lal before the Medical Board, IGMC Shimla. The Medical Board, IGMC on valuation of the degree of disability had found only 15 % disability in relation to his upper limb. In the opinion of the Medical Board IGMC Shimla, the Medical Board at Nahan, could not have issued certificate showing disability of right hand of Shri Ram Lal to the extent of 40 %. According to the complainant, the District Medical Board Sirmour therefore, had issued the disability certificate of Shri Ram Lal not in accordance with the manual of assessment of disability, but for some extraneous consideration.

The complainant has also alleged that the State Government had taken on rent premises for housing G.S.I. dispensary at the rate of Rs. 1100/- per month, but Dr. M.L. Gupta later on hired his building for GSI dispensary at the rate of Rs. 10845/- per month without calling for tenders *etc.* The assessment of the building hired by Dr. M. L. Gupta had also been wrongly done thereby he had earned lacs of rupees for himself and caused huge loss to the State Exchequer.

The complainant has alleged that Dr. M. L. Gupta had purchased blood pressure instruments in a fraudulent manner thereby had committed gross loss to the Government exchequer. Similarly, there was allegation that there was huge burglary in respect of his medical bills and medical bills of his nears and dears which have caused huge loss to the State Exchequer. He has also alleged that Dr. M. L. Gupta had prescribed medicines to the patients which were to be purchased from the open market as he was getting commission from the private chemists on those prescribed medicines, whereas the medicines provided to the hospital by the State Government were not given to the needy patients of the District but were destroyed in the fire. The complainant has also given some more instances of acts of corruption, misuse of Government vehicle and mis-behaviour of Dr. M. L. Gupta with the patients.

On the above said premises, the complainant by way of this complaint duly supported by a sworn affidavit dated 24-11-2014 attested by Shri L. R. Nadda Notary Public, Sub Division Ghumarwin, District Bilaspur and photostat copies of various documents including copies of the order passed by the District Judge, Sirmour in a civil case and by the Sessions Judge Sirmour on bail application filed by Dr. M. L. Gupta and others for pre arrest bail in a police case lodged against them.

Having considered the nature of the allegations made in this complaint against public servant of the State, it was noticed that on the basis of the complaint filed by the complainant, Station House Officer (SHO), Police Station Nahan, had registered FIR No. 49/07 dated 17-03-2007 against Dr. M. L. Gupta and others in Police Station Nahan. Therefore, the SHO, Police Station, Nahan by order dated 10th July, 2014 was requested to submit status report of the progress of the investigation of the case within one month from the date of receipt of a copy of the order. The complaint file would reveal that no desired status report was furnished by the SHO concerned till 20th August, 2014, on which date reminder order was sent to him directing him to comply with the earlier order/direction of the Lokayukta dated 10-07-2014 in its true spirit and substance without demur and delay and he was given further period of fifteen days to furnish a desired report from the date of receipt of a copy of the order. He was also reminded that in default, appropriate proceedings under the Contempt of Courts Act, 1971 would be initiated against the erring police officer. The record would further reveal that thereafter the SHO Police Station Sadar Nahan had written a letter dated 11-09-2014 to the Principal Secretary, Lokayukta whereby and whereunder, he has stated that FIR No. 49/07 dated 17-03-2007 came to be lodged under Section 420/467/471 and 120-B IPC against Shri Pritam Singh Bhatti, Shri Moohammad Shah, Shri Anil Dutt, Shri Hem Chand and Shri Prem Singh. The challan was presented before the Court of CJM Nahan, who had fixed the trial for recording the evidence of the prosecution witnesses on dated 15-10-2014. He has also stated that cancellation report of the case was prepared against Dr. M. L. Gupta, Shri Devinder Kumar Obroi and Dr. Saneh Gupta and was presented in the Court of Learned CJM Nahan on 22-12-2010. A Photostat copy of FIR No. 49/07 was also enclosed thereto. Thereafter, the SHO by reminder letter dated 22nd September, 2014 followed by second reminder letter dated 19th November, 2014 was requested to furnish the latest progress of the case pending before the CJM Nahan.

Pursuant to the reminder letters the SHO Police Station Nahan has filed a detailed explanation dated 22-12-2014, stating therein that as many as ten prosecution witnesses have been examined by the CJM Nahan and five more prosecution witnesses were to be examined by the trial Court. The trial of the case was fixed for the examination of the remaining prosecution witnesses on 1-02-2015.

The Lokayukta by order dated 29-12-2014 has again requested the SHO to submit the latest status report of the progress of the case as well as the outcome of the decision of the cancellation report against some selective accused persons which was stated to be pending before the Trial Court for decision. Pursuant to the said order Inspector Laik Ram Sasodia, SHO Police Station Nahan appeared in person before the Lokayukta and presented a letter dated 24-02-2015, the contents of which reveal that some of the prosecution witnesses could not be examined as they have failed to appear before the Trial Court on the fixed date and consequently, the Trial Court has issued bailable warrants against them for their personal presence on 04-04-2015. Shri Joginder Singh complainant has contested the cancellation report filed against selective accused persons which was fixed by the Trial Court on 24-03-2015 for recording this statement and statement of his witnesses in support of his objections. Thereafter, this complaint was postponed giving one month more time to the SHO to report the final result of the Criminal Trial pending in the court of CJM Nahan. The subsequent reports submitted by the SHO would reveal that the Trial Court has recorded the statements of the entire prosecution witnesses as well as the statement of the accused persons under Section 313 CrPc. and now the case has been fixed for recording the defense evidence on 23-06-2016.

In the backdrop of the facts and circumstances stated herein above, it is amply clear and plain that the allegations made by the complainant in this complaint are the subject matters of the civil litigation decided and criminal case pending before the competent court of law for final adjudication. The complainant could not have the luxury of filing repeated complaints making similar and identical allegations before the appropriate courts including the Lokayukta. The subject matter of the complaint is subjudice in the court of CJM at Nahan. Hence, I do not find any good reason to decide this complaint on its merits. The complaint is accordingly ordered to be filed on this short ground.

However, I am making it clear that I have not expressed any opinion on the merits of the alleged grievances made in this complaint and nothing said by me in this order should be interpreted or construed as an expression of opinion on the merits of the case. The aggrieved party is at liberty to approach an appropriate authority/Tribunal/Court for redressal of his grievances in accordance with law.

34. Complaint No.27/2016-1 (A) Loka

21-06-2016

Shri Balbir Thakur, complainant herein has filed this complaint thereby alleging some allegations of personal grudge of the teachers posted in Government High School Salvala who have declared his son Ritik un-successful in 9th standard examination despite the fact that his son is intelligent in reading and writing. He stated that he requested for re-checking of his son's answer sheets, but the inspecting officers have rechecked only some papers and left remaining answer sheets un-checked and he is not satisfied with the re-checking of his son's answer sheets.

On the above said premises, the complainant by way of this complaint has requested that answer sheets of his son may be got re-checked from the independent competent authority.

On scrutiny of the complaint, it was noticed that the complaint suffers from legal infirmities such as the same has not been filed in accordance with the provisions prescribed under Section 2(b) of the Himachal Pradesh Lokayukta Act, 2014 (Act No. 23 of 2015) and the relevant Rules. The complainant is required to file complaint on Form No.-I supported by an affidavit on Form No. -II

duly attested by competent authority. Besides, the above stated grievances made by the complainant in this complaint are outside the jurisdiction, authority and power of the Lokayukta in terms of the provisions of Act No. 23 of 2015.

Hence, this complaint is ordered to be filed on the short ground of lack of jurisdiction of the Lokayukta. However, it is made clear that any observation made in this order shall not be construed or interpreted as an expression of opinion on the merits of the grievances made in this complaint. The complainant is at liberty to redress his grievances, if he so desires, before an appropriate authority/forum in accordance with law.

35. Complaint No.29/2016-1(A) Loka

24-06-2016

This anonymous hand written complaint without signature has been addressed to Shri Narendra Damodar Dass Modi Ji, The Prime Minister of India, Smt. Samriti Irani Ji, Central Education Minister, Shri Acharya Devvrat Ji, Governor of Himachal Pradesh and to the Lokayukta, Himachal Pradesh. The complainant claims himself a Whistle blower—*cum*—RTI activist a resident of Tehsil Chirgaon, District Shimla. He has levelled series of allegations of acts of corruption, nepotism, and mis use of his office against Shri Sulajeet Singh, Ex-Pradhan Gram Panchayat Sindasly, Tehsil Chirgaon, District Shimla and his brother Shri Kashi Ram, s/o Shri Amar Sen, and Shri Naval Kishore, Shri Vidya Bhushan and Shri Trilok Singh and some more near relations of the Pradhan, who were appointed against the post of Gram Panchayat Vidya Upasaks, Water Careers and Branch Post Master *etc. etc.* in violation of the provisions contained in Section 137 of Himachal Pradesh Panchyati Raj Rules, 1997.

On the above said premises, by way of this complaint, the complainant has requested that a detailed inquiry shall be got conducted in this matter from any independent agency and the erring office bearers of the Panchayat shall be punished according to law.

On scrutiny of the complaint, it is noticed that the complaint suffers from legal infirmities in as much as same has not been signed by any person nor the contents of the complaint are supported by an affidavit in terms of clause (b) Sub-Section (1) Section 2 of the Himachal Pradesh Lokayukta Act, 2014(Act No. 23 of 2015) which deals with definition of “complaint”.

It is pertinent to note that the allegations were levelled against office bearers of the Panchayat pertaining to the year 2002 and the appointment of Shri Naval Kishore who was selected as Gram Vidya Upasak in Government Primary School Gokaswari-Bosari has been set-aside by the Himachal Pradesh Administrative Tribunal by order dated 15th May, 2003 and in his place a candidate who had secured higher marks than Shri Naval Kishore in the final merit selection list was directed to be appointed. In that view of the matter, the Lokayukta cannot have the power, authority and jurisdiction to take cognizance of the complaint in the face of bar contained under Section 48 of the Act No. 23 of 2015. Section 48 provides that Lokayukta shall not enquire or investigate into any complaint if the complaint is made after the expiry of a period of five years from the date on which the offence mentioned in such complaint is alleged to have been committed.

In the light of the aforesaid provisions of law, no further action needs to be taken in this matter. Hence, this complaint is ordered to be filed on this short ground.

However, it is made clear that I have not expressed any opinion on the merits of the grievances made by the complainant in this complaint.

36. Complaint No.23/2015-1(A) Loka

27-06-2016

Shri Sohan Singh complainant herein has filed this complaint against Shri Tulsi Ram, Ex-Pradhan levelling inter alia allegations of corruption, mis utilization of Government funds, giving undue benefits and advantages to his family members, non-existence of development works and total payments for the construction of Toilets to the welfare of the beneficiaries *etc. etc.* The complainant has detailed the names of various persons, who were marked present as workers on Muster-Rolls at two or more places, simultaneously, on the same dates for executing the public works under Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA). The complainant has supported the contents of the complaint with sworn affidavit duly attested by Shri Raghuvir Singh Kapoor, Advocate and Oath Commissioner, Paonta Sahib alongwith photostat copies of Muster-Rolls, Receipts and Cash Books etc.

Having gone through the nature of the allegations made against office bearer of the Gram Panchayat, Lokayukta by order dated 06-07-2015 requested the Director, Panchayati Raj Department, Himachal Pradesh to conduct preliminary inquiry himself or he may entrust the inquiry to the Joint Director-cum-Deputy Secretary stationed at Head Quarter. The Inquiry Officer was requested to record the evidence of the complainant and his witness(s), if any, produced by him in support of the allegations and statement of Shri Tulsi Ram, Ex-Pradhan against whom serious allegations of corruption and mis-utilisation of Government funds were made and statement of his witness(s), if any, shall also be recorded during the course of the inquiry. In addition, documents if any, produced by the parties shall also be taken on record. The entire inquiry proceedings be completed and inquiry report alongwith record be submitted to the Secretary, Lokayukta within two months from the date of receipt of a copy of the order from this office.

Reader to Lokayukta, Himachal Pradesh, by confidential letter dated 06th July, 2015 had conveyed the order to the Director, Panchayati Raj Department for necessary action and compliance. It is revealed from the case file that in spite of the expiry of eight months period from the date of issue of earlier order dated 16th July, 2015, the Director, Panchayati Raj Department has not cared or bothered to submit the desired inquiry report. Consequently, the Lokayukta by detailed order dated 11-03-2016 again reminded the authority concerned to comply the order/ direction of the Lokayukta, who has to discharge judicial function akin to Judge's function in its true spirit and substance. The said order was also conveyed to the Director, Panchayati Raj Department, Himachal on the same day.

By order dated 11th March, 2016, the Director Panchayati Raj Department was requested to furnish the desired inquiry report within one month from the date of receipt of a copy of the said order. But, no response was received from the Director till 01-06-2016, on which date by way of indulgence, one more opportunity of one month period was granted to the Director to comply with the repeated orders of the Lokayukta without any default, demur and delay.

Pursuant to reminder order dated 11-03-2016 followed by second reminder dated 01-06-2016, Joint Director-cum-Deputy Secretary, Panchayati Raj Department through letter dated 23-06-2016 has submitted inquiry report of Shri Satish Sharma, Deputy Director, Panchayati Raj Department alongwith photostat copies of the statements of the complainant and the opposite party,

besides the statements of Ex-Panchayat Secretary, Secretary Panchayat, Junior Engineer, Technical Assistants of the Panchayat and copies of documents such as Muster-Rolls, copies of Payments Receipts and Cash/credit Memos taken on record during the course of the inquiry.

On the basis of the entire oral and documentary evidence brought on record of the inquiry, the Inquiry Officer has framed as many as six charges stated at pages No.-7, 8, 9, 10, 11 and 12 of the inquiry report (running pages 46 to 51). I do not consider it necessary to reiterate the charges again for un-necessarily burdening the case file. The Inquiry Officer on the basis of the revaluation of the entire oral and documentary evidence came to the following conclusion:-

“Charge No. -1.—Double attendance has been marked by the persons mentioned in the complaint at Sr. No. 1(1), 1(2), 1(3), 1(4), 1(5), 1(6), 1(7) and 1(8). The unauthorized payments given to these persons have been deposited on 21-08-2015 i.e. after the complaint was lodged and the notices were issued. Charge proved.

Charge No.-2.—Pradhan Shri Tulsi Ram has tried to benefit unduly his sons by purchasing construction material from them in violation of Section 151 of HP, Panchayati Raj Act, 1994, without obtaining the permission of the prescribed authority. Hence, Charge No. 2(1), 2(7) and 2(8) of the complaint stands proved. As far as charges mentioned at 2(18), 2(19) and 2(20) are concerned work is still in progress in 2(18) & 2(20) and in case of 2(19) technical assessment is on the lower side as compare to cost of construction. Charge partially proved.

Charge No. -3.—Except the allegation mentioned at Sr. No. 3(11), other charges were found baseless. Under Sr. No. 3(11) the than Pradhan Shri Tulsi Ram is guilty of purchasing stones worth Rupees 16,150/- from his son in violation of Section 151 of HP Panchayati Raj Act, 1994 (Annexure-13 page 113) read worth rule 44(v) of HP PR (Financial) Rule 2002 (Annexure-14 page 114-115) Charge partially proved.

Charge No. -4.—The Technical Assessment of the works mentioned at Sr. No.4 (3) & 4(5) is on the lower side as compared to the cost of construction.

Charge No. -5.—The duplicate Job Card was cancelled when it was traced and verified as such no action is required.

Charge No.- 6.—Six persons, mentioned at Annexure-12(page-111) have been paid grant for toilet constructions, deliberately for the second time. The recoveries from these six persons were affected after the complaint was lodged and the notices were issued. Charge stands proved.

Signed
SATISH SHARMA,
Deputy Director,
Panchayati Raj Deptt.,
HP Shimla-171009”.

Having independently examined the inquiry report, and on the basis of material, information and documents collected by the Inquiry Officer, I am of the considered view that Inquiry Officer has recorded just and reasonable findings against the erring panchayat office bearer and the conclusion arrived at cannot be found faulty. The oral evidence of the complainant corroborated by the evidence of Shri Attar Singh, who at the relevant time was Panchayat Secretary, GP Kota Paab, Shri Pratap Singh, Junior Engineer, Block Development Shillai, Shri Surat Singh Negi, Ex-Panchayat Secretary, GP Kota Paab, Shri Dalip Singh Ex-Technical Assistant, Shri Kundan Singh Technical Assistant, Shri Neeta Ram, Panchayat Secretary GP Kota Paab and Smt. Bimla Devi, Gram Rojgar Sewak have substantiated the allegations of corruption, nepotism and mis-utilisation of the Government funds and giving un due advantages and benefits to his family members against Shri Tulsi Ram, Ex-Pradhan. The erring Pradhan has failed to produce sufficient evidence to rebut the oral and documentary evidence taken on record by the Inquiry Officer.

In the facts and circumstances stated herein above, I find no good and cogent reason to interfere with the findings and reasons recorded and the conclusion arrived at by the Inquiry Officer. Hence, the Inquiry report is accepted in its entirety. This complaint accordingly, shall stand filed.

However, I am making it clear that I have not expressed any opinion on the merits of the case and nothing said by me in this order should be interpreted or construed as an expression of opinion on the merits of the case. The competent authority is at liberty, if it so chooses, to take appropriate action against the erring Ex-Pradhan of the Gram Panchayat in accordance with Law.

Before parting with this case, I express my appreciation to Shri Satish Sharma, Deputy Director, Panchayati Raj Department for conducting the preliminary fact finding inquiry entrusted to him fairly, diligently, impartially and effectively.

37. Complaint No. 9/2016-1(A) Loka

29.06.2016

Smt. Leela Wati complainant herein has filed this complaint alleging therein that during the settlement operation in the area, Shri Pyare Lal, Patwari had changed the revenue entries in the revenue record of the land owned by the State Government in the name of Smt. Suman Kalia, w/o Shri Ramesh Kalia, R/o Mohal Baterkalan, Tehsil Jhandutta.

According to the complainant on 07.01.1971 land bearing Khasra No. 380/210/1 admeasuring 0-4 Biswas was granted to Shri Sukh Chand, her husband by the Gram Panchayat Jallel, District Shimla and in lieu of the grant, her husband was charged Rs.30/-which was deposited in the Panchayat Funds. Subsequently, her husband had constructed a residential house on the allotted land and since then she alongwith her children are living in the residential house. Her husband Shri Sukh Chand died in the year, 2002. She has alleged that Smt. Suman Kalia had purchased a piece of Government land adjacent to her land and now Smt. Suman Kalia has started claiming that the land which was allotted to her husband by the Gram Panchayat, was purchased by her. The complainant has further alleged that Shri Pyare Lal who at the relevant point of time was employed as Patwari Settlement, could not have entered the ownership of the Government land in the revenue record in the name of Smt. Suman Kalia as legally no Government land could be sold to a private party.

On the above said premises the complainant by way of this complaint, has requested that a detailed probe shall be got conducted in this matter and justice be imparted to her. In support of the complaint she has filed a sworn affidavit duly attested by Shri K.S. Pathania Advocate-cum-Notary Public, Shiv Nagar, Totu Shimla, alongwith Photostat copy of a resolution No. 18 dated 07.01.1971 whereby and where under the Gram Panchayat Jallel had sanctioned 0-4 Biswas land in favour of Shri Sukh Chand for construction of residential house on the payment of Rs. 30/- being charged as Panchayat Funds, since Shri Sukh Chand was a poor Scheduled Caste person. In addition Photostat copies of Tartima and Jamabandi for the year 1995-1996 and a copy of order dated 22.05.1993 recorded by Assistant Collector, 1st Grade, Tehsildar (Rural) Shimla in case No. 19/88 titled State of H.P. Vs. Sukh Chand holding the letter in unauthorized occupation of the Government land which allegedly was sanctioned to him by the Gram Panchayat and directing him to be ejected from the said land under Section 163, of the Himachal Pradesh Land Revenue Act, 1954.

Having considered the nature of the allegations made by a poor widow belonging to scheduled caste category against Shri Pyare Lal, Patwari (Retd.), the Lokayukta by order dated 11.03.2016 requested the Assistant Collector, 1st Grade, Tehsildar (Rural) Shimla to furnish action taken report on the subject matter in dispute within one month from the date of receipt of a communication of this office. Reader to Lokayukta by letter dated 11.03.2016 has duly conveyed the order to the Assistant Collector, 1st Grade (Rural) Shimla alongwith Photostat copy of the complaint supported by sworn affidavit filed by the complainant. But, the authority concerned has not responded to the order of the Lokayukta till 31.05.2016. Consequently, reminder letter came to be sent to the Assistant Collector, 1st Grade, to do the needful within further period of one month from the date of receipt of a copy of reminder letter.

Pursuant to the order of the Lokayukta, the Tehsildar (Rural) Shimla has directed the Patwari, Patwar Circle, Jallel to make inquiry into the subject matter of the complaint and submit report to him. Patwari concerned accordingly, has submitted his report (in hindi) dated 08.04.2016 and the Tehsildar (Rural) Shimla in turn has endorsed the original report of the Patwari to the Secretary, Lokayukta on 18.06.2016 alongwith Photostat copy of the letter of this office dated 11.03.2016 whereby Reader to the Lokayukta has conveyed a gist of the order to the Assistant Collector, 1st Grade, alongwith a copy of Shajra Kishtwar and copy of Khatauni of revenue estate Batlana, Tehsil and District Shimla.

On perusal, the report reveals that Shri Sukh Chand deceased husband of Smt. Leela Wati complainant had constructed residential house on Khasra No. 481 admeasuring 0-01-11 Hact. (old Khasra No. 380/210/1 admeasuring 0-4 Biswas. The said house was constructed about 40 years ago and on spot the Patwari has noticed electricity meter and water meter having been installed by the respective departments in the name of Smt. Leela Wati. The report also reveals that on spot verification, the Patwari has found Smt. Leela Wati and her children living in the said house. He has filed a copy of Khatouni which would reveal that Smt. Suman Kalia, W/o Shri Ramesh Chand has been entered as owner of land bearing khasra No. 401/210/2 admeasuring 0-01-11 Hact. and the land has been classified as 'गैर मुमकिन आबादी'।

In view of the report of the Patwari, it is prima facie established on record that Shri Sukh Chand, deceased husband of Smt. Leela Wati had constructed the residential house on the land in granted to him by the Gram Panchayat. A photocopy of the order of Assistant Collector, 1st Grade (Tehsildar) Shimla would show that the State of Himachal Pradesh, on 29.04.1988 had filed ejection proceedings against Shri Sukh Chand from land bearing Khasra No. 380/210/

measuring 0-4 Biswas under section 163 of the H.P. Land Revenue Act, 1954. The said case was later on decided by the Assistant Collector, 1st Grade on 22.05.1993, ordering the eviction of Shri Sukh Chand, from the land allegedly encroached land, who later on died in the year 2002. It appears from the documents filed by the complainant with the complaint that Late Shri Sukh Chand had preferred an appeal before the Collector, District Shimla against the order of the Assistant Collector, 1st Grade, but the outcome of the appeal is not known till date.

In the back drop of the factual and legal situation, I find no good and sound reasons to proceed further in the matter under the provisions of the Himachal Pradesh Lokayukta Act, 2014 (Act No. 23 of 2015). The subject matter of the complaint pertains to revenue entry exhibited in the record by the revenue authorities. The grievances alleged in the complaint are pure and simple of revenue nature and do not come within the definition of 'Complaint' in terms of Clause (b), Sub-Section (1), Section-2 of Act No. 23 of 2015. Therefore, no action needs to be taken in this matter and the complaint shall stand filed on this short ground.

However, I am making it clear that I am not expressing any opinion on the merits of the case and nothing said by me in this order should be interpreted or construed as an expression of opinion on the merits of the grievances made by the complainant in this complaint. The aggrieved party(s) is at liberty to approach for redressal of his/her grievances before appropriate authority/forum and the authority concerned if and when so approached is requested to consider the matter independently in accordance with law.

38. Complaint No.39/2015-1 (A) Loka

01-07-2016

Shri Jyoti Ram, complainant herein is a resident of Kaderna Ward, Gram Panchayat Takrasi, Tehsil Anni. He has filed this complaint alleging inter-alia that Smt. Joban Dassi, Ex-Pradhan and Shri Jalam Dev, Ex- Up-Pradhan, Gram Panchayat Takrasi in connivance with some officials of Development Block, Anni were involved in rampant corruption and have committed irregularities in execution of various development works in the area, thereby depriving of the complainant and local residents of the Gram Panchayat from their legitimate rights and benefits of development works engineered by the State Government. He also alleged that both the erring panchayat office bearers in-connivance with corrupt officials of Development Block, Anni under whose supervision and guidance works for the benefits and welfare of the general public of the Gram Panchayat, have siphoned public money. He has obtained information under Right to Information, Act 2005, in regard to execution of different works for the benefits of the general public of the area under taken out of the Government funds allotted to the construction of the retaining walls, second floor of the Panchayat Ghar, Takrasi, construction of water storage tank for the purpose of irrigation, repair of temple "Devta Takrasi Naag" and construction of Pucca Paths in Village Jaibaag *etc. etc.*

On the above said premises, the complainant by way of this complaint has requested that suitable appropriate action shall be taken against the erring panchayat office bearers and other public officials of the Block Development Office, Anni who in-connivance with each others have mis-appropriated huge amounts of the Government grants. In support of the complaint, the complainant has filed a sworn affidavit duly attested by Shri L. K. Verma, Public Notary Anni, Sub-Division, District Kullu.

Nature of the allegations made against the public servants were such which would require preliminary fact finding inquiry from competent authority of the Panchayati Raj Department. Consequently, Director, Panchayati Raj Department, Himachal Pradesh by order dated 29-10-2015 was requested to conduct the inquiry himself or get inquiry conducted through Joint Director/ Deputy Director stationed at the Head Quarter. The Inquiry Officer was requested to record the statements of the parties and take on record the documents, if any, in support of the claims of the parties in the proceedings. The inquiry report alongwith the record of the inquiry was to be furnished to the Secretary, Lokayukta within a period of one month from the date of receipt of the order of the Lokayukta dated 29-10-2015. Reader to Lokayukta, has conveyed the said order to the Director, Panchayati Raj Department on Dated 29th October, 2015 itself

The complaint file reveals that the Director, Panchayati Raj Department has not bothered or cared to respond to the letter of the Reader dated 29th October, 2015 nor he has submitted the desired report till 16th March, 2016 on which date reminder order came to be sent to him to do the needful within one month from the date of receipt of a copy of the letter of this office. The order was again duly conveyed to him.

Pursuant to order dated 16-03-2016, Joint Director-cum-Deputy Secretary, Panchayati Raj Department has informed the Secretary, Lokayukta that necessary inquiry has been entrusted to Deputy Director, Panchayati Raj Department, but he could not complete the inquiry due to the Panchayat Election and Budget Session of the Vidhansabha. Consequently, he has requested that two months more period may be granted to the Inquiry Officer to complete the desired inquiry. The request of the authority concerned was accordingly, accepted and Lokayukta by order dated 29-04-2016, granted two months more time to Inquiry Officer to complete the inquiry from the date of the order.

Now, in-compliance to the subsequent order dated 29-04-2016, Joint Director-cum-Deputy Secretary, Panchayati Raj Department, Himachal Pradesh, through letter dated 24th June, 2016 has informed the Secretary, Lokayukta that the desired inquiry has been completed by the Inquiry Officer and photostat copy of the inquiry report alongwith photostat copies of the statements of the parties and witnesses are enclosed there to.

I have independently examined the report of the Inquiry Officer. The inquiry report reveals that the Inquiry Officer has recorded statements of the following persons:-

1. Shri Jyoti Ram, complainant.
 2. Smt. Joban Dassi, Ex-Pradhan.
 3. Shri Jalam Dev, Ex-Up-Pradhan
 4. Shri Brij Lal (Priest) Naag Temple, Takrasi.
 5. Shri Saimu Ram.
 6. Shri Moti Ram.
 7. Smt. Asha Kumari, Pradhan, Gram Panchayat Takrasi.
- } Joint statements

- | | | |
|------------------------|---|------------------|
| 8. Shri Kunj Lal. | } | Joint statements |
| 9. Shri Aalam Chand. | | |
| 10. Shri Mathu Ram . | | |
| 11. Shri Jeevanand | } | Joint statements |
| & | | |
| 12. Shri Prakash Chand | | |

In addition, the Inquiry officer has inspected the record of technical assessment and sanction letterers etc. and copies of the technical reports of the works were received from Junior Engineer Development Block Anni.

On the basis of the oral and documentary evidence taken on record, the Inquiry Officer has observed as under :-

“In view of the record inspected and statements of all concerned, following observations can be made.

1. The” Retaining wall” at Dharamod at Kutli, as mentioned at para No. 5 of the complaint in fact exists on the spot which was seen and verified from the local residents of the village. An amount of Rs. 2,49,000/- was sanctioned under SDP head for this retaining wall and out of this sanctioned amount Rs. 248020/- was spent on this construction work. The technical assessment, as worked out by Junior Engineer concerned is 2, 49, 468/- which is higher than the expenditure incurred. As such no misappropriation appears to be there. But the said “Retaining Wall” has been constructed for the benefit of one household *i.e* of Pradhan herself.
2. For the construction of second floor of Panchayat Ghar as mentioned in para 6 of the complaint, an amount of 50,000/- was sanctioned under incentive scheme for unopposed Panchayat. The expenditure incurred is Rs. 499976/- and the technical assessment worked out is Rs. 500475/- which is again on the higher side as compared to the expenditure incurred. The work is incomplete and funds to complete it have been demanded.
3. For the construction of water storage tank for Shyamu Ram (Saimu Ram), mentioned at para No. 7 of the complaint, an amount of Rs. 50,000/- was sanctioned, out of this sanctioned amount Rs. 46550/- have been spent and the technical assessment of this tank is 47320/-. The work is complete. As per the recorded statement of Sh. Saimu Ram. The construction is not of good quality and the water is not getting stored properly.
4. As far as the construction of water storage tank mentioned in para no. 8 is concerned, the sanctioned amount is Rs. 70,000/- and expenditure incurred is 68972/-. The

- technical assessment worked out is 70150/- which is on the higher side as compared to the expenditure. The work is complete. In his recorded statement Sh. Moti Lal, the beneficiary, said that the quality of construction is satisfactory and water storage is also proper. Water is used by the other villagers besides himself and he has no complaint, whatsoever, regarding the construction of this tank. As such the charge labelled in this para seems to be baseless.
5. With regard to the construction/repair work mentioned in para no.9 *i.e* repairing of temple “Devta Takrasi”, it is to be mentioned that an amount of Rs. 50,000/- was sanctioned for this work under CRF head. The expenditure incurred was 49800/- out of the sanctioned amount. The technical assessment of this work is 50129/- which is again higher than the expenditure incurred. There does not seem to be any misappropriation in the execution of this repair work. Moreover, as per the recorded statement of Sh. Brij Lal, Priest of “Takrasi Temple”, no irregularity has been committed in the repair work of “Takrasi Temple” which was executed under his overall supervision and there is no misappropriation of funds.
 6. For the construction of “Irrigation Kuhal” mentioned in para no. 10 of the complaint an amount of Rs. 1,50,000/- was sanctioned and out of this sanction amount Rs. 1,47,158/- has been spent. The technical assessment worked out, Rs. 150250/- which is on the higher side as compared to the cost of this construction. The present Pradhan GP Takrasi, in her recorded statement said that the irrigation Kuhal from NkbLukyK to ?kj\beta has been constructed satisfactorily. Rubber pipes have been used in this Kuhal which are of good quality.
 7. Financial irregularities were alleged to be committed in the construction of “Foot Path” (Pucca Rasta) at Village Jaibaag as per para 11 of the complaint. As per the report submitted by J. E. an amount of Rs. 50,000/- was sanctioned for the street pavement in village Jaibaag under SDP head and the cost of construction was 47900/- . Work is complete and the technical assessment came out to be 48500/- which is higher than the cost of construction. The local residents of village Jaibaag in their recorded statement admitted that they worked as labourers in the construction of said street pavement/Pucca Rasta and the work was executed in the year, 2006. The construction work is satisfactory and eve after the lapse of 10 years it can still be seen. No irregularity has been committed as per the statement of local residents. During the course of enquiry the said street pavement /Pucca Rasta was seen on the spot. As such no irregularities seem to be there and the allegation appears to be baseless”.

Consequently, conclusion arrived at by the Inquiry Officer reads as under:-

“On the basis of observation made following conclusion can be drawn.

1. For the allegation mentioned under para 5 the said retaining wall exists on the spot and was inspected. The work is complete and the technical assessment is over and above the cost of construction. As such there is no financial irregularity. But the said retaining wall has been constructed to benefit only one household *i.e* the family of Smt. Joban Dassi the former Pradhan. This is against the spirit of community development and violation of rule 44 (V) of Himachal Pradesh Panchayati Raj (Financial) Rule

2002 (Annexure-9), which reads as, “The money out of the Panchayati Fund shall not be utilized for the benefit of a particular person or section of the community unless,—

- (a) The amount of expenditure involved is insignificant : or
- (b) A claim for the amount could be enforced in the court of law: or
- (c) The expenditure is in pursuance of a recognized policy or practice.

None of the conditions mentioned above appear to be there.

2. The accusations labeled under para 6 are regarding the C/O second floor of Panchyat Ghar. Even after the utilization of Rs. 5.00 Lac the work is still incomplete. BDO Anni should be directed to expedite the construction work and reassessment should be done by some senior technical authority to the rank of Assistant Engineer.
3. Alleged misappropriation in the C/o water storage tank (Saimu Ram village Koot) as mentioned in para 7 could not be proved as technical assessment of the said tank is on the higher side as compared to the cost of construction. But the beneficiary Shri Saimu Ram is not satisfied with the quality of construction because there has been a problem with regard to water storage. BDO Anni should be directed to look into the matter to the satisfaction of the beneficiary.
4. There seems to be nothing wrong with the construction of water storage tank mentioned in para 8 for Sh. Moti Ram, the beneficiary, who also happens to be the real brother of the complaint. Beneficiary is satisfied with the construction quality as there is no problem with regard to water storage. Technical assessment of this work is correct. Hence, the charge is baseless and could not be proved.
5. As per the report of J.E. the repair work of “Temple Takrasi” mentioned in para 9 is complete and the technical assessment of the said work is higher than the cost of construction. Moreover, according to the temple priest Sh. Brij Lal the quality of construction is satisfactory and no irregularity has been committed as alleged. So this charge also does not prove and is baseless.
6. The construction work of the irrigation Kuhal mentioned in para no. 10 of the complaint is complete as per the technical report submitted by J.E. The technical assessment is correct and Pradhan GP Takrasi Smt. Asha Kumari has endorsed that quality of construction is good and the rubber pipe used in this irrigation Kuhal is of good quality. As such no misappropriation seems to be there charge not proved.
7. Finally, the allegations mentioned under para no. 11 also does not prove because street pavement / Pucca Rasta exists on the spot and the local residents have also endorsed this fact in their recorded statement. Work is complete and was seen on the spot. The technical assessment worked out is over and above the cost of construction. So, this charge also is baseless.

Signed
(SATISH SHARMA),
Deputy Director-cum-Inquiring Officer,
Panchayati Raj Department,
Shimla-171009(HP)”

In view of the above stated facts and circumstances, I find no good and sound reasons to differ with the findings recorded and the conclusion arrived at by the Inquiry Officer in his inquiry report. The Inquiry Officer has examined the entire subject matter of the complaint fairly and has submitted reasoned report based on the evidence led by the parties in support of their claim and counter claims. The inquiry report therefore, is accepted in its entirety. Hence, no further action needs to be taken in this matter. However, the Director, Panchayati Raj Department is requested to take appropriate action in the matter in regard to the suggestion mentioned at conclusion No-2 and conclusion No-3 of the inquiry report submitted by the Inquiry Officer.

This complaint is ordered to be closed on the basis of the fact finding preliminary inquiry of the Inquiry Officer without expressing any opinion on the merits of the grievances, made by the complainant in the complaint. I making it clear that any observation made in this order shall not be interpreted or construed as an expression of opinion on the merits of the case.

39. Complaint No.6/2016-1 (A) Loka

02-07-2016

The above named complainants have jointly filed this complaint dated 16-02-2016, alongwith resolution of the Gram Panchyat Katholi, a copy of statement of Shri Jodhamal dated 14-09-2012, a copy of Muster Roll No.5 giving names of five workers allegedly engaged for doing the work of public path and two photostat copies of the receipts issued by the suppliers dealing in cement supply and other materials being used in villages 'paths' construction.

The complainants have stated that they are permanent residents of Village Katholi and peace loving citizens of District Kangra. Smt. Darshana Devi has been occupying the office of Pradhan Gram Panchayat, Katholi, since the year 2006 till date.

The complainants have levelled allegations of embezzlements, mis-appropriation and misuse of Government funds against the Pradhan in the construction of one culvert (Pulli) near the house of Shri Jaipaal amounting to approximately Rs. 70,000/-, one 'Pulli' and 'Naalis', Ghaibasti, amounting to Rs. 35,052/- and 'Pulli' and 'Nallis' near the house of Shri Jaipaal amounting to Rs. 25448/-. According to the complainants only one culvert was constructed on the spot which is still in existence whereas payment of money was received by the Pradhan for the construction of more 'Pulli' and 'Naalis' on production of false and fake bills in connivance with many other Government Officials as well as private persons who had issued false and fictitious bills for the supply of the construction materials. The complainants have further alleged that the Pradhan during her first term of five years from 2006 to 2011, had received huge amounts for the construction of 'Pucca Rasta' leading to the house of Jodhamal, S/o Sh. Moti Lal, whereas, no such "Rasta" was ever constructed on the spot.

On the above said premises, by way of this complaint, the complainants have requested that a detailed inquiry may be got conducted in this matter against the erring Pradhan alongwith other Government Officials as well as private persons who in-connivance with the Pradhan have mis-appropriated and committed embezzlement of Government funds allotted by the Government for executing works for the welfare of the general public of the Gram Panchayat.

Copies of this complaint were also addressed to the Hon'ble Governor of Himachal Pradesh, The Chief Minister of Himachal Pradesh and Shri Prem Kumar Dhupal, Ex.-Chief

Minister of Himachal Pradesh, Deputy Commissioner, Kangra Division at Dharamshala and the Superintendent of Police(Vigilance) Kangra at Dharamshala for taking necessary and immediate actions against the erring Panchayat office bearer and others involved in the commission of the acts of corruption and misuse of the Government funds.

On scrutiny of the complaint, it was noticed that the complaint suffers from legal infirmities laid down in Section 2(b) of the Himachal Pradesh Lokayukta Act(Act No. 23 of 2015). The complaint has to be filed on Form No. -I supported by an affidavit on Form No. -I I. The affidavit has to be prepared on non-judicial stamp paper worth Rs. 3/- only and duly attested by Oath commissioner or Public Notary or other competent public authority.

Reader to Lokayukta has sent a letter dated 1st March, 2016 to Shri Ramesh Kumar, one of the complainant whereby and whereunder he has been advised to prepare the complaint on prescribed Form No.-I supported by sworn affidavit on Form No.-II duly prepared on non-judicial stamp paper worth Rs. 3/- only and the same shall be got attested from the competent authority. He has been advised to file the complete complaint and other supporting document(s), if any, after completing the desired formalities within a period of one month from the date of receipt of communication from this office. He has also been advised that if he would feel any difficulty in understanding the procedural formalities, he was at liberty to visit the office of the Lokayukta or he could contact any official of the Lokayukta on telephone Nos. 2623339 and 2624908 during normal office hours on any working day. Photostat copies of Form No.-I (complaint) and Form No. II (affidavit) were also sent to him for his guidance.

The complaint file reveals that Shri Ramesh Kumar complainant has not responded to the letter dated 1st March, 2016 nor complaint has been received from him or any other named complainants till 31st, May, 2016. Consequently, by letter dated 31st May, 2016, addressed to Shri Ramesh Kumar, he has again been reminded to submit the complaint as suggested to him within further period of one month from the date of receipt of a communication of this office. But, the complainants again have not complied with the earlier orders of the Lokayukta till date.

In the facts and circumstances, it appears that the complainants may not be interested in pursuing this in-complete complaint for reasons best known to them. The complaint can not be kept pending for indefinite period for the fault of the complainants. Hence, this complaint accordingly, is ordered to be filed for want of proper complaint as required under law.

However, I am making it clear that I have not expressed any opinion on the merits of the grievances made in this complaint and any observation made in this order shall not be interpreted or construed as an expression of opinion on the merits of the case. The higher authorities to whom the complainants have allegedly addressed the copies of this complaint are at liberty to redress their grievances in accordance with law un-influenced by any observation made in this order.

40. Complaint No. 30/2016-1 (A) Loka

11-07-2016

Shri Balak Ram (Ex-Service man) claims that he belongs to Chaudhary Community. He has filed this hand written complaint without sworn affidavit in support of the contents of the complaint.

Briefly stated the complainant states that his revenue matter pertaining to correction of revenue entries in the revenue record has been lying pending before the Naib-Tehsildar Jawali for the last about 4-5 years. About one year ago, the Naib-Tehsildar Jawali has since retired and in his place no Naib Tehsildar has been posted till date.

The complainant has stated that he has filed an application before the Sub Divisional Magistrate, Jawali requesting the authority to get his revenue a matter transferred to Tehsildar so that he could get justice from the revenue authority as his land has forcibly been encroached upon by some person whose name and address has not been mentioned in the complaint.

On the basis of the above said premises, the complainant has requested that justice may be imparted to him in this matter.

On scrutiny of the case file, it is noticed that the complaint suffers from legal infirmities in as much as it is not filed on a prescribed Form-I (Complaint) supported by an affidavit of the complainant prepared on non judicial stamp paper worth Rs. 3/- only duly attested by Notary Public, Oath Commissioner or Competent authority as prescribed under clause (b), Sub-Section (1), Section 2 of the Himachal Pradesh Lokayukta Act, 2014(Act No. 23 of 2015).

On merits, the grievances of the complainant alleged in this complaint do pertain to some revenue proceedings pending before the competent revenue authority. The Lokayukta has got no jurisdiction, power and authority to address the stated grievances of the complainant under the provision of Act No. 23 of 2015. Therefore, the Lokayukta can not take contingency on this matter. The complaint is accordingly filed on short ground of its maintainability.

However, I am making it clear that I have not expressed any opinion on the merits of the grievances made by the complainant in this complaint. The Sub-Divisional Magistrate Jawali is requested to look into the matter and take appropriate legal action after calling the complainant who is stated to be an Ex-Service man belonging to Chaudhary community of the area.

Reader to Lokayukta is requested to send a copy of this order alongwith Photostat copy of the complaint to the Sub-Divisional Magistrate, Jawali for his information and necessary action besides, a copy of this order shall also be sent to the complainant, who is at liberty to approach the Sub-Divisional Magistrate, Jawali for redressal of his grievances.

41. Complaint No. 48/2015-1-(A)-Lok

12.07.2016

Shri Rakesh Kumar complainant herein has filed this complaint against the Patwari, Patwar Circle Jalpehar and Secretary Gram Panchayat, Masholi.

The complainant states that he has procured copies of Jamabandi for the years 1971-72, 1976-77, 1982-83, 1987-88 and 1992-93 from Patwar Circle Jalpehar, Tehsil Jogindernagar. On perusal of copy of Jamabandi for the year 1976-77, 'Intakal' No. 317 on the basis of order dated 11.01.1983 was found entered in the name of Ms. Laxmi Devi, daughter and Shri Ramesh Kumar S/o Late Shri Gagan Singh as his legal heirs. According to the complainant he is the only son of his father late Shri Gagan Singh, whereas the names of other legal heirs have wrongly been entered in the revenue record.

He stated that to verify authenticity and genuineness of the revenue record, he requested the Secretary, Gram Panchayat, Masoli to supply him copies of Family Register of Late Shri Gagan Singh for the years 1970-71, 1975-76 and 1981-82. The Panchayat, Secretary accordingly, has supplied him copies of Family Register for the years 1982 to 1989 only and no copies for the years 1970-71, 1975-76 and 1981-82 were supplied to him due to non availability of the record in the Panchayat. The Secretary, Gram Panchayat has given in writing that there was no record available in the Gram Panchayat in regard to the marriage of Late Shri Gagan Singh.

The complainant alleges that the revenue staff of Patwar Circle Jeetpur and office bearers of the Gram Panchayat Masoli in connivance with themselves have wrongly and illegally prepared and maintained official revenue record and Panchayat record for the benefits of Ms. Laxmi Devi and Shri Ramesh Kumar as legal heirs of Late Shri Gagan Singh.

On the above said premises the complainant by way of this complaint, has requested that a thorough probe shall be got conducted into this matter through an independent agency and proper action may be taken against the erring revenue officials and office bearer of the Gram Panchayat. In support of the complaint, the complainant has filed a photostate copy of letter dated 09.10.2015 sent by the Secretary, Panchayat to the complaint and Photostat copies of Family Register Part-I and death certificate of Late Shri Gagan Singh supplied by the authority and in addition Photostat copies of Jamabani and copy of 'Intkal' attested by Assistant Collector 2nd Grade, Tehsil Jogindernagar.

On scrutiny of the complaint, it was noticed that same was not accompanied by sworn affidavit of the complainant as prescribed under the provisions of the Himachal Pradesh Lokayukta Act, 2014 (Act No. 23 of 2015). Therefore, by order dated 16.12.2015 the complainant was requested to file a complaint on proper prescribed performa (Form-I) alongwith sworn affidavit (Form-II) prepared on non-judicial stamp paper worth Rs.3/- only duly attested by Oath Commissioner or Public Notary or Competent authority of the State Government within one month from the date of receipt of the letter of this office. Reader to Lokayukta has duly informed the complainant to do the needful and copies of Form No.I and Form No. II were also sent to him for reference and guidance.

The complainant has not cared or bothered to respond to the letter of the Reader, nor he has filed proper complaint as suggested to him inspite of the expiry of more than three months period from the date of first order dated 16.12.2015 which was conveyed to him. Consequently, reminder letter came to be sent to him on 30.03.2016, whereby he was given one month more time to do the needful. Pursuant to the reminder order dated 30.03.2016, the complainant has now filed proper complaint accompanied by affidavit duly attested by Ms. Pooja Advocate, Oath and Affidavit Commissioner, Jogindernagar.

Having considered the nature of the allegations made against public servants in the complaint the Lokayukta by order dated 07.04.2016 requested the Sub Divisional Officer (Civil) Jogindernagar to conduct preliminary inquiry into the matter and submit his report to the Lokayukta within period of two months from the date of receipt of a copy of the order. He was also requested to record the statements of the complainant and his witness(s) if any, and the statements of the opposite parties against whom allegations of acts of commission and omission and misuse of the office position by the revenue officials of Tehsil Jogindernagar and office bearers of the Gram Panchayat and their witnesses, if any examined by them during the course of the inquiry. In

addition, the Inquiry Officer was at liberty to take on record documentary evidence, if any produced by the parties involved in these proceedings. The complete inquiry report alongwith the entire evidence brought on record during the inquiry proceedings shall be submitted to the Secretary, Lokayukta within the stipulated period.

Reader to Lokayukta has sent a copy of the order dated 07.04.2016 alongwith the copies of entire complaint to the Sub Divisional Officer (Civil) Jogindernagar for necessary action and compliance.

The complaint file reveals that the Sub Divisional Officer (Civil) Jogindernagar has not bothered to comply with the order of the Lokayukta in spite of the fact that more than two months period have expired. Consequently, reminder letter dated 17.06.2016 was sent to the authority to submit desired inquiry report within further period of one month from the date of receipt of the letter.

Pursuant to the previous orders of the Lokayukta the Sub Divisional Officer (Civil) Jogindernagar, has now submitted the desired inquiry report through register letter dated 27.06.2016 alongwith the Photostat copies of 'Rojnamcha Vakyati' copy of report of the Patwari, a photocopy of Pariwar Register containing the names of Smt. Satya Devi, w/o Late Shri Gagan Singh and Shri Rakesh Kumar S/o Late Shri Gagan Singh. In addition, a Photostat copy of Civil Suit No. 95/2009 titled Shri Rakesh Kumar S/o Shri Gagan Singh Vs. Ramesh Kumar and others, decided by Civil Judge (Jr. Divn.) Jogindernagar on 07.04.2015, a photocopy of Family Register pertaining to the year 1982 mentioning the names of the Shri Rakesh Kumar, Shri Rajesh Kumar, Shri Ramesh Kumar sons of Late Shri Gagan Singh and Ms. Laxmi Devi D/o Late Shri Gagan Singh. The Inquiry Officer has also enclosed original hand written statement of Shri Rakesh Kumar complainant, Shri Rajesh Kumar, Ms. Reenu, Panchayat Assistant, Gram Panchayat Masoli and Shri Lekh Raj Patwari, Patwar Circle Jeetpur who has also produced copy of the mutation entry attested on 11.01.1983 where under the estate of Late Shri Gagan Singh was inherited by Ms. Laxmi Devi daughter and Shri Ramesh Kumar, Shri Rakesh Kumar and Shri Juthu Ram sons of Late Shri Gagan Singh.

Having independently examined the inquiry report, on the basis of material, information and documents collected by the Inquiry Officer, there exists no prima-facie case of acts of commission and omission and misuse of position by the revenue officials posted at Tehsil Jogindernagar nor by the office bearers of the Gram Panchayat Masholi. A bare perusal of 'Rojnamcha Vakyati' would reveal that Shri Gagan Singh father of the complainant died on 12.12.1982 and the fact of his death was reported to the Panchayat by Shri Ramesh Kumar brother of the complainant who at the relevant time was accompanied by Shri Dagi Ram. Shri Ramesh Kumar had also reported to the revenue officials that they are three brothers, namely: Shri Ramesh Kumar, Shri Rakesh Kumar and Shri Juthu Ram and one sister Ms. Laxmi Devi. Based on the report of Shri Ramesh Kumar, the revenue official had entered mutation of the landed property in favour of all the three brothers and one sister on 11.01.1983. The Inquiry Officer called Shri Ramesh Kumar and Shri Dagi Ram for taking their statements during the course of the inquiry, but Shri Ramesh Kumar could not present himself as he was stated to be serving somewhere in Jammu, whereas Shri Dagi Ram has since expired.

The record pertaining to Gram Panchayat Masoli has been produced by Ms. Reenu, Panchayat Assistant. The oldest Family Register of the Panchayat probably pertains to the year 1950th and 1960th but, it was not possible for the Inquiry Officer to drive any information from the

available Family Register as it was found in very poor condition. The Inquiry Officer has noticed that a copy of the Family Register has already been supplied to the complainant by the Panchayat Secretary alongwith copies of the Family Register pertaining to the year 1982-1989. The Inquiry Officer perused three Family Registers of the Panchayat containing the information which has been supplied to the complainant.

The Inquiry Officer has examined Shri Rajesh Kumar elder brother of the complainant. He produced a copy of Civil Suit No. 95/20111 decided on 07.04.2015 by the Civil Judge (Jr. Divn.) Jogindernagar. The Civil Court has passed decree in favour of Shri Rajesh Kumar plaintiff and consequently, has granted relief which reads as under :—

“In view of my findings on above decided issues the suit of the plaintiff is decreed and it is held that the name of the plaintiff recorded as Rakesh Kumar in the revenue record is wrong, null and void and is liable to be corrected as Rajesh Kumar, S/o Shri Ganga Singh. Parties are left to bear their own costs. Let a decree sheet be drawn up accordingly and file, after its due completion be consigned to the Record Room.”

Announced and signed in the open Court today this 7th day of April,2015.

-sd-
(VISHAL BHAMNOTRA)
Civil Judge (Jr. Divn.)
Jogindernagar, District Mandi.

The record of the Family Register produced by Panchayat Assistant Masoli before the Inquiry Officer would go to show that there were two wives of Shri Gagan Singh and their names were Smt. Meena and Smt. Satya Devi, whereas there was no record available with the Panchayat with regard to the marriage of Shri Gagan Singh. In oldest Family Register, name of Shri Rakesh Kumar was entered, whose date of birth is mentioned 1971. The complainant has also stated before the Inquiry Officer that his name is Shri Rakesh Kumar and he is also Juthu Ram. The complainant has not been able to substantiate his version that he is the only son of Late Shri Gagan Singh and the names of other sons and daughter brought on the revenue record as legal heirs of Late Shri Gagan Singh has remained uncorroborated. His oral testimony is not supported by any documentary evidence in as much as in the latest Family Register three more children have been shown that of Shri Gagan Singh the father of the complainant. The subject matter of the grievances made by the complainant in this complaint is already pending before the Appellate Court, District Mandi against the judgment and decree of the Civil Court dated 17.04.2015 passed in favour of the plaintiff and against the defendant. The Inquiry Officer has recorded the findings that the revenue official(s) and office bearer(s) of the Panchayat have discharged their duties properly by supplying relevant papers to the complainant as sought for by him.

Having bestowed my thoughtful consideration to the factual and legal situation at hand, I am of the view that the complainant at this stage of preliminary inquiry has not substantiated his allegations of acts of omission and commission and misuse of position by the public servants. The entire gist of the grievances made in the complaint primarily pertains to the inheritance of the property of late Shri Gagan Singh by his legal heirs whose names are reflected in the revenue

record and Pariwar Register of the Panchayat. As stated herein above the subject matter of this complaint is already subjudice in the Court of the Ld. District Judge. Hence, no further action needs to be taken in this matter. I find no good and sound reasons to differ with the findings recorded by the Inquiry Officer and conclusion arrived at in the inquiry report. The inquiry report accordingly, is accepted in its entirety. Hence, the complaint is ordered to be filed.

However, I am making it clear that I have not expressed any opinion on the merits of the grievances alleged in this complaint by the complainant and nothing said by me in this order should be interpreted or construed as an expression of opinion on the merits of the case. The Ld. Appellate Court before whom the appeal is pending filed by the aggrieved party is requested to consider the subject matter in dispute independently in accordance with law uninfluenced by any observation made in this order.

42.Complaint No. 4/2016-1-A-Loka

20.07.2016

Shri Prem Singh complainant herein has filed this complaint alleging inter-alia that the concerned authority has not made payments of MNREGA wages to him and his wife Smt. Roshi Devi without any valid reasons. He has stated that on dated 16.09.2015 he filed an application to the Deputy Commissioner Mandi, requesting him to direct the Block Development Officer and Pradhan, Gram Panchayat Sadhot to make reimbursement of MNREGA wages to him and his wife for the development works under taken from them by the Gram Panchayat on the Muster-roll basis. But, despite his request the Deputy Commissioner, Mandi has not cared to take any action in the matter.

On the above said premises, the complainant has filed this complaint with a request to look into the matter and get the issue resolved. The complaint has not been filed on proper proforma nor it is supported by affidavit of the complainant as required under section 2(b) of the Himachal Pradesh Lokayukta Act, 2014 (Act No.23 of 2015). Therefore, the Lokayukta by order dated 19.02.2016 requested the complainant to file the complaint on Form No-I supported by affidavit on Form No-II prepared on non judicial stamp paper worth Rs.3/- only and the same shall be got attested from the Oath Commissioner or Notary Public or the competent authority. He was asked to submit the complaint after completing the desired formalities within the period of one month from the date of receipt of a letter of this office. He was also advised that in case he would feel any difficulty in understanding the procedural formalities as suggested to him, he was at liberty to visit the Lokayukta or he could contact any official of the Lokayukta on telephone Nos. 2623339 and 2624908 during the office hours on any working day. Reader to Lokayukta by letter dated 29.02.2016, has informed the complainant to do the needful. Photocopy of Form No-I (Complaint) and Form-II (Affidavit) were also sent to him for ready reference and guidance.

The complaint file reveals that the complainant has not complied with the order of the Lokayukta dated 19.03.2016 till May 3, 2016 on which date he was again informed that the needful as suggested to him on 29.02.2016 shall be done within further period of one month from the date of receipt of a letter of this office. But, despite reminder letter, the complainant has not bothered to respond to the letter sent by Reader to him, nor he has filed fresh complaint as suggested to him.

However, on perusal of the case file, it is revealed that the Deputy Director-cum-Project Officer, District Rural Agency, Mandi, District Mandi, vide letter dated 21.09.2015 has asked the Block Development Officer, Dharampur to look into the grievances of the complainant

and take appropriate action in the matter within one week. In this view of the matter Lokayukta by order dated 16.06.2016 has requested the Block Development Officer, Dharampur to submit action taken report based on the letter of The Deputy Director-cum- Project Officer, District Rural Agency, Mandi, within one month from the date of receipt of a gist of the order. Reader to Lokayukta has duly sent gist of the said order to the Block Development Officer for taking necessary action and compliance thereof.

Pursuant to the order of the Lokayukta dated 16.06.2016 the Block Development Officer, Development Block Dharampur by letter dated 14.07.2016 addressed to the Secretary, Lokayukta has informed that the payment of wages due to Shri Prem Singh and his wife Smt. Roshni Devi have been made as per MIS report MNREGA (muster-roll wise). He has stated that detailed information has been sent to The Deputy Director-cum- Project Officer, District Rural Agency, Mandi, District Mandi, vide office letter No. 1279 dated 11.06.2015. A list of Muster-roll containing six pages mentioning the names of the complainant and his wife and the amounts of wages allegedly paid to them has also been enclosed alongwith copy of the letter dated 11.06.2015 and one photocopy of resolution dated 06.06.2015 recorded by Gram Panchayat, Sadhot.

In view of the action taken report dated 14.07.2016 submitted by Block Development Officer, Development Block Dharampur. I find no plausible reason to keep this complaint pending in this Institution. The grievances of the complainant on the face of the action taken report have already been redressed by the Block Development Officer. Hence, this complaint shall stand filed.

However, I am making it clear that any observation made in this order should not be interpreted or construed as an expression of opinion on the merits of the grievances made in this complaint. The complainant, if he is still not satisfied with the action taken report of the Block Development Officer is at liberty to re-address his grievances before appropriate authority/Tribunal in accordance with law.

43. Complaint No. 34/2012-1 (A) Loka

21-07-2016

Shri Bhagat Ram complainant herein has filed this complaint as far as back on 05-05-2012 against Smt. Kiran Prabha, Senior Assistant (Retd.) and Shri Hari Kishan, Supdt.(Retd.) who at the relevant point of time were posted in the office of the SDO(C) Arki, District Solan.

Briefly stated the facts of the complaint are that case No. 2/8 of 2008 titled Bhagat Ram Vs. Hukum Chand was decided by the SDO (Civil), Arki, District Solan on 28-11-2008. The complainant had applied for supplying of certified copies of the order and documents placed on the case file during the proceedings before the S.D.O. (C), Arki. But, on one pretext or the other pretext, no documents were ever supplied to him by the office of S.D.O. (C) Arki. The complainant stated that later on he had applied to the Public Information Officer-Cum-Sub Divisional Collector, Arki for the supply of the desired documents under the provisions of Right to Information Act, 2005. But, to his surprise, the Public Information Officer, by letter dated 04-08-2010 had informed him that the case file was not available in the office and explanation of the official concerned was being called for to trace out the relevant file.

The grievances of the complainant were that his case file was intentionally misplaced by the official(s) concerned in connivance with the opposite party involved in the case, thereby to cause wrongful loss to him and wrongful gain to the opposite party of the proceedings. He has complained that the Public Information Officer–*cum*-Sub-Divisional Collector, Arki has not taken any action against the erring officials who were the custodian of the case file and were responsible for mis-placing the same despite the fact that more than seventeen months have already expired. According to the complainant, for the illegal acts of the erring officials, he is facing hardships.

On the above said premises, the complainant by way this complaint has requested that appropriate legal proceedings may be initiated against the erring officials working in the office of the Sub-Divisional Office(C), Arki. The complainant has filed a sworn affidavit in support of the complaint duly attested by Angmo N. Thakur, Notary Public, Sub Division, Solan.

Having considered the nature of the allegations made in this complaint against public servants, Lokayukta by order dated 10-05-2012 had requested the Public Information Officer-*cum*-Sub-Divisional Collector, Arki to send reply to the complaint within three weeks from the receipt of the copy of the letter of this office. Reader to Lokayukta by letter dated 10-05-2012 had sent a copy of this complaint to the Public Information Officer-Cum-Sub-Divisional Collector, Arki for submitting the reply.

The complaint remained pending for non-compliance of the repeated reminder orders of the Lokayukta recorded on 20-07-2012, 19-10-2012, 19-03-2013 and 27-04-2013 respectively by the authority concerned who had not cared to submit the desired inquiry report to the Lokayukta till 20-06-2013, on which date a letter has been received from the Public Information Officer-*cum*-Sub-Divisional Collector, Arki in response to the order dated 27th April, 2013, whereby he has informed the Reader to Lokayukta that departmental proceedings were pending against Smt. Kiran Prabha the then Senior Assistant working in the office of Deputy Commissioner, Solan before the Assistant Commissioner to Deputy Commissioner, Solan who was appointed Inquiry Officer to hold inquiry in the matter in issue. Consequently, the Lokayukta by detailed order dated 20-06-2013 requested the Public Information Officer-*cum*-Sub-Divisional Collector, Arki to submit desired action taken report to the Lokayukta on or before 22-07-2013 without default, demur and delay and the complaint file was ordered to be listed on 24-07-2013 for further order. Copies of the said orders were duly sent to the Public Information Officer-*cum*-Sub-Divisional Collector, Arki and to the Assistant Commissioner to the Deputy Commissioner, Solan for their information and compliance of the orders in letter and spirit.

In response to the said order of the Lokayukta, the Assistant Commissioner to the Deputy Commissioner has submitted letter dated 17-07-2013 detailing reasons for delay in completing the departmental inquiry against Smt. Kiran Prabha. Having found the reasons so stated, sufficient and cogent, the Lokayukta again requested the Inquiry Officer to complete the departmental inquiry within two months from the date of receipt of a copy of the order dated 24-07-2013. But, the Assistant Commissioner to Deputy Commissioner, Solan has not bothered to submit the desired action taken report within the stipulated period.

Again, by detailed order dated 19-03-2014, last opportunity of one month was granted to the Inquiry Officer to do the needful. In default, he was informed that legal proceedings in terms of the provisions of the Himachal Pradesh Lokayukta Act, shall be initiated against the erring authority without further notice. Copy of the said order was duly sent to the Inquiry Officer on 20-03-2014.

Finally, the Assistant Commissioner to the Deputy Commissioner being Inquiry Officer by letter dated 15th April, 2014 has submitted photostat copy of the departmental inquiry report to the Principal Secretary, Lokayukta and one copy of the inquiry report was also forwarded to the Deputy Commissioner Solan being Disciplinary Authority for information.

Having independently examined the inquiry report of the Inquiry Officer, the Lokayukta by order dated 06-05-2014, requested the Deputy Commissioner, Solan to submit his action taken report on the basis of the inquiry report within one month from the date of receipt of a copy of the said order. Pursuant to the said order, the Deputy Commissioner has submitted his report dated 11-06-2014 and the conclusion arrived at by the Disciplinary Authority reads as under:—

“I have carefully gone through the deposition of PWs and DWs, where some new facts had come to fore which extend scope for examination of new witnesses and further investigation that could prove vital in tracing the public records and to pin the erring official/officials. But those facts have not been taken into consideration by the inquiry officer. I therefore, in the exercise of the powers vested in me under rule 15(1) of the CCS (CCA) rule 1965, remit the case to the Inquiry authority for further inquiry according to the provisions of rule 14 of CCS (CCA) rule 1965.

Disciplinary Authority-*cum*
Deputy Commissioner, Solan.

On perusal of the report of the Disciplinary Authority, this complaint came to be adjourned for two month's and in the meantime, the authority concerned was requested to submit final action taken report to the Lokayukta within two months from the date of order dated 21-07-2014. But no action taken report came to be submitted by the authority concerned within the stipulated period. Consequently, by order dated 26-09-2014, one month's more time was given to the authority to do the needful. Again, on 05-12-2014, the Lokayukta requested the Deputy Commissioner, Solan to treat the matter most urgent as more than sufficient time has been consumed by the authority concerned in dealing with the serious and grave issues involving the public servants in discharging their official duties. The Deputy Commissioner was again reminded to do the needful within one month from the date of receipt of communication of this office. The said order was also conveyed to Deputy Commissioner on 06-12-2014. The complaint file reveals that the Deputy Commissioner has continued to delay the compliance of the repeated orders of the Lokayukta till 28-05-2015 on which date by way of last opportunity and in the interest of equity and fair play, one month more time was granted to the Deputy Commissioner to furnish the desired action taken report to the Secretary, Lokayukta.

The case file reveals that again on dated 29-07-2015, the Deputy Commissioner, Solan, District Solan was requested that being high responsible officer of the District Administration, he would ensure compliance of the earlier repeated orders of the Lokayukta without default, demur and delay within further period of one month from the date of receipt of copy of the order. Pursuant to the order of the Lokayukta dated 29-07-2015, the Deputy Commissioner vide letter dated 14th August, 2015 has informed the Secretary, Lokayukta that the Assistant Commissioner to Deputy Commissioner Solan, who had been entrusted inquiry on remand, could not complete the inquiry and now he has since retired from the Government Service on 31-03-2015. Thus, owing to these circumstances, the matter was entrusted to the Sub-Divisional Officer (C) Arki, to enquire into all the vital issues of the case and to submit his fact finding report within a period of one month. He has requested the Lokayukta to grant three months period to comply with the said

orders. The request of the Deputy Commissioner was accepted and by order dated 02-11-2015, the Deputy Commissioner was given three months more time to submit final action taken report. Pursuant to the order of the Lokayukta dated 2nd November, 2015, the Deputy Commissioner has written letter 23rd November, 2015 to the Sub-Divisional Officer (C) Arki to complete the said inquiry within fortnight as more than three months period has expired and no inquiry report has been received from the concerned authority by the Deputy Commissioner. A copy of the said order was also forwarded to the Secretary, Lokayukta for information. Again, the Deputy Commissioner has addressed a letter dated 12th December, 2015 to the Sub-Divisional Officer (C) Arki whereby he has informed the Sub-Divisional Officer that the queries raised by his office regarding the unsigned statements of PWs and Dws have been addressed by having them signed by the then Inquiry Officer. It was also submitted that the charge sheet prepared by this office dated 10-11-2011 could not be amended at that late stage. The original file of the inquiry in respect of Smt. Kiran Prabha, Senior Assistant (Retd.) containing 72 pages was also returned to the Sub-Divisional Officer with the request to complete the said inquiry according to the direction given by the Deputy Commissioner in order dated 11-06-2014 and the inquiry report was to be submitted to the Deputy Commissioner on or before 31-01-2016 positively. The Sub-Divisional Officer (C) was also requested to treat the the matter urgent and be given personal attention.

Relying upon the contents of the letter of the Deputy Commissioner addressed to the Sub-Divisional Officer (C) Arki, the Lokayukta kept this complaint pending for pretty long time. Consequently, the Lokayukta was constrained to record a detailed order dated 03-03-2016 containing two and half pages whereby and whereunder by way of indulgence, one more opportunity was granted to the Deputy Commissioner to submit the action taken report within further period of two months. Reader to Lokayukta has duly conveyed the said order to the Deputy Commissioner for compliance on 04-03-2016. The complaint file reveals sorry state of affairs on the part of the Deputy Commissioner, Solan. The Lokayukta took lenient view in the matter against the callous, in different and perfunctory approach and attitude of the authority concerned towards the sensitive issues of the complaint and he has to pass further repeated detailed orders dated 27-05-2016 and 07-07-2016, which were duly conveyed to the Deputy Commissioner concerned under registered AD cover requesting him to comply with and implement the earlier repeated orders/directions of the Lokayukta recorded on different dates since the year May, 2014, which were duly conveyed to the authority(s) concerned.

Now, after long period of struggle with the administrative authority of the District Solan, the Deputy Commissioner, Solan vide his letter dated 14-07-2016 received by this office on 16-07-2016 has submitted the desired action taken report based on the first inquiry report dated 16th April, 2014 submitted by Assistant Commissioner to Deputy Commissioner Solan, which was not accepted by the Deputy Commissioner-cum-Disciplinary Authority and the Deputy Commissioner by order dated 11th June 2014 remitted the case to the inquiry authority for further inquiry. On remand the Assistant Collector to the Deputy Commissioner being Inquiry Officer could not complete the inquiry before his retirement from the Government service on 31-03-2015. The Deputy Commissioner, Solan by letter dated 14th August, 2015 informed the Secretary, Lokayukta that the successor of the Inquiry Officer has recently being transferred and new Assistant Commissioner, who was a fresher in service has been appointed in the office of 03-08-2015. Thus, owing to these circumstances, the matter was being entrusted to the Sub-Divisional Officer, Arki to enquire into on the vital issues and to submit his fact finding report to the Deputy Commissioner within period of one month. The contents of the letter dated 12th December, 2015, addressed by the Deputy Commissioner, Solan to the SDO (C) would reveal

that the Deputy Commissioner has not accepted the request of the Sub-Divisional Officer (C) in respect of amendment of the charges framed against the delinquent official and requested the Inquiry Officer to submit the inquiry report to him on or before 31-01-2016 positively.

Now, the contents of the so called action taken report submitted by the Deputy Commissioner, Solan dated 14th July, 2016 would reveal that no fresh inquiry as suggested by the Disciplinary Authority in its previous order dated 11th June, 2014 was conducted by the Sub-Divisional Officer (C) Arki, a newly appointed Inquiry Officer after remitting the case under Rule 15 (1) of the CCS (CCA) Rule, 1965 for further inquiry according to the provisions of Rule 14 of the CCS (CCA) Rules, 1965.

However, the Deputy Commissioner issued a notice under Rule 15 of CCS (CCA) Rules, 1965 to the delinquent official on 12-04-2016, asking her to make representation on acceptance/rejection of the contents of the first inquiry report. The said official accepted contents of the inquiry report in her letter dated 03-05-2016 (copy enclosed with the action taken report).

Having considered the first inquiry report and the record/material available on the case file, the Deputy Commissioner-*cum*-Disciplinary Authority, Solan now has observed as under:—

“I am of opinion that Smt. Kiran Prabha and Shri Hem Chand can not be held responsible for the missing file/record. Further from the examination of the record, it is clear that it is not possible to fix personal responsibility for missing file/record on any official or officials. It is pertinent to mention here that the said official Smt. Kiran Prabha and her predecessor Shri Hem Chand have both retired from Government Service on attaining the age of superannuation in the year, 2013 and 2009 respectively. The Sub-Divisional Officer (C) Arki, has also been directed to re-create the file again. In view of the above, it is therefore, requested to kindly close proceedings in this matter”.

I have given my thoughtful consideration to the action taken report submitted by the Deputy Commissioner-*cum*-Disciplinary Authority, Solan. The report reveals that the Disciplinary Authority has again, relied on the findings recorded by the Inquiry Officer in his first inquiry report dated 15th April, 2014, which came to be remitted by the Disciplinary Authority by order dated 11th June, 2014, under Rule 15(1) of the CCS (CCA) Rule, 1965 for conducting fresh inquiry as suggested to him. The inquiry report reveals that the department inquiry was initiated as far back as on dated 03-10-2011 against delinquent officials Smt. Kiran Prabha, Senior Assistant and Shri Hari Krishan Supdt., office of the Sub-Divisional Officer (C) Arki. Admittedly, Smt. Kiran Prabha had retired only in the year 2013 and Shri Hari Chand had retired in the year 2009 respectively as mentioned by the Disciplinary Authority in the action taken report on dated 14th July 2016. The Inquiry Officer has framed as many as two charges against delinquent official and during the inquiry proceedings; he has examined as many as seven PWs including Shri Hem Chand. In defense, the delinquent official has examined as many as four DWs including Smt. Kiran Prabha DW-4. The Inquiry Officer has also taken on record, written arguments filed by Shri Rajinder Singh Awasthy, the presiding Officer, who reiterated the article of charges and held Smt. Kiran Prabha the charged official responsible for misplacement for files. The Defense Assistant despite an opportunity having been afforded to him by the Inquiry Officer, had chosen not to file any written arguments in the defense of the charged official. The Deputy Commissioner-*cum*-Disciplinary Authority who at the relevant time was posted at Solan, as noticed herein above had remitted the inquiry to the Inquiry Officer for holding fresh inquiry, but the successor Disciplinary Authority no

doubt, has the inherit power to review and modify the articles of charges or drop all the charges after the receipt and examination of the written statement of defense submitted by the delinquent official under Rule, 14 (4) of CCS (CCA) Rules, 1965. But, in the present case, the successor Disciplinary Authority despite having appointed the Sub-Divisional Officer (C) Arki as Inquiry Officer, after the remand of the inquiry proceedings conducted by the first Inquiry Officer, has not got the inquiry conducted from the second Inquiry Officer for reasons best known to him and has submitted the action taken report on the non-existence inquiry report dated 11-06-2014.

However, the authority concerned after keeping the disciplinary proceedings pending for more than five years, has since taken some action and I do not wish to go in to the correctness and validity of the findings of the Disciplinary Authority in the departmental proceedings which are not within my cognizance and jurisdiction.

In the back drop of the factual and legal situation, no further action needs to be taken in this matter. Hence, the complaint shall stand filed.

However, I am making it clear that any observation made in this order shall not be interpreted or construed as an expression of the opinion on the merits of the grievances made by the complainant in this complaint. The complainant, if he so likes, is at liberty to redress his grievances before an appropriate authority/Tribunal/Court in accordance with law.

Before parting with this matter, the Sub-Divisional Officer (C) is requested to comply with the directions of the Deputy Commissioner whereby and whereunder, he is asked to recreate the missing file again. The S.D.O.(C) Arki should ensure that the public documents should be kept and maintained in proper and safe custody of the office in charge as the higher authority is supposed to be a custodian of the office files.

Reader to Lokayukta shall send one copy of this order to the Deputy Commissioner Solan, District Solan and one copy of the S.D.O.(C) Arki for information and necessary action.

44. Complaint No. 18/2016-1-A-Loka

28.07.2016

Shri Jagdish Singh complainant herein has filed this complaint alleging therein that the SDM Suratgarh has wrongly and illegally cancelled the allotment of land granted to his father Late Shri Trilok Singh, in Sub-Division Suratgarh.

Briefly stated the facts of the case are that the Relief and Rehabilitation Authority Suratgarh, District Ganganagar had allotted land in Check-3, FDM Muraba No. 87/343 admeasuring 25 Bighas dated 27.04.1967 to Shri Trilok Singh, father of the complainant who was stated to be a Pong Dam oustee. The Assistant Collector (Relief and Rehabilitation) Suratgarh vide order dated 23.05.1974 had cancelled the allotment of Shri Trilok Singh as he could not comply with the requisites conditions of the allotment order.

Feeling aggrieved against the order of the Assistant Collector (R&R), Suratgarh, Shri Trilok Singh had filed SBCWP No. 245/2001, dated 27.08.2001 in the Hon'ble High Court of Rajsthan, which came to be dismissed on 27.08.2003. According to the complaint he alongwith his brothers

and other family members are in physical possession of the allotted land on spot after the death of Shri Trilok Singh and therefore, the order of the Relief & Rehabilitation Authority, Suratgarh was against the factual situation of the allotted land on spot.

On the basis of the above said premises the complainant by way of this complaint has requested that allotment of land in Check-3, FDM Muraba, 87/343 admeasuring 25 Bighas may be ordered to be made in favour of the complainant and other legal heirs of Late Shri Trilok Singh, according to Pong Dam oustees, Relief and Rehabilitation Scheme 1972, and justice be done to them. In support of complaint, the complainant has filed a copy of the names of the Pong Dam oustees submitted to the District Collector Sriganganagar and sworn affidavit duly attested by Oath Commissioner Kangra.

Having considered the nature of the grievances, Lokayukta by order dated 20.04.2016 requested the Deputy Commissioner (Relief and Rehabilitation) Raja-ka-Talab, Tehsil Nurpur, District Kangra to conduct the inquiry into the allegations made by the complainant and submit the action taken report to the Lokayukta within two months from the date of receipt of communication of this office. The authority concerned has not cared to comply with the said order of the Lokayukta within the stipulated period. Accordingly, reminder dated 22.06.2016 was sent to the Deputy Commissioner (Relief and Rehabilitation) to do the needful within further period of one month.

Pursuant to the order, dated 22.06.2016, the Deputy Commissioner (Relief and Rehabilitation) Raja-ka-Talab, Tehsil Nurpur, has submitted the desired report dated 16.07.2016 which has been received by this office on 27.07.2016.

On perusal, the report reveals that Shri Jagdish Singh complainant was asked by the Collector (Relief and Rehabilitation) Raja-ka-Talab, Tehsil Nurpur to present himself before him on 08.07.2016. The subject matter of the complaint has been discussed with him in the meeting. The complainant is stated to have admitted before the Collector that against the cancellation order dated 29.12.2015 recorded by Relief and Rehabilitation Authority Suratgarh, he has preferred an Appeal before the Revenue Appellate Authority, Sriganganagar which is still pending for decision. The report further reveals that Shri Trilok Singh S/o Shri Natha Singh was allotted land by the Relief and Rehabilitation Authority Suratgarh, but the allottee could not deposit the installment of the allotment fees besides he was also found negligent in complying with the conditions of the allotment order. Resultantly, the Assistant Relief and Rehabilitation Collector, Suratgarh vide order dated 05.07.1974 had cancelled the allotment of the land. The report also reveals that Shri Trilok Singh had challenged the order of the authority by way of SBCWP No. 254/2001 before the High Court of Rajsthan. The Single Judge of the High Court of Rajsthan primarily had dismissed the writ-petition by order dated 27.08.2003 on three grounds. First ground was that it was doubtful whether Shri Trilok Singh was in fact the resident of Himachal Pradesh or not as his identity was not established. Secondly, based on the judgment of the Supreme Court titled Pong Dam oustees, (izns" k ikSax cka/k foLFkkfir lfefr) Rajsthan and Another Vs. Union of India and Others, AIR 1996, SC.3445 whereby it was ordered that the cases of the Pong Dam oustees would be decided by the Designated Authority. The case of the father of the complainant had not gone before that Designated Authority. The third ground taken note of by the Ld. Single Judge was that as per the report available on the record, according to the Chairman, Pong Dam oustees Associations, it has come to light that Shri Trilok Singh was not available at the land in question.

The Relief and Rehabilitation Authority, Suratgarh has also taken in consideration the judgment and order of the Ld. Single Judge of Rajasthan, High Court, besides other grounds at the time of recording of the order dated 29.12.2015 which is admittedly the subject matter of appeal before the Revenue Appellate Authority, Sriganganagar, State of Rajasthan.

Having independently examined the inquiry report and on the basis of material, information and documents collected by the Collector (Relief and Rehabilitation) Raja ka Talab, Tehsil Nurpur, I find no good and sound reason to differ with the contents of the report submitted by the Collector. Hence, no further action needs to be taken in this matter. The complaint accordingly, shall stand filed.

However, I am making it clear that I have not expressed any opinion on the merits of the grievances of the complainant made in this complaint and nothing said by me in this order should be interpreted or construed as an expression of opinion on the merits of the case. The Revenue Appellate Authority/Tribunal, Sriganganagar or any other Authority/Tribunal is at liberty to decide the case of the complainant and other legal representatives of Late Shri Trilok Singh on its own merits in accordance with law.

45. Complaint No. 11/2016-1 (A) Loka

28-07-2016

Shri Jeet Lal complainant herein has filed this complaint alleging therein that Shri Kamaljeet had sold entire landed property owned and possessed by him to the complainant and others, but he has executed sale deeds in favour of three different purchasers against the provisions contained in Himachal Pradesh Land Record Manual.

Briefly stated the grievances of the complainant as stated in the complaint are that lands comprising Khata No. 57, Khatauni No. 60, Khasra Nos. 507/178,177, 259, 260,343,344 and 386 ad-measuring 13 Kanal, 05 Marla were owned by Shri Gyan Chand, S/o Shri Jeevnu, R/O Village Jhandwin, Mauza Mewa as co-sharer. Shri Gyan Chand had filed partition case before the Assistant Collector IInd Grade, Bhoranj in which the complainant was also one of the respondents. During the proceedings of the said case, the complainant has produced copy of stay order in CMA No. -140/2011 in C.S. No. 54/2011 titled Jeet Lal Vs Kamaljeet and other granted by the Ld. Sub-Judge (Jr. Division) Hamirpur. The partition proceedings were finally closed by the Assistant Collector IInd Grade on 10-03-2016.

The complainant has made an application on dated 15-09-2015 to the Deputy Commissioner, Hamirpur followed by reminders to the Deputy Commissioner, Sub-Divisional Magistrate, Bhoranj and Tehsildar Bhoranj, whereby and whereunder he wanted to know whether sale deed nos.-5 and No.-7 dated 07-01-2011 being executed by Shri Kamaljeet, S/O Shri Bihari Lal for the sale of his 69/89 and 13/178 shares, out of total lands bearing Khata No. 57 min, Khautni No. 60 min and Khasra Nos. 57/176, 177, Kita-2 land measuring 8 kanal, 18 Marlas by registered sale deeds in the office of Sub-Registrar, Bhoranj in favour of Radha Swami Satsang Dera Vyas, were legally sold by him and 'Intkaal' Nos. 403 and 404 respectively were validly entered by the Revenue authorities of Tehsil Bhoranj or not.

The grievances of the complainant as stated in this complaint are that the Revenue authorities concerned have not taken any action on his application and representations, as such by

way of this complaint has requested that a suitable inquiry may be got conducted in this matter and he may be imparted justice. The contents of the complaint are supported by sworn affidavit duly attested by Shri R. K. Verma, Advocate, Notary Public Bhoranj Sub-Division and photostat copies of representations made to the Chief Minister, Himachal Pradesh, Collector Hamirpur, and photostat copies of sale deeds alongwith photostat copies of the revenue records. The complainant has also filed photostat copies of the orders recorded by District Revenue Officer-cum-Public Information Officer, Hamirpur under Right to Information Act, 2005 on the application of the complainant.

Having considered the nature of the grievances made by the complainant, the Lokayukta by order dated 22-03-2016 has requested the Deputy Commissioner Hamirpur to submit action taken report, if any based on the application made by the complainant to him on 15-09-2015 within one month from the receipt of a copy of communication from this office. The complaint file reveals that the Deputy Commissioner, District Hamirpur has not bothered to comply with the said order within stipulated period. Therefore, by order dated 04-05-2016, the Deputy Commissioner has again been requested to furnish the desired action taken report within further period of one month from the date of receipt of communication from this office.

It appears from the noting sheet of the case file that despite the order and reminder orders dated 07-01-2016 and 08-03-2016 respectively, the Deputy Commissioner has not cared to comply with the said orders till 24-06-2016, on which date by way of indulgence, one more opportunity of one month was granted to the Deputy Commissioner concerned to do the needful without any default, demur and delay.

Pursuant to the last order dated 24-06-2016, the Deputy Commissioner has submitted the desired action taken report dated 22nd July, 2016. He has filed a photostat copy of the letter dated 11th July, 2016 addressed by Sub-Divisional Officer (Civil) Bhoranj to him and photostat copy of the inquiry report submitted by Shri Sanjay Kumar, Tehsildar Bhoranj to the SDO (Civil) Bhoranj who is stated to have been appointed an Inquiry Officer by the authorities concerned to enquire into the grievances of the complainant made in the application on dated 15-09-2015 to the Deputy Commissioner, Hamirpur, District Hamirpur.

Having independently examined the inquiry report, material and documents brought on the record by the Inquiry Officer, I am of the view that the reasonings and the findings recorded by the Inquiry Officer in his report and accepted by the Deputy Commissioner, Hamirpur, District Hamirpur are based on proper appreciation of the entire material on record. Hence, the action taken report is taken on record.

The documentary evidence placed on record by the Inquiry Officer would reveal that Shri Kamaljeet had sold his land as co-sharers out of the total land bearing different Khasra numbers. The revenue record would go to show that Shri Gyan Chand has filed partition proceedings before the Assistant Collector IInd Grade-cum-Naib Tehsildar, Bhoranj in which, the complainant was one of the opposite parties. During the partition proceedings, the complainant on dated 30-03-2015 has produced a copy of stay order dated 05-11-2011 passed by Learned Civil Judge, (Junior Division) Hamirpur in CMA No.-140/211 in Civil Suit No. 54/2011 titled Shri Jeet Lal Vs. Shri Kamaljeet *etc.* whereby the Learned Trial Court has restrained the Assistant Collector IInd Grade-Cum-Tehsildar, Bhoranj not to proceed further in the partition proceedings in respect of land Khata No.-57, Khatauni No. 67 bearing Khasra Nos. 507/178, 177, 259, 260, 343, 344, 386, and Khata No. 7, ad-measuring 13 Canal, 5 Marla situated in Tika Kahanvi Mauza Mewa, Tehsil

Bhoranj and based upon the said order of the Civil Court, the Assistant Collector IInd Grade-cum-Tehsildar by order dated 10-03-2016 has closed the said proceedings.

The Inquiry Officer in the concluding paragraph of the inquiry has stated that sale deeds Nos. 5-7 dated 07-01-2011 were got registered in the office of the Sub-Registrar, Bhoranj and on the basis of the said sale deeds, 'Intkaal' were attested by the revenue authorities. By way of the execution of the sale deeds, Shri Kamaljeet had sold shares of his lands to the complainant and Radha Swami Satsang Dera Vyas. The revenue authorities at the time of attestation of the mutation entries, have followed and complied with the instructions and norms as contained in para 8.37 of Himachal Pradesh Land Record Manual, Para 8.37 of Himachal Pradesh Land Record Manual reads as under:—

“A Co-sharer in a joint holding cannot transfer by way of sale, gift, mortgage or otherwise specific Khasra number or its share which is not in his possession. The Revenue Officer shall refuse mutation of such nature”.

Besides, the requirements of the above extracted provisions of the Himachal Pradesh Land Record Manual, the Inquiry Officer has also relied upon the judgments/orders passed by Financial Commissioner Punjab, in case title Mohinder Singh and others Vs. Shri Jaswant Kaur and another (LLT 1972 pages 20-21), whereby the Financial Commissioner has observed that co-sharers may effect sale in respect of particular area, which was in his exclusive possession subject to the consideration that the sale was not effected in respect of area in excess of his share. But, co-sharer should not transfer the specific Khasra number from joint holding which was not in his possession.

In the backdrop of the factual and legal situation, the action taken report submitted by the Deputy Commissioner, Hamirpur, District Hamirpur is accepted in its entirety and I do not find any plausible reason to differ with the findings recorded and the conclusion arrived at by the authority concerned. Hence, no further action needs to be taken in this matter. The complaint accordingly, shall stand filed.

However, I am making it clear that any observation made in this order shall not be interpreted or construed as an expression of the opinion on the merits of the grievances made by the complainant in this complaint. The Authority(s)/Court competent to deal with the subject matter of the dispute, is at liberty to proceed with the matter and decide the same in accordance with law.

46. Complaint No. 23/2016-I (A) Loka

02-08-2016

Shri Pritam Singh is the complainant in this complaint. He has levelled allegations of preparation of false record and misuse of the office of Secretary, The Amlehar Jadeed Co-Operative Agricultural Society Ltd. (for short Co-Operative Agricultural Service Society) against Shri Baljeet Bansal, thereby giving un-due favour to his wife, mother, brother, sister and some other persons of his liking.

The allegations so made are that under the Agricultural Debt Waiver and Debt Relief Scheme, 2008. The Secretary had prepared false record and waived the loans of his wife Smt. Neelam Kumari amounting to Rs. 7,78,500/-. He had falsely shown land to the extent of one

Hectare in her name in a list bearing serial No. 20, against account bearing No. 2028, whereas his wife has not owned any piece of land in her name. He has also waived loan of his mother Smt. Laj Banti to the tune of Rs. 2,67, 500/- bearing account No. 1320 and has falsely shown one hectare land in her favour. Similarly, loan amounts of Rs. 14,44,500/- of Shri Gurpal Singh brother of Shri Baljeet Bansal who was serving in Indian Air Force and after retirement, has settled in Bombay, bearing account No. 1357 and has falsely shown land to the extent of two hectare in his name and second loan amount of Rs. 1,18,000/- against loan account No. 3330 in the name of his brother, had been waived of. Further against account No. 2092 registered in the name of husband of the Secretary's sister-in-law, loan amount of Rs. 1,85,620/- was also waived of. Besides, loan amount of Rs. 3,24,200/- against account No. 3395 in the name of Sudesh, who is presently serving in the same Society has also been waived of. The complainant states that as per the names of the loanees mentioned in the enclosed list with the complaint, many other relatives of the Secretary who were not eligible for the grant of the loans were also waived of.

The complainant by way of this complaint has requested that proper inquiry may be initiated against Shri Baljeet Bansal being a public servant and appropriate action be taken against him in accordance with law. The contents of the complaint are supported by sworn affidavit duly attested by the Executive Magistrate Amb, District Una and photostat copy of the forms containing the names of the small /marginal farmers who had obtained credit loans from the society under the Agricultural Debt Waiver and Debt Waiver Scheme ,2008 notified by the Ministry of Finance Government of India and photostat copies of the documents obtained by the complainant from the Public Information Officer under the RTI Act, 2005 and a copy of the order passed by the appellate authority under the RTI Act, 2005, Co-operation Department, State of Himachal Pradesh.

The Lokayukta having considered the nature of the allegations made in the complaint against the Secretary of the Agricultural Co-Operative Society Ltd., by order dated 25-05-2016 has requested the Additional Registrar, Co-Operative Society Dharmashala, Himachal Pradesh to hold inquiry into the allegations. The Inquiry Officer has also been requested to record statements of the complainant and his witness(s) if any, and the statements of Shri Baljeet Bansal and his witness(s) if any produced by them during the course of the preliminary inquiry and he could also take documentary evidence on record produced by the parties before him. The inquiry report alongwith statements of the parties and other documents if any, brought on record of the inquiry shall be submitted to the Secretary, Lokayukta within a period of two months from the date of receipt of a copy of the order.

Pursuant to the order dated 26-05-2016, the Additional Registrar, Co-operative Societies, Himachal Pradesh, Dharamshala has submitted inquiry report alongwith relevant documents (total 120 pages) enclosed alongwith letter dated 28th July, 2016.

Having independently examined the inquiry report, and on the basis of the material, information and documents collected by the Inquiry Officer, there exists no prima-facie case against Shri Baljeet Bansal Secretary, Co-Operative Agricultural Service Society Ltd. that he has knowingly and intentionally abused his position as such to obtain any un-due gain or favour to himself, his wife, brothers, mother and any other person known to him. The complainant could not substantiate on record that Shri Baljeet Bansal, Secretary has prepared false record of loan accounts and revenue record as alleged in the complaint.

On examination of the report, it reveals that the Inquiry Officer conducted the inquiry on four different dates *i.e.* dated 10-06-2016, 21-06-2016, 28-06-2016 and 14-07-2016 in the presence of the complainant and Shri Baljeet Bansal, Secretary. The complainant has not made oral

statement before the Inquiry Officer and has stated that whatever statement has been made by him in the complaint supported by an affidavit, may be read and considered as his statement and he has nothing more to add in his version. The Inquiry Officer, in brief, has recorded the contents of the complaint in his report. During the proceedings of the inquiry, on dated 10-06-2016, the complainant has submitted a letter to the Inquiry Officer requesting him to make inquiry regarding 36 loan holders and it should be checked as to how their loan amounts were waived of. The Inquiry Officer has noted that the complainant has specifically mentioned only six accounts numbers in his complaint filed before the Lokayukta, therefore, he has confined the scope of the inquiry to the extent of six loan accounts as mentioned in the complaint. The inquiry report also reveals that the complainant has submitted Jamabandi for the year, 2009-2010 of Up-Mauhal Ram Nagar. But, he could not elaborate as to what he wanted to establish by placing on record the Jamabandi in which the names of Shri Gopal Singh, Shri Baljeet Singh, Smt. Laj Banti Devi etc. were mentioned in the column of ownership alongwith other land holders.

In the copies of record submitted by the complainant alongwith this complaint, only account Nos. 1320,1357,3395,and 2028 could be traced by the Inquiry Officer, who has found that there exists no account No. 2092, in the name of the husband of the sister-in-law of the Secretary. However, account No. 2091 has been shown in the name of Shri Som Dutt against corresponding figure of loan amounts of Rs. 1,86,620/-, which matches the figure given by the complainant against so called account No. 2092. The Inquiry Officer has made inquiry regarding account No. 2091 shown in the name of Shri Som Dutt. Similarly, Account No. 3330 mentioned by the complainant in the complaint has also not been found correct on the record attached by him with the complaint. To verify the matter, the Inquiry Officer has sought information from Assistant Registrar, Co-Operative Societies Una, who has reported that account No. 3330 was in the name of Shri Gurpal Singh having the loan account of Rs. 1,18,000/- and the said loan account has not been waived of. In the facts and circumstances, the Inquiry Officer has only started holding of inquiry in regard to account No. 1320 in the name of Smt. Laj Banti and the loan account waived of was Rs. 2, 67,500/-. Shri Gurpal Singh had individual account No. 1357 and his loan account of Rs. 14,44,500/- was waived of. The third account number 2028 was in the name of Smt. Neelam Kumari and loan amount of Rs. 7,78,500/- was waived of. The fourth account No. 2091 was in the name of Shri Som Dutt and his loan amount of Rs. 1,85,620/- was waived of. The fifth loan account no. 3395 was of Shri Sudesh and his loan amount of Rs. 2,24,500/- was waived of.

Because of the aforesaid documentary evidence, Inquiry Officer has recorded the statement of Shri Baljeet Bansal. He submitted that as per the record of the Society *i.e.* Rojnamcha (Day Book), Rokarbahi, (Cash- Book) and Personal Ledger, it could be established that the loan accounts of the above said loanees were waived of as per directions of Finance Ministry, Government of India. The loan accounts were advanced to the 'marginal farmers' who were holding agricultural land up to one Hectare (2.5 Acres). The loan amounts were advanced to the 'marginal farmers' during the period between March, 1997 to 2007 and the balance payments of the loan amounts were to be paid on or before the 31st December, 2007 and on 29th February, 2008, therefore, the loan amounts were waived of. Shri Baljeet Bansal has also stated that the Management Committee of the Society is the only competent authority who could grant loan amounts to the loanees. He has only advanced the loan amounts to the beneficiaries after approval of the Management Committee. The proceedings of the Management Committee were recorded on 14-08-2008 in the proceedings register at page 132 and on perusal of the record, the Inquiry Officer has noted that the Note Books were thoroughly spoiled and it was not possible to read the proceedings or take a copy thereof on the record of the Inquiry. Shri Baljeet Bansal Secretary has stated that the grant of loans as per Note Books were badly damaged in the flood in the year, 2008.

The Inquiry Officer has requisitioned relevant record pertaining to the loan amounts through Smt. Sudesh Bala, Inspector Co-operative Society Gagret. Her statement was also recorded on 28-06-2016. He inspected the damaged proceedings register and Note Books which were found in a ruined state and it was not possible for him to read those documents. The fact of the damaged documents has been recorded in the proceedings dated 14-08-2008 and a copy there of was produced by the Secretary alongwith a copy of resolution passed by the Committee on 26-06-2016, re-iterating the fact of damage of the documents. The inquiry Officer has also compared and tallied the copies of 'Day Book', Cash Book and Personal Ledger produced by the Secretary with the original record produced by the Inspector Co-Operative Society, Gagret.

On perusal of the 'Day Book', Cash Book and Personal Ledger of the Society pertaining to the loan amounts in question, the Inquiry Officer has given details of the names of five loanees and total loan amounts waived of and the area of the lands owned by them as well as Khata numbers and names of Mauhal /Up-Mauhal where the lands are situated. I do not consider it necessary and expedient to reiterate the figure of the loan amounts *etc. etc.* as stated by the Inquiry Officer in his report, for un-necessary burdening the order.

The Inquiry Officer has considered the entire material in the light of the Debt Waiver and Debt Relief Scheme, 2008. A photostat copy of which has also been placed on record. The Debt Waiver and Debt Relief Schemes (DW & DRS), 2008 has been notified by the Ministry of Finance, Government of India for farmers. The scope of the scheme will cover direct agricultural loans extending to 'Marginal and Small Farmers' and "Other Farmers' by Scheduled Commercial Banks, Regional Rural Banks, Co-Operative Credit Institution (including Urban Co-operative Banks) and Local Area Banks. According to the guidelines laid down in the DW & DR Scheme, 2008. Clause 3.5, clause 3.6 and clause 3.7 define 'Marginal Farmers', 'Small Farmers' and 'Other Farmers' respectively. The Inquiry Officer has reproduced clauses 2.1, 2.2, 3.1, 3.3, 3.4, 3.5, 3.6, 3.7. and clauses 4 and 5.1. in his report. Clause 5.1 lays down that in the case of 'Small' or 'Marginal Farmer', the entire 'eligible amounts' shall be waived.

The Inquiry Officer relying upon the relevant record produced before him during the course of the inquiry, has further observed that all the loans amounts were given by the Co-Operative Society under The Debt Waiver and Debt Scheme for development of the lands and as such the loan amounts would fall under the category of investment credit given for direct Agricultural activities as per clause 3.3 (a) of the Debt waiver and Debt Scheme, 2008. He has also observed that as per the revenue record none of the loanees has owned land more than one hectare. As such, all the loanees would fall under category of 'Marginal Farmers' as per the definition in clause 3.5. The loan amounts were given by the Co-Operative Agricultural Service Society, Amlehar Jadeed in the 2006 and those were over due for payment on 31st December, 2007 and remained un-paid untill 29th February, 2008. In that view of the matter, the Co-Operative Agricultural Service Society has duly complied with the required conditions as laid down in the Debt Waivers and Debt Scheme, 2008 and the loan amounts were eligible for being waived of.

The Inquiry Officer has not accepted the arguments of the complainant that Smt. Neelam Kumari, w/o Shri Baljeet Bansal should not have been granted loan based on ownership of ancestral land situated in Mauhal Ghagret, Up-Tehsil Bharwin. Shri Baljeet Bansal has rebutted the contention of the complainant by submitting that he is the owner of land in Mauhal Amlehar and Smt. Neelam Kumari being his wife was eligible for the grant of loan amounts against the land owned by her husband. In support of his submission, Shri Baljeet Bansal has produced copies of

Jamabandi showing land in the name of Smt. Neelam Kumari and as such she was eligible to receive loan amounts in her personal capacity as well. The Inquiry Officer has accepted the oral submission of Shri Baljeet Bansal corroborated by documentary evidence and observed that Smt. Neelam Kumari was eligible to receive loan amounts as she is resident of the area of operation of the Co-Operative Society and she is owner of land, both in individual capacity and also as member of Shri Baljeet Bansal's family.

The Inquiry Officer has also observed that the complainant has not substantiated by leading on record the documentary evidence that the Secretary has falsely shown one hectare land in the names of Smt. Neelam Kumari and Smt. Laj Banti, nor he could establish that the Secretary has falsely shown Shri Gurpal Singh owner of two hectares of land. On the basis of the oral and documentary evidence, the Inquiry Officer has concluded as under:—

“It can be clearly seemed from the analysis made in the above paras that the loans in question were advanced to persons having ownership of agricultural land. The loans were in the category of investment credit for direct agricultural activity *i.e.* land development. Further these loans were advanced in the year 2006 and were overdue on 31st December, 2007 & remained unpaid till 29th February, 2008. As such these loans fulfilled all the conditions under the agricultural Debt Waiver & Debt Relief Scheme, 2008 and have been rightly waived off”.

Having carefully considered the facts and circumstances of the case, as also the relevant provisions of Agricultural Debt waiver and Debt Relief Scheme, 2008, I am of the view that the complainant at this stage of preliminary inquiry has not substantiated his allegations of misuse of office position by the public servant and acts of omission and commission by the Secretary. Therefore, I do not find any good and sound reason to differ with the findings recorded and the conclusion arrived at by the Inquiry Officer, who has exhaustively dealt with and considered the grievances of the complainant based on proper appreciation of the oral and documentary evidence brought before him by the parties during the course of the inquiry proceedings. Hence, the inquiry report is accepted in its entirety. Now, no further action needs to be taken in this matter. Therefore, the complaint accordingly, shall stand filed.

However, I am making it clear that I have not expressed any opinion on the merits of the alleged grievances made by the complainant in this complaint and nothing said by me in this order should be interpreted or construed as an expression of opinion on the merits of the case. The complainant, if he so desires is at liberty to redress his grievances before an appropriate authority/forum in accordance with law.

Before parting with this matter, I place on record my appreciation to the Additional Registrar, Co-Operative Society, Himachal Pradesh, Dharmshala (Inquiry Officer), who has devoted his valuable official time in conducting the inquiry in transparent and fair manner.

Copy of this order be sent to the complainant and one copy be sent to the Additional Registrar, Co-Operative Society, Dharamshala Himachal Pradesh for information

47. Complaint No. 31/2014-I (A) Loka

12-08-2016

Dr. Virender Kumar Sood, the complainant herein is US based NRI. He has filed this complaint alleging inter-alia the misuse of scholarship funds donated by him in the year 2003 in the

memory of his parents and grandmother to set up three scholarships to the students belonging to the Sood Community who were studying in Govt. Senior Secondary School (GSSS), Amb through Shri K.S. Jamwal, the then Principal of the School with the understanding to keep the principal amounts intact and give scholarships out of the interest earned on the principal amounts. According to the complainant, a sum of \$ 1000 (Rs. 45,463/-) was donated by him in the year, 2003. After a short while Shri K.S. Jamwal, Principal was promoted to the post of Deputy Director of Education Department, Shimla, but he kept on checking with Shri K.S. Jamwal as well as other authorities in the School about the progress of the scholarships, yet he did not receive any response from any authority concerned.

The complainant has stated that in the year 2010, he made contribution of \$1000 (Rs. 52,227/-) to the School for the construction of Hall in the School in loving memory of his grandmother. During the year, 2010, he received a big surprise from the Principal GSSS, Amb that there was no scholarships money in the School which was allegedly donated by him in the year, 2003. Immediately, he contacted the Director of Higher Education of Himachal Pradesh about this discrepancy in the School, who was kind enough to investigate the matter and found out that the funds denoted by him to set up the scholarships had been mis-utilized by the School authorities. The Director of Higher Education directed the then Principal to recoup the money from elsewhere and set up the scholarships as desired by the complainant. But, the Principal had not taken any action on the direction of the Director of Higher Education. On the contrary, the Principal approached the complainant with a request to close the matter in the interest of the school and the sanity of the donation provided for the noble cause under intimation to the higher authorities. The complainant has presumed that both the authorities i.e. Director of Higher Education as well as Principal had retired and the matter was just kept pending without taking any action.

The complainant has further stated that in the meantime, the matter came to the notice of the press media and two letters were addressed to the Editor of "The Tribune" Chandigarh edition dated 18th July, 2012 and dated 25th November, 2012.

The complainant has stated that he kept on waiting for few months to get response from the Education Department, State of Himachal Pradesh, but to no avail. Therefore, he again approached the Joint Director and requested him to look into the matter. The Director of Higher Education had informed him that he got the matter investigated from the Deputy Director of Higher Education, Una and submitted the report to the higher authorities for further necessary action. The Special Secretary, Education after examining the report submitted to him made a decision that keeping in view the facts and circumstances of the case, no further action needed to be required in the matter. The decision of the State Government was never communicated to him. In the meantime, he approached Raja Vir Bhadra Singh, Chief Minister and handed over a note to him about this matter on 19th November, 2013. The note was in turn forwarded through the Principal Secretary of Higher Education to the Director of Education, but the Director of Higher Education thereafter had not bothered to send a reply to the Hon'ble Chief Minister.

The complainant has further stated that he took up the matter with the Principal Secretary, Education, Himachal Pradesh and told him that the matter was pending for such a long time and the Director of Education had not cared to give reply to his letter as well as E.mail. Consequently, he got a reply from the Director informing him about the decision taken by the Special Secretary, Education with a direction to close the matter. He objected to the decision taken by the Special Secretary, Education and after exchange of letters, Principal Secretary, Education had finally decided to recover the scholarships money. The newly appointed Director of Education had again

instructed the Principal to recoup the funds and set up the scholarships as desired by the complainant. Finally, the Principal GSSS, Amb had sent E.Mail to him intimating that there was no such student of a particular community in the school, therefore, the then Principal had disbursed the amount of scholarships to the students of poor family belonging to other communities. According to the grievance of the complainant, this was not the purpose for which the money was to be utilized.

On the above said premises, the complainant by way of this complaint has requested that suitable legal action shall be taken against the erring Principal of GSSS, Amb and or the other public servant who has mis- utilized the amounts of scholarships as he being a emotional as well as sentimental person, he wanted to do something for his country as well as to his parents and grandparents. The complainant has filed photostat copies of the relevant documents and clippings of newspaper and the copies of the E. Mails etc. in support of this complaint.

A copy of this complaint dated 13th May, 2014 was received by this office on 16-06-2014. Having gone through the nature of the allegations levelled against public servants of the Education Department, the Lokayukta vide order dated 18-06-2014 had requested the Director, Higher Education, Himachal Pradesh to submit reply to the contents of the complaint within a period of one month from the date of receipt of a photostat copy of the complaint accompanied by relevant documents. But, the Director of Higher Education has not cared or bothered to respond to the letter sent to him by the Reader to the Lokayukta conveying the order of the Lokayukta till 8th August, 2014 on which date further period of one month came to be granted to the authority concerned to do the needful positively.

Pursuant to the orders of the Lokayukta, the Additional Director of Education (A) Himachal Pradesh had addressed a letter dated Nil July, 2014 to the Principal GSSS, Amb, District Una asking him to submit the action taken report regarding disappearance of Rs. 98,463/- (Rs. 45,463/- + Rs. 53,000/-) provided by Virender Kumar Sood from USA for scholarships to the students. A copy of the said letter was endorsed to the Reader, Lokayukta.

The complaint file reveals that Reader to Lokayukta has sent as many as three repeated reminders to the Director, Higher Education but, no action taken report has been received from the concerned authority. In the mean time, letter dated September, 2014 addressed by the complainant to the Additional Director, Higher Education was received whereby he had informed the Additional Director, Education that he had clearly stated in his earlier letter that the Principal could give the scholarships to students other then students of Sood Community.

Pursuant to the order dated 27th February, 2015, the Additional Director, Higher Education (S) Himachal Pradesh vide letter dated 27th March, 2015 had asked the Principal GSSS, Amb to spend the amount of Rupees 45,463/- after getting it approved from Dr.V. K. Sood, complainant. However, he asked the Principal and Members of Scholarships Committee to submit the bills, vouchers/relevant documents regarding spending of Rs. 98,463/- provided for scholarship by Dr. V. K. Sood or deposit the interest part thereto from the year, 2003 to 2014 within two weeks. A copy of the said letter came to be endorsed to Reader, Lokayukta besides, Dr. V.K. Sood and other authorities.

In the mean time, Dr. V.K. Sood has submitted a letter dated 8th April, 2015 alongwith a copy of E.Mail received by him from the Principal GSSS, Amb seeking early finalization of his

complaint. The Lokayukta by detailed order dated 15-05-2015 has made repeated request to the Director, Higher Education, Himachal Pradesh to ensure compliance of the orders/directions earlier passed which were duly conveyed to him on different dates since June, 2014. He was requested to submit the desired action taken report without default, demur and delay within further period of one month from the date of receipt of a copy of the said order. Despite, the said order dated 15-05-2015, the Director of Higher Education has not taken any interest in responding to the order till 16-06-2015. Consequently, he was again reminded to comply with the directions/orders of the Lokayukta with true spirit and substance within extending period of one month from the date of receipt of communication of this office. The said order was duly conveyed to the authority concerned by reader on the same day. In the mean time, this office has received reminder letter dated 28th May, 2015 from Dr. V.K.Sood requesting the Lokayukta to get the matter resolved expeditiously as he is 82 years old man and he wanted to give respect to his late parents and tried to set up scholarships in their memory. The complaint file would reveal that on receipt of the letter of the complainant, the Lokayukta by order dated 16-06-2015 has again sent reminder No.-VI to the Director of Higher Education to comply with the earlier directions/orders of the Lokayukta with true spirit and substance without further delay within a period of one month from the date of receipt of communication from this office.

Pursuant to the said order, the Additional Director of Higher Education, Himachal Pradesh by letter dated 31st July, 2015, has informed the Principal Secretary, Lokayukta that four Members of the Scholarships Committee have decided that as the money was not spent by the school authorities as per the intention and will of Dr. V. K.Sood, therefore, for keeping the spirit and feelings of Dr. V. K.Sood in their mind, they have donated full amount of Rs. 45,463/- alongwith interest Rs. 23,427/- for establishing the scholarships in the school. The amount has been deposited in the bank account No. 20009031804 in the name of Principal GSSS Amb at KCCB, Amb. The second amount of Rs. 52,227/- donated by Dr. V. K. Sood has been utilized as per the conversation with Dr. V. K. Sood on 2nd February, 2015 and the plaque as per the wording cognate to his stated wordings has been placed on the wall and the photographs were mailed to him on dated 20th March, 2015. The Principal GSSS, Amb has received thanks giving mail from Dr. V. K. Sood from America for replacing the plaque. Hence, Dr. V. K. Sood was satisfied with the donation of \$ 1150/-. It was also decided to ask Dr. V. K.Sood from America to give his approval to utilize the amount of Rs. 45,463/- donated by him as per the three proposals enumerated in the said letter. Dr. V. K. Sood *vide* E. Mail dated 08-04-2015 has submitted that “matter is now with Lokayukta, Himachal Pradesh and Government will finalize this, he cannot do anything at this stage. In that view of the matter, the Additional Director of Higher Education in terms of the said letter has requested the Lokayukta to impart direction to the Directorate as to whether the first amount of Rs. 45,463/- donated by Dr. V. K.Sood in July, 2003 for selecting three students for getting scholarships was to be refunded to Mr. V. K. Sood or the amount has to be utilized in any of the three proposals so stated in the letter so that the matter could be settled once for all.

The Secretary, Lokayukta *vide* Air letter dated 11th August, 2015 has requested the complainant to respond to the status report in view of the proposals stated in the letter of the Additional Director of Higher Education dated 31st July, 2015 within a period of two months from the date of receipt of a copy of the communication from this office. A copy of the status report was also sent for his information and necessary action.

In response to the letter of this office dated 11th August, 2015, the complainant *vide* letter dated 21st September, 2015, has informed the Secretary, Lokayukta that he had no objection in

accepting the accord as offered by the Additional Director of Higher Education provided the figures in his letter are corrected to include the precise amount donated to set up scholarships and accrued interest on the said amount. He informed that he wanted the funds be returned to him. In addition to return of the fund, he has requested to hold the erring authorities responsible for the mis-handling of the donated funds during the past 12 to 13 years. He has also stated that the authorities concerned have not only caused heartache within his family, but more importantly depriving needy students from getting scholarships that could have made major differences in their lives.

Reader to Lokayukta vide confidential letter dated 22nd November, 2015 has furnished a copy of the letter dated 21st September, 2015 addressed by the complainant to the Secretary, Lokayukta to the Director, Higher Education requesting him to furnish the final action taken report on the subject matter in issue. Keeping in view all the contents of the said letters of the complainant, the final action taken report, was requested to be submitted within one month from the date of the communication of this office. In response to the said letter of this office, Director of Higher Education has sent a letter dated 16th November, 2015 to the Principal, GSSS Amb, with a copy endorsed to Reader, whereby the Principal was directed to furnish the final action taken report to the Directorate within a period of ten days. On receipt of copy of the said letter, reader to Lokayukta has sent copies of letter dated 22nd November, 2015 and letter dated 16th November, 2015 addressed by the Director of Higher Education to the complainant by Air for his information and necessary action. In response to the said letter, the complainant by letter dated 24th February, 2016 has informed the Secretary, Lokayukta that he has received Rs. 69,100/- donation amount alongwith the interest as calculated as per the date decided by the Director of Higher Education and not as per the date July, 2003, whereby, money was received by the Principal. He has also stated that unfortunately, the Lokayukta has not taken care of the accountability of the Director of Higher Education for delaying the matter and the actions of the Director of Education has made his family to suffer emotionally credited lot of care, anxiety and heartache. Looking to the feelings of the complainant as stated in the said letter, Lokayukta vide order dated 11-03-2016, again made request to the Director of Higher Education to look in to the feelings contained in letter of Dr. V. K. Sood, a copy thereof was sent to the Director alongwith confidential letter of this office. In the meantime, one more letter dated 26th March, 2016 has been received from the complainant, whereby he has intimated that he had accepted the accord with two objections i.e. the interest on the amount should be calculated from the date money was given to the School and not the date selected by the Director of Higher Education and second that the Director of Higher Education should also be held responsible alongwith the Principal who delayed the matter for 2-3 years. The Institution of the Lokayukta was left with no other option except to send photostat copy of the said letter to the Principal Secretary, (Higher Education) to the Government of Himachal Pradesh and the Director of Higher Education requesting the authorities concerned to comply the order of the Lokayukta dated 25-04-2016 in its true spirit and substance within a period of one month from the date of receipt of a copy of the communication so that the matter pending before the Lokayukta since June, 2014 shall come to an end.

The complaint file reveals that Director of Higher Education vide letter dated 22nd April, 2016 has informed the Principal Secretary, Lokayukta that the matter regarding scholarships amounts donated by Dr. V. K. Sood was enquired into through the Section Officer (F and A) O/o the Deputy Director of Higher Education, Una and submitted to the AD for taking further necessary action against the defaulters being a disciplinary authority of the Principals. Shri K. S Jamwal, the then Principal GSSS, Amb had expired on 02-07-2010, therefore, after examining the matter the

Administrative Department has decided that keeping in view the facts and circumstances of the case, no further action was required in the matter. Dr. V. K. Sood feeling aggrieved against these orders had represented again in the Directorate and also assailed these orders before the Lokayukta. Keeping in view the spirit and feelings of Dr. V.K. Sood, the Members of Committee have refunded the full amount of Rs. 45,463/- which was donated by Dr. V. K. Sood and the Principal GSSS, Amb was also directed to recover the simple interest thereon at the rate of 4% per annum w.e.f. 2003 to 2015 from the committee members. The Members of the Committee have also refunded the amount of interest at the rate of 4 % per annum i.e. amounting to Rs. 23,637/- w.e.f. 2003 to 2015. The total amount collected was Rs. 45,463+23,637/-i.e. 69,100/- and has been returned to Dr. V.K. Sood as per his request /letter on 30-12-2015 by the Principal GSSS, Amb. It is further stated that since Shri K. S. Jamwal, the then Principal, GSSS, Amb has expired, therefore, action against the defaulters would become null and void abinitio. A photostat copy of the reply submitted by Director of Higher Education to the Secretary (Education) to the Government of Himachal Pradesh dated June, 2012 and photostat copy of a receipt dated 30-12-2015 issued by Shri Rajan Sood, Advocate, Amb in token of receipt of Check No.- 278038 amounting to Rs. 69100/- on behalf of the complainant from the Principal, GSSS, Amb has also been placed on record.

The subject matter of the complaint has remained pending before the Lokayukta for want of action taken report from the Principal Secretary, (Education) as directed by order dated 25-04-2016, and one copy of the said order was also sent to the complainant on 26th April, 2016 for his information. In the mean time, the Principal Secretary (Education) to the State of Himachal Pradesh has been promoted to the post of Additional Chief Secretary (Education) and by order dated 15th June, 2016, the Lokayukta has reminded him to send the action taken report to the Secretary, Lokayukta within one month from the receipt of gist of the said order. Reader to the Lokayukta has sent a reminder confidential letter to the Additional Chief Secretary (Education) to do the needful within the stipulated period. In the meantime, letter dated 22nd June, 2016 has been received from the complainant whereby he has again requested the Lokayukta to hold Director of Higher Education responsible alongwith the Principal who have failed to properly set up the scholarships to the students causing them to suffer loses. Consequently, by reminder order dated 02-07-2016, the Lokayukta requested the Additional Chief Secretary (Education) to comply with the earlier orders dated 26-04-2016 and 01-06-2016 in true letter and substance without default, demur and delay within further period of one month from the date of receipt of copy of the order.

Pursuant to the said order, Joint Secretary (Education) vide letter dated 06-08-2016 addressed to the Reader, Lokayukta has informed that requisite action has been taken by the Director of Higher Education, Himachal Pradesh, which was earlier conveyed by letter dated 2nd April, 2016 on the basis of the inquiry being conducted by the Section Officer (F & A), O/O the Deputy Director of Higher Education, Una and the interest amount on first scholarships amount has been recovered and paid to the complainant. As desired by Dr. V.K. Sood, a stone depicting donation of Rs. 52,227/- has been fixed in the hall constructed from the Common Pool, M. P. fund and donation from Dr. V. K. Sood. Since, Shri K. S Jamwal the then Principal Secretary, GSSS, Amb has expired on 02-07-2010, no disciplinary action could be taken against the dead public servant. It is also reiterated that the matter has already been examined at the Government level and keeping in view the inquiry report, it has been decided that no further action was required in the matter. A photostat copy of the decision of the State Government has been conveyed by the Special Secretary, (Education) Government of Himachal Pradesh to the Director of Higher Education, Himachal Pradesh by letter dated 2nd March, 2012.

In view of the peculiar facts and circumstances narrated herein above, it becomes amply clear that the competent authority of the Education Department has already taken appropriate action in this matter. The then Principal GSSS, Amb may be negligent in performing his official duty in not complying with the wishes of the complainant to provide scholarships amounts to the students as desired by Dr. V. K. Sood, who has donated first scholarships amount of Rs. 45,463/- in the year, 2003. The complainant has received the entire scholarships amount of Rs.45,463/- with interest amount of Rs. 23,637/- *i.e.* total amount of Rs. 69,100/- from the year 2003 to year 2015 as requested by him. The grievances of the complainant were that the Principal (GSSS) and the Director of Higher Education who according to him were responsible for the acts of omission and commission in performing their official duties should be strictly dealt with in accordance with law. As already stated herein in above, the Principal has since died therefore, no disciplinary action can be taken against the dead public servant under relevant law of the land. There is not an iota of evidence on record to substantiate the allegations of mis-utilisation of the scholarships money by the school authority, Amb donated by the complainant in the year, 2003. There is also no evidence on record to substantiate that the then Principal or the Director of Higher Education were responsible for mis-appropriation of the scholarships amount. The scholarships amount donated by the complainant was to be provided to the deserving students on the recommendation of the scholarship committee constituted by the school authority for the said purpose. The allegations made by the complainant in this complaint on their face do not come within the definition of 'complaint' in terms of Section 2 Sub-Section-1 clause (b) of the Himachal Pradesh Lokayukta Act, 2014, (Act No. 23 of 2015). Clause(b) defines 'complaint' to mean a complaint accompanied by an affidavit, made in such form as may be prescribed alleging that public servant has committed an offence punishable under the Prevention of Corruption Act, 1988 or the Himachal Pradesh Prevention of Specific Corrupt Practices Act, 1983. The grievances raised by the complainant in this complaint followed by repeated request letters primarily are of civil nature and no action can be taken by the Lokayukta against 'public servant' if the allegations did not come within the definition of 'corruption' or mis-appropriation of the scholarships money donated by the complainant in the year, 2003, in terms of the above said provisions of laws.

In the backdrop, no further action needs to be taken in this matter, Hence, this complaint shall stand filed.

However, I am making it clear that I have not expressed any opinion on the merits of the alleged grievances made in this complaint against public servant(s) and nothing said by him in this order should be interpreted or construed as an expression of opinion on the merits of the case. The complainant, if he still feels aggrieved against the decision of the State Government, is at liberty to approach appropriate forum/Tribunal for the redressal of his grievances in accordance with law.

48. Complaint No. 26/2016-1-(A)-Loka

16.08.2016

This complaint has been filed by Shri Tara Chand complainant herein against the above mentioned revenue authorities of District Mandi. The grievances of the complainant against the revenue authorities are that they have committed acts of omission and commission in discharging their official duties. The complainant states that he has filed application dated 24.07.15 to the Deputy Commissioner Mandi, District Mandi making allegations of misappropriation of government funds by the Pradhan and Ward Member, Gram Panchayat Janaid. He has also alleged that Smt.Judhya Devi Pradhan has encroached upon government land on which she has constructed

residential house, cow shed and raised orchard etc. According to the complainant, all the illegal activities committed by the Pradhan and Ward Member of Gram Panchayat were brought to the notice of the Deputy Commissioner in the said application requesting the authority concern to conduct fair enquiry into the matter, but nothing has been done by him except forwarding the application to the sub Divisional officer (Civil), who inturn forwarded the said application to the Tehsildar, Sadar.

The complainant has not filed sworn affidavit in support of the contents of the complaint as provided under Section 2(b) of the H. P Lokayukta Act, 2014. However, the complaint is accompanied by Photostat copies of the application dated 24.07.2015 allegedly submitted to the Deputy Commissioner Mandi, District Mandi, containing the allegations of mis-utilization and misappropriation of the government funds by the Pradhan and Ward Member, followed by reminder dated 08.08.2014 and other communications addressed to the Conservator of Forest, Additional Deputy Commissioner Mandi, District Mandi, a copy of FIR No.42 dated 24.02.2015, lodged at Police Station, Sadar Mandi, against Shri Jinder Pal S/o Shri Bhagat Ram R/o Village Mandlog and Shri Pal Singh S/o Shri Vikram Ram R/o village Mandlog under Section 341/323 read with Section 34 of Indian Penal Code and copies of the documents submitted to the Block Development Officer, Block Development Office Balh, Nairchowk and District Panchayat Officer, Sadar Mandi District Mandi.

On scrutiny of the complaint, it was noticed that the same was not filed in accordance with the above said provisions of law. Therefore, Reader to Lokayukta vide letter dated 18.06.2016 has requested the complainant to prepare the complaint on Form No.1 supported by affidavit on Form No.2. The affidavit was to be prepared on non-judicial stamp paper worth Rs.3/- only and the same was to be attested by Notary Public or Oath Commissioner or Competent Authority. He was also advised to file the complete complaint after completing the desired formalities and others supporting document(s) If any, to the Secretary, Lokayukta within a period of one month from the date of receipt of a letter of this office. He was also advised that if he would feel any difficulty in understanding the procedural formalities as suggested to him, he was at liberty to visit the office of the Lokayukta or he could contact any official of the Lokayukta on telephone Nos. 262339 and 2624908 during office hours on any working day. Photostat copies of Form-I (Complaint) and Form-II (Affidavit) were also sent to him for ready reference and guidance.

The complaint file reveals that the complainant has not filed the desired complaint within the stipulated period. The matter was taken up for orders on 22.07.2016 on which date the Lokayukta has considered it necessary and expedient in the interest of fair play and justice to request the Deputy Commissioner Mandi, District Mandi to submit action taken report of the complaint followed by the reminders stated to have been sent to the authority by the complainant since July, 2015. The Deputy Commissioner, Mandi was requested to do the needful within a period of two months from the date of receipt of a copy of the order. Reader to Lokayukta, by register confidential letter dated 22.07.2016 has duly conveyed the said order to the Deputy Commissioner Mandi, for his information and compliance.

Pursuant to the order of the Lokayukta dated 22.07.2016, the Deputy Commissioner Mandi, District Mandi vide letter dated 06.08.2016 has submitted action taken report based on preliminary inquiry stated to have been conducted by the Tehsildar Sadar, in compliance to the order of the Sub-Divisional Officer(Civil) Sadar Mandi. The report reveals that the complainant has already filed a complaint to the Additional Chief Secretary (Revenue) Himachal Pradesh, which was

referred to the Deputy Commissioner on 14.07.2016, containing the same and similar grievances as made in the present complaint. The Deputy Commissioner has directed the Sub-Divisional Officer (Civil) Sadar, District Mandi to conduct suitable inquiry into the alleged allegations made in both these complaints. It appears from the record that the Sub-Divisional Officer (Civil) has further asked the Tehsildar, Sadar to hold preliminary inquiry into allegations made in the complaints. The contents of the action taken report submitted by the Deputy Commissioner would reveal that the Tehsildar has issued repeated notices to the complainant to be present before him for taking down his statement in support of the contents of the complaints, but he has failed to appear before the Inquiry Officer. The Tehsildar recorded the joint statement of Smt. Judhya Sharma, Ex-Pradhan, Gram Panchayat Jained, Shri Narayan Dass, ex-Member, Ward No. 3 and Shri Harish Kumar, S/o Shri Tek Chand. The action taken report also reveals that the complainant has snatched the copies of the oral statements of the witnesses recorded by the Inquiry Officer from the hands of the Patwari Halqa. The Tehsildar has also reported that so far the other revenue matters initiated by the complainant were concerned, demarcation has been conducted by the field Kanungo, Talihar in the presence of the forest officials and the encroachment file of Smt. Judhya Devi was pending before the Division Forest Officer, Mandi for decision. One more grievances raised by the complaint pertains to Mining Department and therefore, no inquiry was conducted by him. The Tehsildar has further reported that encroachment file of Smt. Jamuna Devi, W/o Shri Om Prakash, daughter-in-law of the complainant is pending before the authority for consideration. The other subject matters of the complaint pertain to the Police Department, Panchayati Raj Department, Forest Department and PWD Department which are to be dealt with by those authorities.

In the backdrop of the facts and circumstances narrated herein above the Inquiry Officer has addressed the grievances of the complainant partially as most of the grievances of the complainant pertain to different departments of the State. The allegations made by the complainant against the revenue authorities of District Mandi do not come within the definition of 'corruption' interms of the provisions of the Prevention of corruption Act, 1988 or the Himachal Pradesh Prevention of Specific Corrupt Practices Act, 1983. The action taken report is taken on record and is accepted. Hence, no cognizance can be taken on the basis of the present complaint by the Lokayukta for want of proper complaint interms of the provisions of H.P. Lokayukta Act, 2014(Act No.23 of 2015). The complaint accordingly, shall stand filed.

However, I am making it clear that I have not expressed any opinion on the merits of the alleged grievances made by the complainant and nothing said by me in this order should be interpreted or construed as an expression of opinion on the merits of the case. The complainant if he still feels aggrieved is at liberty to approach the appropriate authority/Forum for redressal of his grievances.

49. Complaint No. 36/2016-1 (A)-Loka.

22/08/2016

A photostat copy of unsigned complaint purported to have been preferred by Members of Staff Welfare Association, Himachal Pradesh High Court, Shimla to the Hon'ble Chief Justice, Supreme Court of India has been received by this office of 19-08-2016. The complainants have endorsed photostat copies of the said complaint to the high constitutional dignitaries and administrative heads of the Central Government and State Government respectively.

The complainant contains allegations of Mass Scale Bungling in the recruitment of the Staff of Himachal Pradesh High Court with the active and deep rooted involvements of Shri Prem Verma, Registrar-*cum*-Private Secretary to the Chief Justice and misuse of official position by him. The contents of the complaint are self-explanatory and need not be repeated herein.

The complaint suffers from legal infirmities as provided by the provisions of the Himachal Pradesh Lokayukta Act, 2014(Act 23 of 2015). Therefore, no action on the basis of this complaint can be taken by the Lokayukta. The complaint accordingly, is ordered to be filed without expressing any opinion on the merits of the allegations made against public servant of the High Court. A copy of this order alongwith a copy of the complaint shall be sent to the Registrar General of High Court of Himachal Pradesh for information and necessary action.

50. Complaint No. 28/2016-I (A) Loka

29-08-2016

This hand written complaint in Hindi language has been filed by Smt. Bimla Devi complainant herein supported by sworn affidavit duly attested by Public Notary, Government of Himachal Pradesh Shimla and photostat copy of complaint dated 12-04-2016 submitted by her to the Station House Officer (SHO), Police Station Sangrah and photostat copy of proceedings filed before the SDM Sangrah by the ASI, Police Post Nauradhar, U/S 107/150 CrPc against ten persons of Village Graw Kuftu, Tehsil Nauradhar and photostat copies of joint statements recorded by the ASI, Police Post Nauradhar during the proceedings of the case and photostat copy of application dated 19-05-2016 submitted by the complainant to the Deputy Commissioner Sirmour, requesting the authority to provide regular drinking water supply to her family members.

The complainant claims that she belongs to Scheduled Caste family. Shri Beli Ram, her husband is employed as Chowkidar in Veterinary Dispensary Shillai. Her children are school going and during day time she would live in her house alone. She alleged that on 02-04-2016 one Raju, s/o Shri Ran Singh has forcibly plugged/broken pipeline of drinking water supply connecting water tap which was in existence in her courtyard for the last about hundred years. Consequently, she has lodged a complaint to the Pradhan and Up-Pradhan of Gram Panchayat Sair-Tendula to this effect. But, both the office bearers of the Panchayat have not taken any action against the defaulter. She has filed complaints to the SDM Sangrah and to the Deputy Commissioner, District Sirmour, but both the authorities have not cared to provide any relief to her. She also stated that the Village people belonging to the upper caste have extended threats to her life.

On the above said premises, the complainant by way of this complaint has stated that her grievances shall be readdressed by the Lokayukta and justice be imparted to her.

Having gone through the contents of the complaint supported by sworn affidavit and other relevant documents on record, the Lokayukta by order dated 22-06-2016 requested the SDM Sangrah and the Deputy Commissioner District Sirmour to submit the latest status report(s) based on the proceedings initiated by ASI, Police-Post Nauradhar against the named persons as well as based on the allegations allegedly made by helpless woman belonging to the Scheduled Caste category to the Deputy Commissioner, District Sirmour, Nauradhar. Both the authorities were requested to submit the desired report(s) within one month from the date of receipt of a copy of this order without default, demur and delay. The complaint file would reveal that both the authorities

have not complied with the orders of the Lokayukta dated 22-06-2016 within stipulated period. Consequently, by order dated 27-07-2016, both the authorities were again requested to submit their action taken reports promptly and without further delay within one month from the date of receipt of a gist of the order from this office.

In pursuance to the aforesaid orders, the Sub-Division-Officer (C) Sangrah has submitted status report vide letter dated 06-08-2016 alongwith photostat copy of inquiry report furnished to him by the Naib-Tehsildar, Sub-Tehsil Nauradhar, who was directed by the Deputy Commissioner Sirmour to look in to the grievances of the complainant on the basis of the application allegedly filed by her on 19-05-2016 before the authority concerned.

The report of the Naib-Tehsildar Nauradhar reveals that he contacted Shri Beli Ram husband of Smt. Bimla Devi –complainant on telephone, requesting him to be present on the spot, but Shri Beli Ram had replied that as he was stationed at a distant place known as Kheri, therefore it was not possible for him to reach at the spot. He had also informed that the complainant had also gone to Dadhau. The Naib-Tehsildar being Inquiry Officer conducted the proceedings in the presence of as many as twenty six persons of Village Graw Kuftu including Shri Tapinder Singh, Pradhan and Shri Baldev Singh, Ex-Pradhan, Gram Panchayat Sair-Tandula. He has also recorded the statement of Shri P. C. Joshi, Junior Engineer, I & PH Department, Sub-Division Nauradhar as well as statement of Ms. Jyoti, D/O Shri Beli Ram, who was found present in her house at the time of inspection by the Naib-Tehsildar. In her statement Ms. Jyoti has stated that the I & PH Department has installed a drinking water supply tap in front of her father's house, but no water supply is being provided in the said tap nor water has been flowing in other drinking water taps installed in the Village because the drinking water pipes were found broken at several places. The Naib-Tehsildar has directed Shri P. C. Joshi, Junior Engineer, I & PH Sub-Division Nauradhar on spot to get the pipelines repaired on priority basis and provide drinking water to the people of the Village regularly without any interruption or break. The report would reveal that there exists natural water source at a distance of about 2500 meters away from the Village and all the inhabitants of the Village are compelled to fetch water from the said source for their domestic use, if the drinking water would not be available to them from the drinking water supply pipes. As Smt. Bimla Devi wanted to install separate drinking water pipelines from the said source to her house, the entire village people have objected to her demand and they have stated that they have got no objection, if the complainant and her family would also fetch drinking water from the natural source for their domestic use. The Naib-Tehsildar has stated that drinking water problem as alleged by the complainant has now been readressed at the spot.

The SDM Sangrah in his report has stated that proceedings in case No. 18/2016 titled State through Smt. Manju Chauhan, W/o Shri Rajesh Chauhan, R/o Village Graw Kuftu, Tehsil Nauradhar- Vs.- Shri Beli Ram and others U/S 107/150 CrPc. and case No. 19/2016 titled State through Smt. Bimla Devi, W/O Shri Beli Ram, R/o village Graw Kuftu, Tehsil Nauradhar- Vs.- Vineeta and others pending before the SDM, Sangrah shall be decided by the authority in accordance with law and procedure.

Pursuant to order dated 27-07-2016, Assistant Collector to the Deputy Commissioner, District Sirmour has submitted identical report dated 19-08-2016 to the Secretary, Lokayukta based on the report of Naib-Tehsildar, Nauradhar who was directed by the Deputy Commissioner to look into the grievances of the complainant in respect of the drinking water problem being faced by her.

Having independently examined the evidence of the witnesses recorded by the Naib-Tehsildar on spot and the status reports submitted by the SDO(C) Sangrah as well as by the AC to Deputy Commissioner Sirmour, District Sirmour, I find no plausible and good reason to differ with the findings recorded by the Naib-Tehsildar Sangrah and the conclusion arrived at by the authorities concerned. The status reports accordingly, are accepted in their entirety.

In the facts and circumstances, narrated herein above, no further action needs to be taken in this matter. Hence, the complaint shall stand filed, as the grievances of the complainant for providing drinking water to her, has been redressed by the Naib-Tehsildar on the spot. However, the SDM Sangrah is requested to expedite the proceedings of case Nos. 18/2016 and 19/2016 on priority basis in accordance with law.

51. Complaint No. 19/2016-I (A) Loka

08-09-2016

Shri Puran Singh Katoch and other 24 residents of Village Kaiya Bassa have filed this complaint against the above named office bearers of the Gram Panchayat alleging inter-alia that the above named office bearers have knowingly and intentionally abused their official positions as such to obtain un-due gains or favour to themselves or to cause wrongful loss to the public at large. They have alleged that these office bearers have mis-appropriated and embezzled the Government grants sanctioned for carrying out the development works for the welfare and benefit of the general public in the Gram Panchayat, Hathidhar. The grievances of the complainants are that despite repeated representations /complaints made to the Block Development Officer, Nurpur, the authority concerned has not taken any remedial action against the erring Panchayat office bearers.

On the above said premises, by way of this complaint, the complainants have requested that preliminary inquiry into the allegations is required to be got conducted through the Vigilance Department of the State Government, so that the culprits could be brought to books and punish according to law.

The complaint is supported by a sworn affidavit filed by Shri Puran Singh Katoch duly attested by Oath Commissioner, Nurpur alongwith photostat copies of the development works under taken by the Gram Panchayat Hathidhar and Gram Panchayat Bhallon during the year 2015-16, under Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) Scheme.

Having considered the nature of the allegations made by the complainants against the office bearers of the Panchayat, the Lokayukta by order dated 27-05-2016 has requested the Director, Panchayati Raj Department, State of Himachal Pradesh to conduct inquiry himself or get the matter inquired into through any officer not below the rank of Joint Director, Panchayati Raj Department stationed at Shimla and take all consequential actions in case allegations alleged in the complaint were found correct. The Inquiry report with action taken report and statements and documents if any, taken on record by the Inquiry Officer shall be sent to the Secretary, Lokayukta within two months from the date of receipt of a copy of the order.

The Director, Panchayati Raj Department, State of Himachal Pradesh has not submitted the desired report within the stipulated period. Consequently, by reminder dated 02-08-2016, the authority was requested to submit the desired inquiry report within further period of one month from the date of receipt of a copy of communication from this office.

In pursuance to the order dated 27-05-2016 followed by reminder dated 02-08-2016, the Joint Director-*cum*-Deputy Secretary Panchayati Raj Department) to the Government of Himachal Pradesh vide letter dated 23rd August, 2016 has submitted the inquiry report conducted by Shri Rakesh Korla, Joint Director-*cum*-Deputy Secretary, Panchyati Raj accompanied by photostat copies of the statements of Shri Tarveez Singh, Shri Babu Ram and Shri Tarseem Singh against whom the allegations are made in the complaint and statements of as many as five more persons of the Gram Panchayat as well as photostat copies of some more documents.

I have gone through the inquiry report and the documentary evidence brought on record by the parties during the course of the inquiry. The Inquiry Officer has formulated as many as ten allegations made by the complainants in the complaint against the office bearers of the Gram Panchayat and has recorded findings against each set of allegations. I do not consider it necessary to reiterate the details of the allegations, set out by the Inquiry Officer in the report. However, I have considered the findings and reasonings recorded by the Inquiry Officer in regard to each allegation.

Allegation Nos. 1 & 2:—The complainants have not wispered specific allegation of embezzlement of public funds by the office bearers of the Panchayat amounting to crores of rupees during the year 2013-16. The inquiry report reveals that the Inquiry Officer has inspected the relevant records of the works which was covered in MGNREGA shelf for 2016-2017 and the execution of the allotted works is yet to be started for the non supply of cement and other material and only spade work has been done on the spot. The Inquiry Officer had checked the progress of the works on spot in the presence of Shri Puran Singh Katoch, one of the complainant who could not substantiate the allegations of embezzlement and mis-appropriation of crores of rupees by the office bearers except for his bald statement made before the Inquiry Officer. Shri Puran Singh Katoch could not provide the details of the property allegedly acquired by Shri Tarveez Singh by embezzlement of Government money, whereas Shri Tarveez Singh has refuted the said allegation in his statement made before the Inquiry Officer. The Inquiry Officer has recorded that in the absence of specific details of the ill acquired property by Shri Tarveez Singh and for want of corroborative evidence, these allegations made in the complaint have not been substantiated.

Allegation No. -3:—As against allegation No.-3, the Inquiry Officer has stated that as per MGNREGA Scheme the guaranteed employment is provided to the Job Card Holders and the amounts accruing to them on account of earning of daily wages were credited into their accounts. The amounts could not be paid to the others as alleged in the complaint. The evidence of the labourers employed on the works would prove that only the residents of ward No. -3 were engaged in the execution of the works and the works have been suitably executed and completed. In support of his finding, the Inquiry Officer has recorded the statements of Shri Shiv Kumar, Shri Feenu Ram and Shri Naseeb Singh, who allegedly have worked alongwith other labourers of Ward No. 3 in execution of the development works.

Allegation No. 4:—As against allegation No. 4, the Inquiry Officer had inspected the drinking water ponds and found that the required ponds have been recently constructed. Hence, this allegation has also not been proved by the complainants.

Allegation Nos. 5 & 6:—Similarly, allegations No. 5 & 6 made against the office bearers of the Panchayat that they have mis-appropriated a sum of Rs. 24,000/- for the construction of two toilets provided for poor families could not be substantiated by the complainants before the Inquiry

Officer. The Inquiry report reveals that two toilets referred to in the complaint were checked by the Inquiry Officer in the presence of one the complainant and other officials /people who were present on spot and an amount of Rs. 12,000/- per toilet has been paid to the beneficiaries as per the norms laid down for the said purpose. The Inquiry Officer has enclosed details of the accounts in Annexures 10-11 alongwith his report.

Allegation No. 7:—As against allegations No.-7 in regard to the embezzlement of the funds provided for the construction of a road near the house of Smt. Surekha Devi is concerned, the inquiry report reveals that the Inquiry Officer had inspected the site in the presence of one of the complainant and office bearers of the Panchayat, beneficiaries and general public. On the basis of the statements of Smt. Surekha and other witnesses, it was noticed that the road had never been constructed in the past, whereas this work has been approved at serial No. 7 in the MGNREGA shelf for 2015-16 in respect of the Gram Panchayat, Hathidhar and the work is yet to be started. The complainants could not lead any evidence to substantiate the said allegation.

Allegation No. 8 :—Again, allegation No. 8 could not be substantiated by the complainant in regard to the construction of retaining wall for the benefit of Shri Joginder Singh, s/o Shri Mehar Singh. The inquiry report reveals that the Inquiry Officer had visited the site and it was found that work is yet to be started due to non receipt of cement for the erection of retaining wall. A sum of Rs. 1.5 lakh has been sanctioned for the said work and muster-rolls have been issued and till the date of inspection, an expenditure of Rs. 1782/- only has been incurred as entered at page No. 35 of the Measurement Book (MB). A copy of MB has been placed on record as Annexure-13 alongwith the inquiry report.

Allegation No. 9:—The complainant has failed to substantiate allegation No. 9 that an amount of Rs. 12, 000/- had been deposited in the account of Shri Kewal Singh, S/O Shri Puran Singh Katoch, complainant, whereas he has never worked under that scheme and later on the said amount was withdrawn from his account and deposited in BDO office. The Inquiry Officer has stated that an amount of Rs. 12000/- allegedly deposited in the account of Shri Kewal Singh, S O Shri Puran Singh Katoch, in fact was to be paid to Kewal Singh, s/o Shri Shri Jamita Ram, r/o Village Samlet and it was erroneously credited into the account of Shri Kewal Singh, s/o Shri Puran Singh Katoch due to wrong Adhaar Card linkage. After realizing the mistake, the amount has since been paid to the right person, therefore, there is no substance in the said allegation made in the complaint.

Allegation No. 10:—As against allegation No. -10 that the authorities to whom the complaint was lodged against the then Pradhan and Panchayat Secretary have not taken any action is concerned, the Inquiry Officer has stated that in fact the inquiry in this regard was fixed by the BDO, Nurpur on 23-04-2016, but it could not be conducted. As per the information given by the Panchayat inspector, Nurpur who was present at the time of inquiry, the BDO, Nurpur had fixed the next date of the inquiry on 09-08-2016.

On the basis of the oral and documentary evidence came before him, the Inquiry Officer has concluded as under :-

“None of the levelled charges was proved. Infact, most of the charges appear to have stemmed due to the ignorance about the provisions/instructions under MNREGA act The mere inclusion of any work in the MNREGA shelf does not guarantee its timely completion

because that depends on other factors also, *i.e.* availability of material and especially sufficient budget also. Most of the signatories in the complaint have deposed that they have not signed the complaint and that their signatures have been forged. (Annexure 8 & 9)".

Having independently scrutinized the inquiry report and on the basis of material, information and documents collected by the Inquiry Officer, I do not find any good and plausible reason to differ with the findings and the reasonings recorded by the Inquiry Officer and the conclusion arrived at in the inquiry report. The Inquiry Officer has exhaustively dealt with each allegation made by the complainants in the complaint and complainants have failed to produce sufficient evidence to substantiate the allegations levelled against the office bearers of the Panchayat. Hence, the inquiry report is accepted in its entirety.

Having given my thoughtful consideration to the facts and circumstances of the case, it appears to me that no further action needs to be taken in this matter under the provisions of the Himachal Pradesh Lokayukta Act 2014 (Act No. 23 of 2015).

However, it is made clear that the inquiry stated to be pending before the BDO Nurpur, duly noted by the Inquiry Officer, against allegation No. 10 in the inquiry report is concerned, the authority concerned shall proceed with and conclude the said inquiry un-influenced by any observation made in this order, in accordance with law.

52. Complaint No. 15/2016-I (A) Loka

15-09-2016

Shri Dharam Pal complainant herein claims to be a Priest (Poojari) of a Temple of local deity located in Village Deothat (Ladog). In this complaint he has stated that about 50 years ago, Block Development Office had got drinking water pipeline laid through his land for supply of water to his family and to the Temple premises for which the residents of the Village at that time had raised no objection.

The grievances of the complainant are that in the month of March, 2016, some Village people and a newly elected Ward Member have requested the Gram Panchayat to get the drinking water stored in a public tank and the office bearers of the Panchayat without consulting the complainant and one more priest who are performing pooja in the Temple, thus, have been deprived of the drinking water from the pipeline meant for them. The water tank was got constructed by the Gram Panchayat from the IPH Department of the State Government. The complainant and other Poojari of the Temple, as well as their family members are deprived of the drinking water due to dis-connection of their pipeline forcibly by the Village people. He accordingly, apprised the Pradhan, Gram Panchayat who responded that it was the demand of the public and Panchayat Members and as such he has declined to take any action against the culprits. He lodged a complaint to the police to the effect that the Village people have dis-connected his drinking water pipeline, but the police officials have also refused to take any action against the defaulters and tried to support the claim of the Village people instead. He further alleged that one separate water tap was also installed for his personal use, from the existing pipeline, but the Village people have dis-connected the same.

On the above said premises, the complainant by way of this complaint has requested that the office bearers of the Panchayat, Village people and the police may be directed to discharge

their duties, so that no untoward incident should happen on the spot and justice be done to him. The contents of the complaint are supported by sworn affidavit of the complainant duly attested by Shri V. K. Saklani, Advocate-cum-Notary Public, Shimla and photostat copy of Driving License of the complainant.

Having considered the nature of the grievances, the Lokayukta by order dated 29-03-2016, requested the Block Development Officer, Kunihar, Tehsil Arki to conduct preliminary inquiry into the subject matter and submit detailed report to the Lokayukta within a period of one month from the date of receipt of a copy of the order. The order was duly conveyed to the authority on the same day under registered confidential letter. The authority concerned has not bothered or cared to submit the desired report till 30-05-2016. Consequently, second detailed order came to be passed by the Lokayukta reminding the authority that it was legally bound to comply with and implement the orders /directions of the Lokayukta, who has to hold a judicial office and discharge functions akin to Judge's function. He was also reminded that such callous, in-different and perfunctory approach and attitude towards sensitive issue need to be corrected and improved. However, by way of indulgence, one more opportunity of one month from the date of receipt of a copy of the said order was granted to the authority to comply with the earlier orders in true letter and spirit.

It is a matter of great concern that the Block Development Officer, Kunihar has again failed to comply with the last order dated 30-05-2016 within the stipulated period. Consequently, having taken lenient view, final opportunity of one month was granted to the Block Development Officer, Kunihar for submitting the desired status report to the Secretary, Lokayukta and he was also reminded that non-compliance of the order dated 29-03-2016 can entail serious consequences as provided under Section 53 of the Himachal Pradesh Lokayukta Act, 2014(Act No. 23 of 2016). The said section deals with the jurisdiction, power and authority of the Lokayukta in respect of Contempt of itself as a High Court has and for this purpose the provisions of the Contempt of Courts Act, 1971 shall have effect. The case file reveals that the said order was also conveyed to the Block Development Officer on the same day under registered AD confidential letter.

Again, the BDO, Kunihar has failed to comply with the earlier orders till 20-08-2016 on which date a detailed order came to be passed by the Lokayukta requesting the authority concerned to comply with the earlier orders within further period of one month from the date of receipt of the last order and in default, the Lokayukta shall exercise the jurisdiction, power and authority under the provisions of the Contempt of Courts Act, 1971 without issuance of any notice to authority concerned to that effect. A copy of the said order was also ordered to be sent under registered AD cover to the Deputy Commissioner, Solan District Solan for his information and necessary action at his end.

Now, the BDO, Kunihar, District Solan vide letter dated 31st August, 2016, has submitted comments report based on a preliminary inquiry report conducted by Shri Chaman Lal, Sub-Inspector (Panchayat) Development Block, Kunihar and Shri Bhag Singh, Social Education-cum-Block Planning Officer, Block Kunihar alongwith hand written statement of Shri Dharam Pal complainant and statements of Shri Nek Ram, Shri Lalit Kumar Panchayat Member, Shri Amar Singh, Up-Pradhan Gram Panchayat and Smt. Kamlesh Kumari, Pradhan Gram Panchayat who were present before the Inquiry Officer at the time of holding of the inquiry.

Having independently examined the inquiry report, it appears that both the inquiry officers have visited the spot on 21-07-2016 and framed as many as fifteen points for consideration. The Inquiry report reveals that about 50-60 years ago, drinking water supply scheme had been provided

by Block Development Office, Kunihar for Village Deothat from natural source of water located on Government land but with the passage of time, drinking water was also supplied to the Village people of Village Ladog. Later on, The population strength of both the Villages have increased manifold and natural water sources have also started drying on the spot, resultantly, in the year, 2004-05 people of Villages Deothat and Ladog have jointly requested the Members of the Gram Panchayat, Kunihar to get one water tank constructed for storage of drinking water. The water store tank was constructed at the cost of Rs. 10,000/- but, the supply of drinking water could not be started due to some controversies. Besides Priests Shri Dharam Pal and Shri Joginder and their family members, majority of the people residing in the Village Ladog belong to different caste and community. Shri Dharam Pal and Shri Jitender have un-authorizedly connected pipeline to the tap installed in the corner of the above water tank which has hampered the smooth supply of drinking water to the rest of the Village people. The report on the basis of the oral evidence recorded by the Inquiry Officers, further reveals that before the drinking water pipeline was connected to the water tank, majority of the residents of the Village including the family members of the complainant were consulted and after their mutual consent, water tank was got constructed. The allegation of the complainant that he and his family members were not allowed to take water from the tap installed to the water tank has remained not substantiated and during the course of the inquiry it was revealed to the Inquiry Officers that on certain occasion, the complainant used to remove the utensils kept by the Villagers underneath the tap installed to the water tank for filling water and then he would start taking water after affixing his individual pipeline to the tank. The inquiry report also reveals that if any, co-villager would object to the action of the complainant, he would start mis-behaving with them. The water supply tank is nearest to the house of the complainant. The complainant has not substantiated his claim by leading any cogent and convincing evidence that he was provided independent drinking pipeline exclusively for his personal use or to the Temple of which he is one of the Priest. The complainant has also not substantiated the allegation that there is apprehension to his personal life from the Village people.

Having independently examined the evidence recorded and on the basis of material, information collected and Inquiry Officers, the complainant has failed to substantiate the allegations made by him in the complaint against the Village People and the office bearers of the Panchayat. The Inquiry Officers have fairly and in a transparent manner, conducted the inquiry after taking the oral statement of the complainant and other co-villagers including Pradhan and Up-Pradhan of the Gram Panchayat, on spot.

In the facts and circumstances, the inquiry report is taken on record. The Block Development Officer, Kunihar has reproduced the conclusion of the inquiry report in verbatim in his comments report. I do not find any sound and cogent reason to differ with the reasonings and findings recorded by the Inquiry Officers and the conclusion arrived at by them in their joint report. The subject matter of the complaint is not covered under the term of an 'offence' punishable under the Prevention of Corruption Act, 1988 or the Himachal Pradesh Prevention of Specific Corrupt Practices Act, 1983. Therefore, the complaint shall stand filed without expressing any opinion on the merits of the grievances made therein.

Before parting with this case, I am constrained to note that the administrative authority of the Block Development was expected to act swiftly and promptly to get the desired report completed. The authority is legally bound to comply with and implement or obey the orders/direction of the Lokayukta and under no circumstances; the casual and in-different approach can be tolerated. The importance of the orders/directions of the Lokayukta who has to hold judicial

office and discharge function akin to judge's function shall not be lightly taken. As stated herein above, the first order was conveyed to the Block development Officer as far as on 29th March, 2016 whereby he was requested to conduct inquiry into the subject matter of the complaint and submit detailed report within a period of one month from the date of receipt of a copy of the order followed by two reminder orders dated 31st May, 2016 and 5th July, 2016. It appears from the inquiry report that the Inquiry Officers got the inquiry conducted on 21-07-2016 before the last detailed order dated 20th August, 2016 containing three leaves came to be passed and a copy thereto was sent to the Deputy Commissioner, Solan, District Solan for information and necessary action.

Be that as it may, in the backdrop this complaint is ordered to be disposed off for the reasons stated in the earlier part of the order.

53. Complaint No. 31/2016-1(A) Loka

16-09-2016

Shri Chet Ram and his brother Shri Brikam Ram complainants herein have filed this complaint without sworn affidavit against Shri Poshu Ram alleging inter-alia that he has used JCB machine for construction work below their houses as a result thereof number of cracks have appeared in the walls of their houses and their houses may collapse at any time. They have alleged that despite their requests made to Shri Poshu Ram, he has not stopped the construction work and use of the JCB machine. According to the complainant(s), they belong to very poor family and are earning their lively hood with hard work and facing great difficulties. They have also alleged that they requested the S.D.M. Anni to stop Shri Poshu Ram from using the JCB machine, but the S.D.M. Anni had told them that he could not do anything in this matter and they were at liberty to redress their grievances before appropriate forum/authority in accordance with law. They have also visited the Police Station, Anni where the Police official(s) has asked them to settled the matter amongst themselves, but the opposite party has refused to listen to their grievances and threatened that they were free to take any action against him, if they so desired.

On the above said premises, the complainants, by way of this complaint has requested that justice may be imparted to them and appropriate action be taken against Shri Poshu Ram. The complainants have enclosed photostat copy of the representation dated 01.06.2016 made to the S.D.M. Sub- Division, Anni and photostat copy of the affidavit duly attested by the Pradhan, Gram Panchayat Takrasi, a daily station diary, Police Station Anni said to have been filed before the Police by the complainants and few photographs of the houses of the complainants which would reflect some cracks on the walls of the houses alongwith photostat copy of the Jamabandi for the year 2004-05.

On scrutiny of the complaint, it was noticed that the same has not been filed in accordance with the provisions of Section 2 Sub-Section (1) Clause (b) of the Himachal Pradesh Lokayukta Act, 2014 (Act No. 23 of 2015) as the contents of the complaint are not supported by a sworn affidavit nor the grievances made therein are in respect of public servant in terms of Section 13 (1) of Act No. 23 of 2015.

However, looking into the grievances of the complainant who allegedly belong to very poor family, Lokayukta by order dated 25.07.2016 has requested the Sub- Divisional Magistrate, Anni to redress the grievances of both the parties on spot and submit action taken report to the Secretary,

Lokayukta, Himachal Pradesh within a period of one month without default and delay from the date of receipt of a copy of the complaint and its enclosures.

Pursuant to the order dated 25.07.2016 the Sub- Divisional Officer (C) Anni has submitted his report dated 26.08.2016.

The contents of the report reveal that a piece of land of Shri Poshu Ram is situated below the houses of the complainants and he used JCB machine to prepare platform for construction of his house on the said land. He visited the spot in the presence of both the parties.

Having perused the revenue record, the Sub-Divisional-Officer (C) has noticed that the complainants and Shri Poshu Ram are brothers in relation and co-shares of land bearing Khasra No. 4906 measuring 13-04 Bighas situated in Phati Karshaigad, Tehsil Anni. Parties have privately/verbally partitioned their lands, but legally all are co-sharers of the lands and as per their statements, there is no dispute regarding possession/shares of lands. Houses of complainants are about 50 years old and they were residing peacefully therein.

The land in share of Shri Poshu Ram is located adjoining to the road, below the houses of the complainants. The complainants have claimed that Shri Poshu Ram should provide new houses to them as he has caused damage to their existing houses in which they are feeling unsafe to live. They have also stated before the Sub-Divisional Officer (C) that they have filed Civil Suit against Shri Poshu Ram in regard to the subject matter of the complaint, which is pending before the Civil Judge (Sr.) Division Anni, District Kullu. The statement of Shri Poshu Ram reveals that he started construction work of his residential house in the month of April on the land which is in his share and when the work of the protection wall was complete, the complainants asked him to stop the construction work and accordingly, he stopped work immediately. He has also admitted that houses of the complainants have developed cracks owing to levelling work of construction of his house and he was ready to get their houses repaired, but he is not in a position to provide new houses to them. Further, he stated that now the dispute is pending in the Civil Court. On the basis of the oral statements of the parties, the Sub-Divisional Officer (C) Anni has concluded that the subject matter of the complaint is of civil nature and the dispute is subjudice before the Civil Court Anni, photostat copy of the Jamabandi for the year 2004-05 and photostat copy of separate statements of Shri Chet Ram and Sh. Brikam Ram complainants as well as Shri Poshu Ram, opposite party are also enclosed alongwith the report.

Having independently examined the inquiry report and on the basis of material, information, documents collected by the Inquiry Officer, I do not find any good and cogent reason to differ with the findings recorded by the Sub-Divisional Officer(C) and the conclusion arrived by him in this report. In the facts and circumstances, the subject matter of the complaint is outside the scope and purview of the provisions of Himachal Pradesh Lokayukta Act, 2014. Complainants have already addressed their grievances before the Civil Court, Anni which shall be decided by the court in accordance with law.

However, I am making it clear that I have not expressed any opinion on the merits of the alleged grievances made in this complaint and nothing said by me in this order should be interpreted or construed as an expression of opinion on the case. Hence, the complaint shall stand filed.

54. Complaint No. 25/2015-1(A) Loka

19-09-2016.

Smt. Subhashna Devi complainant herein has filed this complaint against Shri Surender Kumar, Up-Pradhan Gram Panchayat Lakhmandal stating therein that road has been constructed on her land under Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) Scheme without obtaining NOC from her and the Government land bearing Khasra No. 78 has been shown 'Gairmumkin Rasta' but, the said Government land has been encroached upon by Shri Surender Kumar, Up-pradhan. The grievances of the complainant are that Shri Surender Kumar before contesting the election of Up-Pradhan Gram Panchayat Lakhmandal had filed an affidavit stating therein that he had not encroached upon any Government land and if it was found that he had done so, he should be removed from the post of Up-Pradhan. She alleged that she has lodged many representations before the higher authorities against the Up-Pradhan, but, since he has got friendly relations with the high political leaders, therefore, he has not been ejected from the encroached land nor he has been removed from the post of Up-Pradhan. The Up-Pradhan has repeatedly humiliated her and claimed that he has got cordial relations with the high ups and no administrative authority can take any action against him on any count.

On the above said premises, the complainant by way of this complaint has requested that appropriate legal action shall be taken against Up-Pradhan in accordance with law. The contents of this complaint are supported by an affidavit duly attested by Notary Public Nagroata Bhagwan. Photostat copies of this complaint made to the Panchayati Raj Minister, Government of India, Delhi, Chief Minister of Himachal Pradesh, Shimla, Revenue Minister, Himachal Pradesh, Shimla and Panchayati Raj Minister, Himachal Pradesh Shimla, photostat copies of order dated 22-12-2012 passed by Assistant Collector, 1st Grade Kangra against Shri Surender Kumar in proceedings U/S 163 of the Himachal Pradesh Revenue Act, 1953 whereby and whereunder he has been ordered to be ejected from encroached Government land bearing Khata No. 217 Min, Khatauni No. 295 Min, Khasra No. 78 area measuring 0-02-00 hectare, photostat copy of report of the Halka Patwari and Kanungo whereby Shri Surender Kumar encroacher had been ejected from the Government land on the spot in the presence of Shri Rajinder Kumar, Chowkidar and some other people and photostat copy of jamabandi (revenue record) for the year 2006-07 and photostat copy of the order of the Block Development Officer, Nagrota Bhagwan addressed to the Pradhan Gram Panchayat Lakhmandal and ledger account of the construction of road under the MGNREGA, are also enclosed with the complaint.

Having gone through the nature of the allegations made in the complaint against office bearer of the Gram Panchayat, Lokayukta by order dated 12-08-2015 requested the Director, Panchayati Raj Department, Himachal Pradesh to conduct preliminary inquiry into the matter himself or get the matter inquired into by the Joint Director/Deputy Director, Panchayati Raj Department stationed at Head Quarter. The Inquiry Officer was requested to take oral and documentary evidence if any led by the parties before him during the course of the inquiry and complete the inquiry within a period of two months from the date of receipt of a copy of the order. The inquiry report was to be submitted to the Director, Panchayati Raj Department, who was requested to take appropriate action thereon, if the allegations were found correct by the Inquiry Officer against the erring Up-Pradhan in accordance with law. A copy of the order was also ordered to be sent to the Deputy Commissioner, District Kangra at Dharamshala for information and necessary action.

The complaint file reveals that the Director, Panchayati Raj Department vide his office order dated 26-08-2015 has appointed Shri Rakesh Korla, Joint Director-*cum*-Deputy Secretary (Panchayati Raj) as Inquiry Officer. The Deputy Director, Panchayati Raj Department vide letter dated 16th November, 2015 has submitted inquiry report conducted by the Joint Director-*cum*-Deputy Secretary, Panchayati Raj to the Secretary Lokayukta alongwith photostat copies of the statements of Smt. Subhashana Devi complainant, Shri Surender Kumar against whom the complaint has been filed, Shri Narsingh Patwari, a copy of resolution of Gram Panchayat Lakhamandal dated 04-04-2016 and photostat copy of the appeal filed by Shri Surender Kumar before the Sub-Divisional Officer (C), Sub-Division Kangra against the order of the Assistant Collector 1st Grade Kangra and photostat copy of the order passed by Civil Judge (Sr. Division Kangra) on CMA No. 111 /2010 filed by Suresh Kumar, husband of the complainant against Shri Pawan Kumar, Shri Surender Kumar and others and some more copies of the orders passed by the revenue authority as well as by the Civil Court.

Having independently examined the inquiry report, material, information and oral and documentary evidence taken on record by the Inquiry Officer, it is revealed that the Inquiry Officer has formulated as many as four allegations contained in the complaint. A copy of resolution No.-4 dated 04-04-2010 (Annexure-5) would show that link road from Kaba Patihar to Lakhamandal (2 Km) had been constructed on the land of several persons who had donated about 8 feet of land for the construction of link road. During the discussion of the Inquiry Officer with the present Pradhan, it was revealed that the link road had been constructed from General and MGNREGA funds and about Rs. 33,00,000/- (33 lakh) have been spent including Rs. 18,36,776/- spent from the MGNREGA funds. The Pradhan and the Secretary Gram Panchayat have testified this fact by a document produced from Panchayat record. The copy of the resolution No. -4 would prove that when the link road was constructed on the land in question, it was being cultivated by Shri Amar Chand who has voluntarily donated the land for the construction of the link road and the road had already been constructed on it by the time Shri Surender Kumar had purchased it from the owners. The Pradhan informed the Inquiry Officer that this road would serve as a life line to more than 4600/- inhabitants of five Villages namely Maneharn, Lakhamandal-I, Lakhamandal-II, Charhi and Nyanda.

Shri Surender Kumar, Up-Pradhan has averred in his statement (Annexure-2) before the Inquiry Officer that the subject matter of the complaint was subjudice as the complainant has filed cases against him in Civil Court Kangra, Sessions Court, Dharamshala, before the Assistant Collector, Nagrota Bhagwan and SDM Court Kangra. In support of his statement, he has submitted copies of decision of the Civil Court in his favour (Annexure-7) and a copy of the order of Civil Judge, Kangra whereunder petition filed by Shri Suresh Kumar husband of the complainant has been dismissed with a finding that the petitioner had levelled in correct allegations against the Up-Pradhan as the path was already in existence on the said land. He has also filed a copy of the order recorded by SDM, Kangra (Annexure-9) by which the petition U/S 163 of the Himachal Pradesh Panchayati Raj Act, 1994 filed by Suresh Kumar against Shri Surender Kumar, Up-Pradhan has been dismissed. Shri Surender Kumar has also submitted a copy of the reply to the show cause notice issued by Deputy Commissioner-*cum*-Collector, District Kangra to him (Annexure-10) to the appeal allegedly filed against the order of the Assistant Collector 1st Grade Nagrota Bhagwan whereby and whereunder he was ordered to be ejected from Government land.

The Inquiry Officer has stated that the petition filed by Shri Suresh Kumar husband of the complainant against Shri Surender Kumar, Up-Pradhan U/S 163 of the Himachal Pradesh

Panchayati Raj Act, 1994 has been dismissed by SDO (C) Kangra on the question of disqualification arising post election process and in terms of question 122 2(ii) of Himachal Pradesh Panchayati Raj Act, which provided that any matter regarding disqualification of the PRI functioning arising after the election process was over, is to be decided by Deputy Commissioner. The Deputy Commissioner on dated 26-02-2015 has issued notice to Shri Surender Kumar and after he submitted his reply, an opportunity of being heard has been provided to him on 20-07-2015. DPO/DC has already initiated proceedings against Shri Surender Kumar, Up-Pradhan, but no further action could be taken by him as the revenue appeal against the order of the Assistant Collector 1st Grade, Nagroata Bhagwan dated 12-12-2015 whereunder he had been ordered to be ejected from the encroached land was pending before the Collector, Sub-division Kangra. The Inquiry Officer on the basis of the material on record has found that the allegation Nos. 2 and 3 were not substantiated by the complainant.

The Inquiry Officer visited the spot alongwith Patwari and on inspection, adjoining land was also found cultivated. Shri Surender Kumar encroacher has applied for the demarcation of land in question and the Tehsildar Nagroata Bhagwan and Patwari had visited the spot twice but the demarcation could not be completed on 5th and 11th July, 2015 due to heavy rains and the matter was postponed to November, 2015.

The Inquiry Officer having taken into consideration the entire oral and documentary evidence on record has concluded as under:—

“Hence, the clear picture would emerge after the completion of demarcation as proposed in November, 2015. It is true that as per section 122 (c) encroachment on government land by an office bearer of Panchayati Raj Institution or his family members attracts disqualification and in pursuance of the provision of Section 122 of Himachal Pradesh Panchayati Raj Act, disciplinary action to disqualify him had been initiated against the Up-Pradhan by the Deputy Commissioner/District Panchayat Officer. The show cause notice was served on him and after the receipt of his reply, an opportunity of being heard was provided to him, but the final action could not be taken because the order of the Tehsildar declaring Shri Surender Singh, encroacher on Government land, is under appeal. The complainant may apprise the D.C./DPO about the report about the demarcation by Tehsildar, Nagroata Bhagwan in order to facilitate further action in this matter by them”.

The record of the complaint reveals that Shri Surender Kumar, Up-Pradhan has filed appeal against his order of his eviction from the Assistant Collector 1st Grade Kangra directing the lower revenue authority to eject the encroacher from the encroached Government land.

In that view of the matter, the Deputy Commissioner at Dharamshala vide order dated 12-08-2015 was requested to take appropriate action against Shri Surender Kumar, Up- Pradhan under the Himachal Pradesh Panchayati Raj Act, 1994 and action taken report be submitted to the Lokayukta within one month from the date of receipt of copy of the order. The first order was followed by reminder orders dated 21-11-2015, 14-03-2016, 27-04-2016, 14-06-2016, 19-07-2016 and 27-08-2016.

Finally, the Deputy Commissioner Kangra, District Knagra at Dharamshala vide letter dated 12-09-2016 addressed to the Secretary, Lokayukta has furnished a photostat copy of the order dated 03-08-2016.

Having independently examined the inquiry report and on the basis of material, information and documentary evidence as well as order of the Deputy Commissioner, it has been noticed that the Deputy Commissioner has kept proceedings pending against Shri Surender Kumar, Up-Pradhan, U/S 146 of the Himachal Pradesh Panchayati Raj Act, 1994, as his appeal at the relevant time was pending before the SDM, Kangra against the ejectment order. The order of the Deputy Commissioner reveals that the SDM Kangra has accepted the appeal of Shri Surender Kumar and the matter stands remitted to the Assistant Collector (Tehsildar) Nagroata Bhagwan to decide the same in accordance with provisions of Section 163 of the Himachal Pradesh Land Revenue Act, 1954. The Deputy Commissioner has stated that in view of the order of the SDM, Kangra Shri Surender Kumar could not be held as encroacher upon Government land till the encroachment proceedings initiated against him and pending before the Assistant Collector (Dharamshala) Nagrota Bhagwan are decided by the authority concerned afresh and further that Shri Surender Kumar no more now is the Up-Pradhan of the Gram Panchayat Lakhmandal. Therefore, no proceedings U/S 146 of the Himachal Pradesh Panchayati Raj Act, 1994 can be initiated against him. The proceedings accordingly, were closed. Photostat copies of the order were also endorsed to the concerned authorities of the Panchayati Raj Department, Revenue Department besides Shri Suresh Kumar husband of the complainant and Shri Surender Kumar Ex- Up-Pradhan.

In the backdrop of the facts and circumstances narrated above, no further action needs to be taken in this matter under the Himachal Pradesh Lokayukta Act, 2014 (Act No. 23 of 2015). The subject matter of the complainant has been dealt with and inquired in to by the Panchayati Raj Department as well as by the revenue authorities of the Revenue Department of District Kangra. The complaint accordingly, shall stand filed.

However, I am making it clear that I have not expressed any opinion on the merits of the grievances made by the complainant in this complaint and nothing said by me in this order should be interpreted or construed as an expression of opinion on the merits of the case. The revenue authority(s) concerned is requested to decide the proceedings pending against the encroacher of the Government land independently, in accordance with law.

55. Complaint No. 24/2015-1(A) Loka

20.09.2016

Shri Bhagwan Singh complainant herein has filed this complaint against Shri Hukmi Ram, Pradhan Gram Panchayat, levelling inter alia seventeen allegations of corruption, misappropriation and mis-utilization of the public funds sanctioned to the Panchayat for the benefits and welfare of the general public of the Panchayat. The gist of the allegations are as under : —

1. That in the years 2011-12 and 2012-13 respectively, an amount of Rs. 2,11,276/- and Rs. 63,800/- had been sanctioned by the Government for the construction of concrete retaining wall for the Government Primary School (GPS) Sakholi, but proper wall has not been constructed on the spot.
2. That in the year 2011-12, the Government had sanctioned a sum of Rs. 1,39,110/- for construction of cemented road from Kamalti to Koryarhi, but the road was not constructed and instead the same road was shown as Koryarhi to Kamlati and

- Rs. 95,780/- have been shown having been spent on the construction of the said road, but 'pucca' road has still not being constructed on the spot.
3. That in the years 2010-11 and 2011-12, some amount had been shown having been spent on the construction on a Meeting/Conference Hall of GPS Sakholi, but no Meeting/Conference Hall has been constructed on the spot.
 4. That in the year 2010-11 an amount of Rs. 1,99,765/- was received for the construction of retaining wall starting from the house of Shri Roop Singh leading to the house of Shri Khatri Ram but, surprisingly a small wall has been constructed on the spot.
 5. That an amount of Rs. 1,72,139/- has been shown having being spent for the construction of 'pakka road' from Gawajun to Shikando but, there was no sign of road in existence on the spot.
 6. That in the year 2010-11, an amount of Rs. 2,10,000/- was received from the Government for the construction of retaining wall of Government Primary School Sakholi, but, only a small wall has been constructed on the spot.
 7. That irregularities were committed on the construction of Kacha road from Ruhana to Manal.
 8. That irregularities were committed on the construction of Kacha road Zoharh to Bakrarha Pania.
 9. That irregularities were committed on the construction of link road from Lalti to SC Basti Lavango.
 10. That irregularities were committed on the construction of Kuchal from Uryarhi to Lavago.
 11. That irregularities were committed on the construction of irrigation tank on the land of Shri Jagat Singh, S/o Shri Bija Ram.
 12. That irregularities were committed on the construction of 'Bawarhi' at village Kandi.
 13. That irregularities were committed on the construction of irrigation water tank on the land of Shri Sagar Singh S/o Shri Bhajan Singh.
 14. That irregularities were committed on the construction of irrigation water tank on the land of Shri Shobha Ram, S/o Shri Kalu.
 15. That irregularities were committed on the construction of Pakka road Ruhana near the house of Shri Kalyan Singh.
 16. That irregularities were committed on the construction of link road from the Mujholi to Shikando.
 17. That irregularities were committed on the repeated construction of street in Ruhana.

The contents of the complaint are supported by sworn affidavit of the complainant duly attested by Shri Raghuvir Singh Kapoor, Advocate, Oath Commissioner, Paonta Sahib and photostate copies of the details of the public schemes sanctioned to the Gram Panchayat Sakholi and Block Development Office Paonta Sahib for the years 2010-11 and 2012-2013 under Mahatma Gandhi National Rural Employment Guarantee Act (MANREGA) scheme.

Having carefully examined the nature of the allegations levelled by the complainant against Pradhan, Gram Panchayat Sakholi, the Lokayukta by order dated 09.07.2015 requested the Director, Panchayati Raj Department, Himachal Pradesh to conduct preliminary inquiry into the allegations himself or get the inquiry conducted by the Additional Director-*cum*-Joint Secretary/ Joint Director-*cum*-Deputy Secretary, Panchayati Raj Department. The Inquiry Officer was requested to record the statements of the complainant and his witness(s) if any, as well as the statements of the Pradhan and his witness(s), if any, produced by them during the course of the inquiry. In addition to the oral statements, the Inquiry Officer was at liberty to take on record documentary evidence, if any, placed on record by the parties before him. The desired inquiry report was to be completed within the period of two months from the date of receipt of a copy of the order and the inquiry report alongwith entire record was to be submitted to the Director, Panchayati Raj Department, who in turn shall submit the entire inquiry report and consequential action proposed to be taken against the erring Pradhan of the Gram Panchayat, if the allegations of misappropriation of government funds and or acts of corruption or misuse of the funds by the Pradhan *prema-facie* were substantiated against him during the course of the inquiry.

In pursuance to the order dated 9th July, 2015, the Joint Director-*cum*-Deputy Secretary, Panchayati Raj Department vide his letter dated 12.08.2015 has intimated the Secretary, Lokayukta that inquiry based on the complaint of Shri Bhagwan Singh complainant against Shri Hukmi Ram Pradhan, had been got conducted from the Block Development Officer, Paonta Sahib and as per the report of the Inquiry Officer, the allegations levelled against the Pradhan have not been substantiated. However, the Inquiry Officer has submitted that the Ex. Pradhan has misappropriated a sum of Rs. 1,22,700/- only sanctioned by the State Government for construction of protection wall to the Government Primary School Sakholi. On receipt of the inquiry report, the District Panchayat Officer, District Sirmour, vide letter dated 11.06.2015 has asked the Block Development Officer Paonta Sahib to get the amount of Rs. 1,22,700/- recovered from the Ex. Pradhan and report to that effect be submitted to the appropriate authority.

In view of the inquiry report furnished by the Block Development Officer and the information letter of the District Panchayat officer, the Director, Panchayati Raj Department was again requested by order dated 19.08.2015 to submit the latest action taken report to the Secretary, Lokayukta within further period of one month from the date of receipt of a copy of the order.

The complaint file reveals that after the receipt of the copy of the order of the Lokayukta dated 09.07.2015, the Director, Panchayati Raj Department vide order dated 21.07.2015 has appointed Shri Rakesh Korla, Joint Director-*cum*-Deputy Secretary, Panchayati Raj Department, Himachal Pradesh, as Inquiry Officer to inquire into the allegations made by the complainant in this complaint. The Joint Director-*cum*-Deputy Secretary (PR) to the Government of Himachal Pradesh (Inquiry Officer) has visited the Gram Panchayat and conducted inquiry on 10.09.2015 in the presence of the complainant Pradhan, Shri Suresh Chand Up Pradhan, Shri Raghuvir Singh, Member Panchayat, Ward No. 3 and Shri Satish Kumar, Secretary Gram Panchayat whose statements were recorded by the Inquiry Officer on spot and Photostate copies of status reports and

statement of the expenditure incurred by the Gram Panchayat on the construction of the walls and roads under BRGF and MANREGA Schemes. On completion of the inquiry report, the Inquiry Officer has submitted the same to the Director, Panchayati Raj Department vide letter dated 17.09.2015. The Joint Director-*cum*-Deputy Secretary, Panchayati Raj Department vide letter dated 21.09.2015 in turn has now submitted the report alongwith photostate copies of the statements of the parties and witnesses alongwith relevant vouchers and status report of the un-completed works /completed works on the spot.

Having independently examined the inquiry report, material and information, the Inquiry Officer has found allegation No. 1, duly proved against the Pradhan. Allegation No. 2 was not proved. Similarly, as against allegation No.3, the Inquiry Officer has found that a sum of Rs. 1,22,700/- under Head BRGF has been mis-utilized by the Pradhan as no Meeting/Conference Hall of GPS Sakholi has ever been constructed on the spot. Hence, this allegation stood proved. So far allegation Nos. 4, 5, 6 and 7 are concerned, the Inquiry Officer has held that those were not proved. Allegation Nos. 8, 9, 10, 11 and 12, are concerned, the Inquiry Officer has found that the allotted works on spot were under progress at the time of his inspection. So far allegation Nos. 13 to 16 are concerned, the Inquiry Officer has held that those allegations are not substantiated by the complainant.

Based on the detailed reasonings and findings recorded in the inquiry report, the Inquiry Officer has concluded as under :

“Hence, out of total 16 allegations against Shri Hukmi Ram, Pradhan, Gram Panchayat, Sakholi, 02 stand proved. In 7 works in respect of which complaint has been lodged, the work is under incomplete and in r/o remaining 7 works, the work was found complete. The Gram Panchayat Sakholi is one of the most backward Panchayats of the Paonta development block. It is about 15 Kms away from Sataun and from Sataun onwards is connected through jeepable road and the area remains inaccessible during the rainy season and even during the rest of the year, heavy rain accompanied by landslides disrupts the flow of traffic. Hence, the cost of construction is also quite high and considerable portion of the sanctioned amount gets spent on the transportation of the material. Moreover, the norms for sanctioning the amount for works are the same as in case of plain areas where the cost of construction is much less. The reason given for the non-completion of 7 works was the non-receipt and late receipt of the material due to the disruption of the vehicular traffic during the rainy season. But, the tenure of the present Panchayat is about to end, the works should be completed at the earliest.

The incomplete retaining wall in Govt. Primary school Sakholi should be completed immediately to avert any mishappening and ensure safety of the school children.

The amout released for the construion of meeting hall in Govt. Primary School Sakholi should be recovered from the concerned Pradhan and action as per the provisions of the H.P.Panchayati Raj Act should be initiated against the delinquent Pradhan/Panchayat officials”.

-Sd-
(RAKESH KORLA),
Jt. Director-cum-Inquiry Officer
(Panchayati Raj) to the
Government of Himachal Pradesh.

Having thoughtfully considered, the inquiry report, the Lokayukta *vide* order dated 06.10.2015 has requested the Director, Panchayati Raj Department to submit latest action taken report in regard to the amount allegedly misappropriated by the erring Pradhan, Gram Panchayat within a period of one month from the date of receipt of a copy of the order. The Director, Panchayati Raj Department has not bothered or cared to submit the desired action taken report despite the fact that reminder orders dated 15.03.2016, 28.04.2016, 31.05.2016 and last detailed order 04.07.2016 whereby and where under the administration authority of the Panchayati Raj Department has been reminded that it is its bounden duty to comply with and implement the directions/orders of the Lokayukta who has to hold judicial office and discharge functions akin to Judge's function in its true spirit and substance without default, demur and delay.

In pursuance to the above stated repeated orders of the Lokayukta, the Joint Director-cum-Deputy Secretary, Panchayati Raj Department *vide* his letter dated 09.09.2016 has submitted action taken report alongwith photostate copies of relevant letter dated 27.08.2016, written to the Director, Panchayati Raj Department by District Panchayat Officer, District Sirmour at Nahan, a photocopy of letter said to have been written by Shri Hukmi Ram, Ex. Pradhan, Gram Panchayat to the Block Development Officer Paonta Sahib and a photocopy of the letter written by the Head Master Government High School Sakholi to the Block Development Officer Paonta Sahib alongwith running assessment of expenditure under Head BRGPF (H.P.) spent by the Ex. Pradhan on the construction of building of Government High School Sakholi.

The final action taken report reveals that an amount of Rs. 1,22,700/- allegedly misappropriated by Shri Hukmi Ram, Ex.Pradhan, Gram Panchayat Sakholi was referred to the Block Development Officer Paonta Sahib for effecting recovery from the erring Pradhan under the provisions of Section 142 of the Himachal Pradesh, Panchayati Raj Act, 1994 as per the direction given by the Deputy Commissioner, District Sirmour. The Block Development Officer, Paonta Sahib *vide* letter dated 08.08.2016 informed the District Panchayat Officer that the construction work of building of Government High School Sakholi has now been completed by the Ex. Pradhan and the assessment of the work has duly been verified by the Junior Engineer concerned. The report would reveal that the Ex.Pradhan has spent an amount of Rs. 2,23,184/- on the construction of the building of Government High School Sakholi which was in- excess of the recoverable amount of Rs. 1,22,700/-. In view of the subsequent development, the department of the Panchayat Raj has decided that an amount of Rs. 1,22,700/- allegedly misappropriated by the Ex.-Pradhan has been adjusted against an amount of Rs. 2,23,184/- alleged to have been spent by him in the construction of the building of Govt. High School, Sakholi. In the facts and circumstances stated herein above, the alleged misappropriated amount ordered to be recovered from the erring Pradhan of the Gram Panchayat, has been settled on the spot. Hence, no further action needs to be taken in this matter and the complaint accordingly, shall stand filed.

However, I am making it clear that I have not expressed any opinion on the merits of the grievances made in this complaint and nothing said by me in this order should be interpreted or construed as an expression of opinion on the merits of the case.

56. Complaint No. 22/2016-1(A) Loka

30-09-2016.

This unsigned complaint has been preferred by some residents of housing Board Colony who have not disclosed their identity. The contents of the complaint are also not supported by an affidavit as provided under the provisions of the Himachal Pradesh Lokayukta Act, 2014 (Act No. 23 of 2015).

The facts in brief are that Shri Jagdev Singh is employed as a driver in the office of the Superintending Engineer, HPPWD Nahan. He has been allotted official residential accommodation in HPPWD, Resident's Colony Nahan. According to the complainants, Shri Jagdev Singh is the owner of two storey house located in Mohalla Govindgarh Nahan, but he has procured Government residence and is residing their alongwith his family members. The complainants have alleged that all those employees working in the office of the Superintending Engineer, HPPWD Nahan belonging to some other place(s) have been deprived of the Government residential accommodation in Nahan, Whereas Shri Jagdev Singh being owner of a residential house at Nahan, is occupying official residence which is against the policy and rules of official housing accommodations.

The grievances of the complainant are that they have been facing shortage of drinking water supply in their locality, whereas Shri Jagdev Singh has installed heavy duty motor to get thousands liter of drinking water from his official residence water supply connection. He is the owner of one tractor trolley bearing registration No. HP 71-1042 and two water supply tankers. The complainants have alleged that Shri Jagdev Singh has been selling about 10 tankers daily of drinking water to the people of Nahan town at the rate of Rs. 1000/- or Rs. 1200/- per tanker from the water supply connection of the IPH Department provided to his quarter. They have also alleged that all the employees and officers of the HPPWD Nahan are in the know of the illegal activities of Shri Jagdev Singh, who has committed theft of the drinking water being provided by the IPH Department. The complainants have further stated that Shri Jagdev Singh being driver of the HPPWD has earned huge amount of money by this illegal transaction.

On the above said premises, the complainants by way of this complaint have requested that Sh. Jagdev Singh shall be got immediately transferred from Nahan to some other District and the Government accommodation allotted to him shall be got cancelled forthwith.

As noticed in the earlier part of this order, this complaint suffers from legal infirmities. However, having considered the nature of the allegations made by residents of Housing Board Colony, Amarpur, Nahan against a public servant, the Lokayukta by order dated 24-05-2016 requested the Superintending Engineer HPPWD Circle, Nahan to hold inquiry himself or get the inquiry conducted by Executive Engineer concerned into the allegations levelled against the employee of his department. The Inquiry Officer was requested to record the statement(s) of the aggrieved resident(s) of Amarpur and Shri Jagdev Singh against whom this complaint has been made and his witness(s) if any, examined during the course of the inquiry. The inquiry report alongwith the statement(s) and document(s) if any, brought on record by the parties before the Inquiry Officer were to be submitted to the Secretary, Lokayukta within a period of two months from the date of receipt of a copy of the order.

Reader to the Lokayukta, has sent a copy of the order alongwith photostat copy of the complaint to the Superintending Engineer, HPPWD Nahan Circle on the same day.

The complaint file would reveal that no desired action taken report has been submitted by the SE 12th Circle HPPWD Nahan till 26-07-2016 on which date one reminder was sent to the authority concerned to do the needful within further period of one month from the date of receipt of a communication from this office. Again, on 15-09-2016 the SE -12th Circle HPPWD Nahan by order dated 15-09-2016 was reminded to act swiftly and promptly in complying with the earlier orders of the Lokayukta in their true spirit and letter. The willful defines of the orders would entail serious consequences under the Contempt of Courts Act, 1971. However, by way of indulgence,

last opportunity of one month was granted to the authority concerned to comply with the earlier orders without default demur and delay. Reader to Lokayukta has duly conveyed the said order to the authority on the same day. Now, the Superintending Engineer vide letter dated 17-09-2016 has submitted the inquiry report conducted by a Committee constituted by The Executive Engineer, Nahan.

The contents of the letter of Superintending Engineer reveal that the Committee constituted for the purpose do not indicate any kind of illegal action being committed by Shri Jagdev Singh Driver, and therefore, according to the SE, there is no case for taking disciplinary action against him. The Superintending Engineer has enclosed a copy of the letter dated 03-09-2016 addressed to him by the Executive Engineer, Nahan alongwith a photostat copy of the inquiry report and some other documents taken on record by the committee during the course of inquiry.

It appears from the complaint record that Superintending Engineer, 12th Circle HPPWD Nahan by letter dated 04-06-2016 has requested the Executive Engineer HPPWD Nahan Division to enquire into the matter as directed by the Lokayukta by order dated 24-05-2016 in its true spirit and substance and submit the facts finding report alongwith comments within two weeks so that action taken report could be sent to the Lokayukta. A copy of the complaint and its enclosure were sent to the Executive Engineer for necessary action and compliance. The Executive Engineer, HPPWD Division, Nahan has written a letter dated 27-06-2016 to the Executive Engineer, IPH Division, Nahan requesting him to depute a Assistant Engineer or Junior Engineer IPH Division, who could be involved as a member of the Committee since the allegations of theft of water from Government pipeline was levelled by the residents of Amarpur against a driver of the Himachal Pradesh Public Works Department, Nahan. By office order dated 04-08-2016, the Executive Engineer Nahan Division, H.P. Division Nahan has constituted inquiry committee consisting of the following officers :

- | | | |
|---------------------------------------|---|-----------------|
| (1) Assistant Engineer Nahan | - | <i>Chairman</i> |
| (2) Sh. Pradeep Thakur, JE. IPH Nahan | - | <i>Member</i> |
| (3) Sh. Jai Gupta, JE. HPPWD | - | <i>Member</i> |
| (4) Sh. Dalvir Singh Rana, JE. HPPWD | - | <i>Member</i> |

The inquiry committee accordingly has conducted the inquiry and submitted its report to the Executive Engineer HPPWD, Nahan, who in turn by letter dated 03-09-2016 has submitted the inquiry report to the Superintending Engineer, HPPWD Circle Nahan. As stated above the Superintending Engineer *vide* letter dated 17-09-2016 has submitted the inquiry report to the Secretary, Lokayukta, Himachal Pradesh.

Having, independently considered the inquiry report of the Committee, I do not find any good and sound reason to differ with the findings and reasonings recorded by the inquiry Committee and the conclusion arrived at in the inquiry report. During the course of the inquiry, the inquiry Committee has found that Shri Jagdev Singh, Driver has not got independent house in his name or in the name of any family member in Mohalla Govindgarh, Nahan as alleged by the complainants. Shri Jagdev Singh driver has made verbal statement before the inquiry Committee that he is a resident of Village Kun, Tehsil Nahan, District Sirmour which is situated about 14-15 Kms. from Nahan *i.e.*, place of his present posting. In support of his defense, he has submitted photostat copy of Rashan Card issued by Panchayat Ban Kala in support of his permanent residence. He has also filed a photostat copy of an affidavit of his father Shri Gursewak Singh to

prove that Shri Gursewak Singh has constructed a house in Mohalla Govindgarh, Nahan consisting of two rooms on the ground floor and two rooms on the 1st floor in which his three sons and their families along with his wife and one daughter are residing and due to shortage of space in that house his son Jagdev Singh has constructed his one room house at Village Kun, Tehsil Nahan.

The Committee members have recorded their findings that on spot they have not found any illegal water supply connection at the official residence of Shri Jagdev Singh driver, and also in the surroundings of his quarter. One water supply connection was provided from a tank which was placed in the adjoining structure of the Government accommodation. Shri Jagdev Singh is getting water from the said water connection of the water tank and no other water storage tank was found installed around the peripheral of his quarter. The Committee Members have not received any evidence to prove that Shri Jagdev Singh has been making use of heavy duty motor for grabbing water illegally from the water supply connection. Therefore, the allegations of the complainants that Shri Jagdev Singh has illegally been selling the drinking water from the water supply connection provided by IPH Department at his official residence are not substantiated. During the course of the inquiry, Shri Jagdev Singh, driver has also stated before the Committee Members that he does not own any tractor trolley registered in his name, but he has admitted that one tractor with trolley having registration No. HP-71-1042 is owned by his wife Smt. Jasvir Kaur. He has also denied the allegations of the complainants that he has owned water supply tanker.

On the basis of the facts collected by the Inquiry Committee on the spot, the Committee has concluded that the water supply connection provided in the official residence of Jagdev Singh, driver is genuine and he is using drinking water for himself and his family members as per their daily need and requirement. The inquiry report is duly signed by all the four Committee Members. The Inquiry Committee has placed on record photostat copy of Rashan Card issued by Panchayat to Jagdev Singh, driver as well as photostat copy of the affidavit of Shri Gursewak Singh, father of the complainant and a photostat copy of certificate of registration of tractor No. HP 71-1042 owned by Smt. Jasvir Kaur, w/o Shri Jagdev Singh, driver.

In the facts and circumstances, stated above, I do not find any prima-facie case to proceed against Shri Jagdev Singh, driver under the provisions of the Himachal Pradesh Lokayukta Act, 2014 (Act No. 23 of 2015). No resident of Amarpur, Nahan has appeared before the Inquiry Committee to substantiate the allegations made in this complaint against Jagdev Singh, Driver. Hence, no further action needs to be taken in this matter. The complaint accordingly shall stand filed.

However, I am making it clear that I have not expressed any opinion on the merits of the grievances made in this complaint by the residents of Amarpur Nahan, District Sirmour against Shri Jagdev Singh and nothing said by me in this order should be interpreted or constructed as an expression of opinion on the merits of the case. The aggrieved resident(s) of Amarpur, Nahan is at liberty to redress his /their grievances before an appropriate authority/forum in accordance with law.

Before parting with the case, I consider it opposite that the Superintending Engineer, HPPWD Circle, Nahan has not understood the importance of the order dated 24-05-2016 in its true spirit and substance. By the said order, the Superintending Engineer, HPPWD 12th Circle, Nahan was plainly and in terms requested that he shall hold inquiry himself or get the inquiry conducted through the Executive Engineer concerned in to the allegations levelled against the driver of

HPPWD, 12th Circle, Nahan. The Executive Engineer, HPPWD Nahan, to whom the inquiry was entrusted by the Superintending Engineer, *vide* confidential letter dated 04-06-2016 has not bothered or cared to comply with the directions of the superior authority properly, but instead of conducting the inquiry himself, he has further delegated the authority of conducting the desired inquiry to a Committee of four members whose designations and ranks are admittedly below the designation of the Executive Engineer concerned. This action of the Executive Engineer concerned is contrary to the well settled service jurisprudence nor can it be said in the interest of aggrieved parties, besides being against the direction of the higher administrative authority.

Reader is requested to send a copy of this order to the Superintending Engineer 12th circle HPPWD, Nahan, District Sirmour for information.

57. Complaint No. 14/2016-1(A) Loka

06-10-2016.

Shri Budh Ram complainant herein has preferred this complaint alleging allegations of preparation of false bills and cash memos *etc.* by Smt. Parwati Devi, Ex-Pradhan Gram Panchayat in-connivance with Junior Engineer and other persons who were near and dear of the Ex-Pradhan engaged on Muster Rolls for execution of development works in the Panchayat.

The complainant has alleged that a water tank was to be constructed on his land comprising khasra No. 3405 ad-measuring two bighas, ten biswas, by the Sub-Divisional Officer (SDO), Soil Conservation Officer, Rampur Bushahr under Head IWMP Scheme, but no such tank was ever constructed on the spot. The concerned Junior Engineer has made wrong entry to that effect in the Measurement Book (MB) No. -3776 without mentioning date of commencement and completion of the alleged water tank and thereby he has prepared false documents and committed fraud. He has stated that the budget sanctioned for construction of the said water tank under Head IWMP has been siphoned by the Ex-Pradhan in-connivance with the Junior Engineer. Resultantly, the complainant was compelled to get the water tank constructed on his land by spending money from his pocket and now he has been regularly using water there from. The complainant has stated that the statement of the Junior Engineer recorded by Inspecting Officer of Block Development Office has clearly established that the entry in the record has been made for the construction of the water tank on the land of the complainant sanctioned by the Soil Conservation Department. The Ex-Pradhan at the relevant point of time had constituted a Committee comprising six members including the complainant, but he was never asked to attend the meeting of the Committee so that the fraud committed by the Ex-Pradhan and the Junior Engineer could not be disclosed to the Committee Members. The complainant alleged to have submitted an application to the Block Development Office, Anni and copy thereto was endorsed to the Deputy Commissioner, Kullu, District Kullu, requesting the authorities concerned to get the inquiry conducted into the matter. Shri Jug Mohan, Panchayat Inspector accordingly, was appointed Inquiry Officer who record the statements of the complainant, Shri Chet Ram, Junior Engineer, Secretary Panchayat, Pradhan and other Members of the Committee. As per the statement of Shri Chet Ram, Junior Engineer, has clearly stated that at the relevant point of time Pradhan had shown him the tank constructed on the land of the complainant and on that basis, he made entry in the MB No. 3776 and payment accordingly was made. This fact has also been confirmed by the Panchayat Inspector in his inspection report. According to the complainant, S/Shri Hari Ram, Madan Lal, Sohan Lal and Kaul

Ram have in their joint statement have disclosed that the water tank was constructed on the land of one Shri Hari Ram for which no codal formalities such as an under taking from the owner of the land, copies of Jamabandi and Tatima were not taken on record. Shri Raj Kumar, Panchayat Secretary in his statement has admitted that the then Pradhan had given him copy of Jamabandi and Tatima of the land owned by the complainant for the constitution of water tank. Muster-Roll was issued in the name of the Pradhan, but he has shown his ignorance about the construction of the water tank on the land of the complainant. Similarly, Shri Dinesh Kumar, Ward Panch has made a statement that he is not aware of the construction of the water tank on the land of the complainant. The complainant has stated that Smt. Parwati Devi, Ex-Pradhan has made false statement before the Inquiry Officer that the land selected for the construction of the water tank was a Government land encroached upon by the complainant and her statement is contrary to the revenue record *i.e.* Jamabandi and Tatima issued by the Halka Patwari which was proved that the land was owned by the complainant.

The complainant has further stated that the inquiry report being submitted by the Assistant Engineer (Development) office of the Block Development Officer, Anni dated 30-04-2015 would reveal that the measurement of the size of the water tank as per DPR has to be 3×3×2 meters and measurement as recorded by the Junior Engineer, Incharge of the same tank in M.B. No. 3405 was 4.10 × 4 × 10 × 1.5 meters. Later on, Assistant Engineer (Dev.) had assessed the value of the water tank of Shri Hari Ram measuring 2.40 × 2.40 × 1.70 meters. Thus, the measurements of both water tanks would differ to each other. He stated that no water tank was ever constructed on his land as well as on the land of Shri Hari Ram.

On the said premises, the complainant by way of this complaint has requested to get an independent inquiry conducted into the subject matter in issue and the erring Ex-Pradhan, Junior Engineer and others who are found to be involved in the illegal activities and corruption, shall accordingly, be punished in the interest of justice. The contents of the complaint are supported by an affidavit duly attested by Executive Magistrate Anni, District Kullu and various documents.

Having gone through the nature of the allegations made against the Ex-Pradhan and the Junior Engineer concerned, the Lokayukta by order dated 26-09-2016 requested the Deputy Director-cum-Project Officer, DRDA to whom detailed inquiry report was already submitted by the Assistant Engineer (Development) Anni, to submit action taken report if any, on the basis of the said inquiry report dated 24-07-2015 within a period of one month from the date of receipt of a copy of the order.

In response to the order dated 28-03-2016, Shri Bhanu Gupta Deputy Director-cum-Project Officer, DRDA Kullu vide letter dated 28-04-2016 has submitted the desired action taken report. The conclusion arrived at by him reads as under:

“In view of the above reports of the Assistant Engineer (Development) Anni, there appears no possibility of embezzlement of Govt. funds. However, the Junior Engineer (Watershed) Shri Chet Ram has assessed the tank which was constructed by Soil Conservation Deptt. and further measurements taken by the Junior Engineer in his M.B. does not resemble with the measurement taken by the Assistant Engineer (Development) Anni. So the enquiry report will be put up to the appointing authority *i.e.* ADM-cum-Project Director, DRDA Kullu for taking necessary action against the Junior Engineer concerned”.

Based upon the report of the Deputy Director-cum-Project Officer DRDA Kullu, the Lokayukta by order dated 13-05-2016 has requested the ADM-cum-Project Director (DRDA) Kullu to submit final action taken report in the matter, if any, taken by the authority against the erring J.E. within a period of one month from the date of receipt of copy of the order without default, demur and delay.

The ADM-cum-Director-DRDA has not cared or bothered to submit the desired final action taken report within the stipulated period. Consequently, two reminder letters dated 21-06-2016 and 26-07-2016 respectively were sent to him for doing the needful within further period of one month from the date of receipt of the reminders. Shri Vinay Singh, the ADM-cum-Project Officer, DRDA Kullu vide his letter dated 26-09-2016 has informed that point wise reply with reference to the letter of this office dated 21-06-2016 has already been submitted to this office vide his office letter of even No. 1880 dated 01-08-2016 through E.mail as well as through registered post. The report of Reader to Lokayukta, reveals that on checking of E-Mail of this institution, in fact no point wise reply dated 01-08-2016 through E.mail has been received by this office. Now, Shri Vinay Singh ADC-cum-Project Director, DRDA Kullu vide his letter dated 26-09-2016 has submitted a photostat copy of the final action taken report based on the inquiry report submitted to him by the Deputy Director-cum-Project Officer, DRDA Kullu.

Having independently examined the final inquiry report, it reveals that the authority has issued show cause notice to Shri Chet Ram, Junior Engineer (watershed) Development Block Anni, District Kullu dated 03-05-2016 asking him to explain his position.

Shri Chet Ram, Junior Engineer (watershed) has accordingly submitted his point wise reply to the show cause notice. Having considered the reply of Shri Chet Ram, Junior Engineer (watershed) the competent authority vide office letter No. DRDA KLU IWMP -2016-17-1737 dated 25-07-2016 has ordered Shri Chet Ram, Junior Engineer to deposit balance amount of Rs. 6,190/- only since valuation of the water tank done by the Assistant Engineer (Development) Anni would come to Rs. 62,210/- whereas assessment made by the Junior Engineer (watershed) was Rs. 68,400/- only. Therefore, excess payment of Rs. 6,190/- only was released due to the carelessness and negligence of Shri Chet Ram, Junior Engineer (watershed) and further he has been warned not to repeat such kind of negligence and maintain discipline towards his duties in future otherwise next disciplinary action would be taken against him.

In view of the final decision taken by the ADM-cum-Project Director, DRDA Kullu against erring Junior Engineer(watershed) whereby and whereunder Shri Chet Ram, Junior Engineer has been directed to make the payment of excess amount of Rs. 6,190/-, no further action needs to be taken in this matter. During the course of the inquiry, the complainant could not substantiate the allegations of corruption and embezzlement of the public funds by Smt. Parwati Devi, Ex-Pradhan, Gram Panchayat or against Shri Chet Ram, Junior Engineer concerned who has only been held negligent and careless for the payment of excess amount of Rs, 6,190/- only which shall be recovered from the erring Junior Engineer as expeditiously as possible within a period of two months from the date of receipt of a copy of this order. Hence, the complaint shall stand filed.

However, I am making it clear that I have not expressed any opinion on the merits of the grievances made in this complaint and nothing said by me in this order should be interpreted or constructed as an expression of opinion on the merits of the case.

58. Complaint No. 02 /2016-1(A) Loka

17-10-2016

Smt. Chand Rani complainant herein has preferred this complaint against her brothers Shri Harpal Singh and Shri Maan Singh alleging inter-alia that they have encroached upon the Government land bearing Khasra No. 2158, Khewat No. 383 Min, Khatauni No. 588 ad-measuring 0-07-84 Hectares situated in Mohal and Mauza Bharolian Khurd, Had bast No. 207, Tehsil and District Una.

At the outset it is worthwhile to notice that the complainant had filed this complaint dated 18-01-2016, when she was not married to Shri Raman Pal Singh and as such she has given her address in the complaint Ms. Chand Rani, d/o Shri Kabul Singh, r/o Village Barolian Khurd, Tehsil and District Una.

Facts in brief giving rise to the filing of this complaint are that land bearing Khasra No. 2158, Khewat No. 383 Min, Khatauni No. 588 situated in Mohal and Mauza Bharolian Khurd Hadbast No. 207, Tehsil and District Una as entered in Jamabandi for the year 201213 is just abutting the Una-Chandigarh Super High Way. The complainant has stated that both her brothers named above, have encroached upon the prime land of the State Government and covered the same with boundary wall. The location of the land is very suitable for raising public /Government buildings. According to the complainant, the lands of Shri Harpal Singh and Shri Maan Singh are abutting to the Government land bearing Khasra No. 2158. They wanted to grab the valuable piece of the land of the Government by raising construction in-conivance and collusion with lower revenue staff. She has also stated that both the encroachers are very clever, strong and influential persons of the locality who are backed by the big politicians.

According to the complainant, in spite of her complaints made to the Patwari Halka on number of times requesting the revenue official to initiate proceedings against the encroachers, but the Patwari, in-conivance with the encroachers has not initiated any proceedings against them and he has openly proclaimed that till he is posted in the area, nobody could dare to initiate any proceedings against the encroachers despite the fact that the land was demarcated by the Tehsildar who found illegal possession of the encroachers there upon.

On the above said premises, the complainant by way of this complaint has requested that inquiry may be entrusted to higher senior officer of the Revenue Department so that legal action can be taken against the encroachers in accordance with law. On scrutiny of the complaint the same prima facie suffers from legal infirmities in as much as the same is not accompanied by sworn affidavit of the complainant as provided under the Himachal Pradesh Lokayukta Act, 2014(Act No. 23 of 2015).

However, having considered the nature of the allegations made in this complaint, Lokayukta by order dated 28-05-2016, requested the Sub-Divisional Officer(C) Una, District Una to hold preliminary inquiry into the allegations made against the encroachers. The SDO (C) was at liberty to take statement of the complainant and statement(s) of her witness(s) if any and statements of the opposite parties against whom this complaint has been filed and statement(s) of their witness(s) if any, and also documentary evidence if any, placed on record by the parties during the inquiry

proceedings. The Inquiry Officer was also at liberty to take into consideration any other evidence which he would deem necessary and appropriate during the course of the Inquiry. The preliminary inquiry report alongwith entire evidence collected during the course of the inquiry was to be furnished to the Secretary, Lokayukta within two months from the date of receipt of a copy of the order.

The SDO (C) Una, District Una has not submitted the preliminary inquiry report within the stipulated period. Consequently, by way of reminder, dated 02-08-2016 the authority was again requested to do the needful within further period of one month from the date of receipt of communication from this office. The first reminder order was followed by second reminder order dated 14-09-2016 whereby the SDO (C) Una was reminded to comply with the orders of the Lokayukta in their true letter and spirit as the function and jurisdiction of the Lokayukta are akin to the Judge's function and its order are of binding nature on the administrative authority and willful defiance of the orders will entail serious consequences under the Contempt of Courts Act, 1971. By way of indulgence, one more opportunity of one month was granted to the SDO (C) Una to submit the desired preliminary inquiry report to the Secretary, Lokayukta.

The complaint file reveals that the SDO (C) Una instead of conducting the desired preliminary inquiry himself as ordered by the Lokayukta, has delegated his authority to the Tehsildar Una, asking the Tehsildar to conduct preliminary inquiry in to the matter in issue. The Tehsildar Una, has further delegated his authority to the Naib-Tehsildar, Una who finally conducted the preliminary inquiry and submitted his report to the SDO (C) Una. The SDO (C) Una in turn vide letter dated 17-09-2016 has submitted the inquiry report to the Secretary, Lokayukta. The procedure adopted by the SDO (C) and the Tehsildar is apparently unknown to the settled principal of law.

Be that as it may, I have independently examined the photostat copy of the report submitted by the Naib-Tehsildar alongwith the Joint statement of Shri Raj Kumar, Jr. Scale Stenographer District Panchayat Officer-cum-Secretary, Jila Parishad Una, Shri Ranbir Singh Clerk office of Panchayat Officer-cum-Secretary, Jila Parishad Una, photostat copy of statements of Shri Maan Singh against whom complaint has been filed, Smt Chand Rani, Joint statement of Shri Maan Singh, Shri Hardyal Singh, Member Block Samiti, Shri Udaivir Singh, S/o Shri Jasvinder Singh and Shri Nishant Kumar and photostat copies of Tatima (four in numbers). Based on the preliminary inquiry report submitted by the Naib-Tehsildar, the SDO (C) has issued notices to the complainant and the opposite parties against whom the complaint was filed. The Process Server had reported to the SDO (C) that Mrs. Chand Rani complainant was not available at her given address as she by that time has got married and therefore notice could not be served upon her. Shri Harpal Singh against whom this complaint was also filed had expired. Therefore, separate statement of Shri Maan Singh was recorded. Shri Maan Singh in his statement has stated that Smt. Chand Rani complainant is his sister. She has filed this complaint just to harass him and her deceased brother Shri Harpal Singh. He has stated that the complainant has already filed Civil Suits in the Civil Court claiming her share in the ancestral land. He has stated that he has not encroached upon the Government land as alleged by the complainant nor his deceased brother Shri Harpal Singh had ever done so. The SDO (C) is stated to have traced mobile No. of Smt. Chand Rani and she was accordingly informed to be present before him for recording her of statement. She accordingly, appeared before him on 16-08-2016 alongwith Shri P. C. Sharma, Advocate and submitted that the demarcation carried out on the spot by the revenue staff was illegal. The SDO (C) has considered it necessary to verify the oral statement of the complainant and had personally

visited the spot on 08-09-2016 alongwith the Naib-Tehsildar. He found on the spot that the alleged Khasra No. 2158, Khewat No. 383 Min, Khatauni No. 588 is free from any kind of encroachment. The Jila Parishad is the owner of the land and Shri Raj Kumar and Shri Ranbir Singh officials of the Jila Parishad, District Panchayat Officer-cum-Secretary Una have categorically stated in their joint statement before the Inquiry Officer that the land bearing Khasra No. 2158 is free from any kind of encroachment. The SDO (C) on verification has noticed that the demarcation conducted by the Naib-Tehsildar Una with the assistance and help of Kanungo and Patwari respectively was in accordance with law. On the basis of the preliminary inquiry report coupled with, the personal visit of the spot by the SDO (C), he has concluded that Smt. Chand Rani has made this false and frivolous complaint with malafide design against her brothers with a view to harass them un-necessarily.

In the facts and circumstances narrated herein above and on the face of the reports of the revenue authorities as well as statements of the parties and other witnesses led before the Inquiry Officer in my considered view, no further action needs to be taken in this matter. The complainant has already filed Civil Suit against her brothers in the competent court of law for claiming her share in the ancestral property. Hence, this complaint shall stand filed.

However, I am making it clear that I have not expressed any opinion on the merits of the case and nothing said by me in this order should be interpreted or construed as an expression of opinion on the merits of the grievances alleged in this complaint.

59. Complaint No.40/2016-1(A) Loka

02-11-2016.

Shri Raj Kumar Rana, JBT complainant herein has filed this complaint against the Elementary Education Department. The grievances of the complainant are that there exists some confusion about the Promotion Policy in the Department of Elementary Education in the State of Himachal Pradesh. According to the complainant, there are different channels of Promotion in the Department of Elementary Education and a Junior Basic Teacher (JBT) is entitled to opt for promotion as per his qualification and willingness. He has stated that BA B.Ed. qualified teacher can opt for Trained Graduate Teacher (TGT) Arts and Prabhakar Pass JBT can also opt for Language Teacher (LT) similarly, Shastri pass JBT can opt for Oriental Teacher (O.T.), but, there is no channel of promotion for BP Ed. Pass (JBT) teachers who have no choice but to stay in the present cadre of JBT. He has stated that he has obtained some facts and information from PIO-Cum-Head Master Govt. High School, Amroh, Tehsil Bhoranj, District Hamirpur under the RTI Act, 2005 to find out whether any promotion from JBT to Physical Education Teacher (PET) has ever been given to such candidates or not. He has stated that documents enclosed with the complaint would clearly reveal that promotion has been given to JBT.

On the above said premise, the complainant by way of this complaint has requested that the inquiry may be conducted in the matter so that justice can be given to hundreds of JBTs having BP Ed. or other similar degrees.

On scrutiny of the complaint, it is noticed that the complaint suffers from legal infirmities such as it is not accompanied by an affidavit of the complainant nor the complainant has alleged therein that public servant has committed an offence punishable under the Prevention of Corrupt

Act, 1988 or the Himachal Pradesh Prevention of Specific Practices Act, 1983 in terms of the definition of "complaint" under Section 2 of Sub-Section (1) clause (b) of the Himachal Pradesh Lokayukta Act, 2014 (Act No. 23 of 2015).

"Public Servant" is defined under Section 2 of Sub-Section-(1), Clause (i) to mean a person referred to in clauses (a) to (h) of Sub-Section (1) of Section (13) of Act No. 23 of 2015.

The grievances of the complainant stated here-in-above are not against any "public servant" nor they constitute an offence under the Prevention of Corruption Act 1988 or the Himachal Pradesh Prevention of Specific Corrupt Practices Act, 1983. In the absence of any allegation of corruption levelled against a specific "public servant" as provided under law, the Lokayukta has no jurisdiction, power and authority to deal with the grievances of the complainant as stated in the complaint.

Hence, the complaint suffers from legal infirmities and it accordingly, shall stand disposed off.

However, I am making it clear that I have not expressed any opinion on the merits of the alleged grievances made by the complainant in this complaint and nothing said by me in this order should be interpreted or construed as an expression of opinion on the merits of the case. The complainant, if he so desires, is at liberty to redress his grievances before appropriate authority/forum in accordance with law.

60. Complaint No.37/2016-1(A) Loka

17-11-2016.

Shri Sanjeev Kumar, complainant herein has preferred this complaint supported by an affidavit duly attested by Notary, District Ambala. He has filed photostat copies of relevant Acts, Official communications exchanged between the Maharishi Markandeshwar University (MMU), Solan and Director, Medical Education and Research (DME & R) HP alongwith merit list of the students who successfully completed the combined merit list of all categories (State Quota and Management Quota) on the basis of merit of NEET-UG-2013 issued by Himachal Pradesh University (HPU), Shimla.

Briefly stated the facts of the complaint are that MMU, Solan has been established under Himachal Pradesh Government Act No. 22 of 2010. The Chairman, MMU Solan has established Maharishi Markendashwar Medical College & Hospital (MMMC & H), Kumarhatti, District Solan as the Constitute College of MMU, Solan.

The State of Himachal Pradesh has enacted the Himachal Pradesh Private Medical Educational Institutions (Regulation of Admission and Fixation of Fee) Act, 2006 (Act No. 16 of 2006). The Act has mandated that if any, Private Medical College in Himachal Pradesh has to be established, it must have to get affiliation from the HPU. Accordingly, MMMC was given Essentiality Certificate (EC) with a pre condition that the Private Medical College shall have to be affiliated to HPU. But, later on MMU had established the Constitute College of MMU, Kumarhatti. MMMC, on 14-07-2013 on the basis of in correct affiliation, got approval of Medical Council of India(MCI) to admit 150 students in first batch of MBBS in year 2013-2014 by showing it as

Constitute College of MMU. According to the complainant, DME & R, HP has not taken any action against the MMU, Solan in terms of the provision of Section-6 of Act No. 16 of 2006. The State of Himachal Pradesh vide Bill No. 21 of 2015 has amended Act No. 16 of 2006, where under Section-6(a) and Section(b) came to be introduced in the Act No. 16 of 2006, and thereby HPU has been given executive power to affiliate Private Medical Educational Institution (PMEI) set up in the State of Himachal Pradesh. Even after the amendment, the DME & R, HP and HPU have not been able to stay the illegal admission of the students in MBBS course made by MMMC, Kumarhatti till the date of Institution of this complaint. The complainant has enclosed admission details of 150 MBBS students made by MMMC & H which was sent to MCI on 01-10-2013.

The grievances of the complainant are that the admission of the 150 students in 1st batch of MBBS in year 2013-2014 was not made as per the notification issued by the Government of Himachal Pradesh, Department of Medical Education dated 14-08-2013 whereunder admission procedure and Fee structure for admission to MBBS course in MMMC & H, Kumarhatti was notified on the recommendation of Admission and Fee Committee constituted in pursuance to Sub-Section (3), Section (3) of Act No. 16 of 2016 as well as Medical Education Regulation, 1997.

The complainant has stated that the admission of students in the MBBS course for the year 2014-2015 was made by MMMC, on the basis of AIPMT test, MMEUT and Qualifying Examination. The MMEUT and Qualifying Examination were conducted by DME & R, HP without the permission of State Government of Himachal Pradesh. Hence, on the basis of the examinations admission of the students for the MBBS course for the year 2014-2015 was not valid. The admission of students in MBBS course for the year 2015-2016 was made on the basis of letters dated 01-12-2014 and 11-08-2015 issued by the office of DME & R, HP. The admission in the MBBS course has been notified by AIPMT, 2015 Exam. The Himachal Pradesh Government vide letters dated 25-08-2015, 07-09-2015, 19-09-2015 and 25-09-2015 (Copies enclosed as Annexure-10, Annexure-11, Annexure-12 and Annexure-13), has made admission of State Quota and Management Quota seats for the academic session 2015-2016. The admission of 150 students in MBBS course for the year 2015-2016 has been made by MMMC without giving the method being adopted by MMMC in its official website.

However, the complainant has stated that the admission of students for MBBS course for the year 2016-2017 has been made vide letters dated 23-12-2014 and 24-12-2015 (Annexure-15 and Annexure-16) by the office of DME & R, HP and the office of HPU. The admission in the MBBS course has been notified by AIPMT- 2016 Exam. The MMMC & H has taken admission of MBBS students illegally for the year 2016-2017 as till date MMMC has not been affiliated with HPU. Resultantly, future of all the students admitted by MMMC since the year 2013-2014 till date in MBBS course is at stake.

On the above stated premises, the complainant by way of this complaint has requested the Lokayukta to investigate the true facts of illegality committed by MMMC in taking admission of MBBS students.

Having considered the grievances made by the complainant in the complaint and also the relevant provision of the Himachal Pradesh Private Medical Educational Institution (Regulation of Admission and Fixation of Fee), Act, 2006 and the admission notice issued by DME & R, HP dated 25th August, 2015, regarding Centralized Counseling for filling up MBBS seats whereby and whereunder it was notified that MMMC & H Kumarhatti, District Solan was not affiliated with the

HPU, the Lokayukta by order dated 01-09-2016 has considered it expedient in the interest of justice and fair play to request the DME & R, HP and the Registrar, HPU to submit their separate replies to the averments made in the complaint within a period of one month from the date of receipt of a copy of the order.

Reader to Lokayukta vide office letter dated 02-09-2016, has duly conveyed the said order alongwith copies of the complaint and other documents enclosed thereto, to DME & R, HP and Registrar, HPU for doing the needful.

The complaint file would reveal that both the authority concerned have not filed their respective replies within the stipulated period. Therefore, by order dated 18-10-2016, the Lokayukta has extended one month more time to the authorities to do the needful without default, demur and delay.

Pursuant to the second order dated 18-10-2016 Dr. Amit Chauhan, DME & R, HP has submitted parawise reply on behalf of DME & R, HP and Dr. Pankaj Lalit, Registrar, HPU, Shimla has filed his reply on behalf of HPU. Both the authorities have also enclosed some official documents in support of their defenses stated in their separate replies.

DME & R, HP in his reply has admitted that the State Government vide letter No. HFW-B(F) 4-5/2008-1 dated 29-08-2012 had granted “No Objection Certificate”(NOC) and “Essentiality Certificate”(EC) with information to Maharishi Markandeshwar University/Trust, Kumarhatti, District Solan for opening MMMC & H at Kumarhatti and for commencing MBBS course with 150 seats in the said Institution subject to the following conditions :

- “(1) That the Institution concerned will have to abide by the guidelines/terms issued by the Medical Council of India and State Government.
- (2) the Admission, fee structure and related issues shall be governed as per” The Himachal Pradesh Private Medical Educational institutions (Regulation of Admission and Fixation of Fee) Act, 2006.”

It is submitted that the eligibility criteria for admission to a Private Medical Educational Institution shall be such, as may be determined and notified by the State Government from time to time. The Medical Council of India (MCI) *vide* its letter No. MCI-34 (41) (E-46) /2013–Med /20893 dated 12th of July 2013 (Xerox copy annexed as Annexure-1) had granted a letter of Intent to the Secretary, Maharishi Markandeshwar University Trust, Ambala for establishment of a New Medical College at Kumarhatti, District Solan, HP. The MCI again on 14th July, 2013 had issued a Letter of Permission to the Secretary, Maharishi Markandeshwar University Trust, Ambala and on the same day, the said College appeared on the Website of MCI as affiliated with HPU but subsequently it was changed as MMMC & H, Kumarhatti, District Solan.

It is also submitted that the State Government vide letter No. HFW-B(F) 4-12/2013 dated 02-01-2014 addressed to the Principal, MMMC & H, Kumarhatti had clarified and reiterated the State Government’s interpretation that the MMMC & H, Kumarhatti is Medical College with affiliation to HPU and to complete all the formalities in this regard by the said College administration itself. Besides, this, the State Government vide letter dated 29-03-2014 has requested the Secretary MCI, New Delhi to reconsider its decision with regard to affiliation of

MMMC & H, Kumarhatti and *vide* letter dated 10-06-2014 to confirm that MMMC & H Kumarhatti is affiliated to the HPU, Shimla. The copies of the said letters are enclosed as Annexure-3 and Annexure-4. The Government of Himachal Pradesh *vide* letters dated 07-08-2014 and 30-8-2014 has issued reminder to the Secretary, Health and Family Welfare, Government of India, New Delhi to have clear view with regard to the affiliation of MMMC & H, Kumarhatti. The State of Himachal Pradesh on 27-09-2006 has enacted Act No. 16 of 2006 and later on the Act was amended by the State Government by a Bill (Annexure-3 and Annexure-4), annexed with the complaint.

The DME & R, HP has also stated that the State Government *vide* letter dated 27-08-2014 directed that Dr. N. K. Lath, Additional Director, IGMC/ME shall personally attend the counseling for admission of State Quota seats to MBBS course in MMMC & H, Kumarhatti scheduled to be held on 01-09-2014, but on the next date, *i.e.* 28-08-2014, Dr. N. K. Lath was again requested to attend the said counseling meeting as Government nominee for admission on State Quota seats for MBBS course. Later on, the State Government *vide* letter dated 06-09-2014 requested the Principal Secretary (Education) to the Government of Himachal Pradesh to issue directions to MMU to hold another competitive test to fill up the left out seats of State Quota in MBBS course as in the first round of counseling for admission to State Quota seats of MBBS course in MMMC & H, out of 75 students only 35 students have been admitted for the Session 2014-2015. Besides this, the MCI *vide* letter dated 21-08-2015 has directed DME & R, HP that MMMC & H, Kumarhatti has admitted 42 students in Government Quota and 108 students in Management Quota (86 in Management/ merit and 22 in NRI) during academic session 2015-2016.

Further it is submitted that the matter was placed before the Executive Committee at its meeting held on 05-08-2015 and the Committee decided as under:

“ The Committee considered the matter and noted the following judgment dated 12-01-2005 in the case of Mridul Dhar Vs. Union of India.

“1.1 if any Private Medical College in a given academic year for any reasons grants admission in its management quota in excess of its prescribed quota, the management Quota for the next academic year shall stands reduced so as to set off the effect of excess admission in the Management Quota in the previous academic year”..... .

In view of above, you are requested to ensure to increase the number of seats proportionately (*i.e.* 33 seats) over and above the earmarked 75 for admission under Government Quota at Maharishi Markandeshwar Medical College, Solan in the academic year 2015-16 in 1st year and proportionately reduce the number of seats in the Management quota” (Copy of the decision taken by the Executive Committee is marked as Annexure-7). In compliance to these directions, DME & R, HP has submitted that 108 seats under State Quota and 42 seats in Management Quota accordingly were filled up by Counseling Committee through Centralized Counseling during the academic Session 2015-16.

Further, it is submitted that the Additional Chief Secretary (Health) to the Government of Himachal Pradesh has issued notification dated 15-07-2015 whereunder it was notified that admission to all the Medical Colleges in the State (Two Government Medical Colleges and one Private Medical Colleges *i.e.* MMMC & H, District Solan) for State Quota and Management Quota seats shall be made on the basis of AIPMT through the Centralized Counseling to be headed by the DME & R, Himachal Pradesh.

In response to the said notification, DME & R HP has issued notice in the newspaper on 25-08-2015 for admission to all the Medical Colleges in the State (including two Government Medical Colleges and one Private Medical College) for both State Quota and Management Quota seats. The said notification was published in the leading newspapers on 26-08-2015. It is further stated that Civil Writ Petition No.-2617/2015 titled MMU-Vs.-State of Himachal Pradesh and others, was pending in the Hon'ble High Court of H.P. which was fixed on 10-08-2015 by the Court and after hearing the subject matter of the controversy, the judgment was reserved. The Hon'ble High Court of Himachal Pradesh vide judgment dated 24-08-2015 directed that there should not be two different modes of admission for the same course. The operative portion of the judgment is as under:—

“We are afraid that even this contention of the petitioner can not be acceded to as there cannot be two different modes of admission for the same course or else the same would per se be discriminatory”.

In compliance to the directions of the Hon'ble High Court and the State Government, DME & R, HP has conducted the Centralized Counseling of MMMC & H, Kumarhatti for State Quota and Management Quota for the academic Session 2015-2016 and 2016-17.

DME and R, HP has also stated that the authority in respect of affiliation on MMU, Solan with HPU is subjudice in the Hon'ble High Court of Himachal Pradesh in CWP No. 4473/2015 titled Maharishi Markandeshwar College Solan vs. State of Himachal Pradesh and others.

In view of the facts and circumstances, as submitted in the forgoing paragraph of the reply, DME & R, HP has submitted that he has acted/performed his duty as per Government rules and directions issued from time to time and the grievances of the complainant against the DME & R, are not tenable and hence denied.

Registrar, HPU in his reply to the complaint has categorically admitted that MMMC & H, Kumarhatti has not been affiliated with the University nor it has even applied for such affiliation with HPU as per provision of the University ordinance VOL.-II 38.2. It is further submitted that the request of NOC for establishment of an Off campus centre of the college has also not been considered by the State Government as per letter No. EDN-A-Ka(1)-8/2013-L(1) dated 06-09-2016, received from the Joint Secretary, Higher Education to the State of Himachal Pradesh (copy Annexure R-3/A). It is also stated that HPU was not involved in the admission process of MMMC & H, Kumarhatti for the academic sessions 2013-2014 and 2014-2015.

It is further submitted that the admission to MBBS /BDS courses in the Government Colleges including Private Dental Colleges affiliated to the HPU for the academic session 2015-16 have been made on the basis of merit of AIPMT-2015 conducted by the Central Board of Secondary Education, Delhi for which notices were issued by the DME & R, HP for inviting on line application on the website of the HPU in order to make the admission through Centralized Counseling, Committee headed by the DME & H, HP. The said Counseling Committee has been constituted by the Government of Himachal Pradesh vide notification No. Health-B(12)-1/98-II dated 15th December, 1999(Copy annexed as Annexure R-3/B). Counseling Committee consists of all the Principals or their nominees of Government Medical Colleges /Dental Colleges including Private Dental Colleges as its members and the Deputy Additional Controller of examination, HPU is Member Secretary, whereas the Additional Director (Admn.) Directorate of Medical Education

and Research, Himachal Pradesh is also one of the member of the said Committee. It is the case of HPU that pursuant to the notification No-HFW-B(F) 4-14 /2015 dated 15-07-2015 issued by the Additional Chief Secretary(Health)to the Government of Himachal Pradesh and as per decision taken by the Counseling Committee in its meeting held on 27-08-2015, the admissions to MBBS course in respect of MMMC & H, Kumarhatti under State Quota /Management Quota for the session-2015-16 have also been made as per merit notified by the HPU on the basis of AIPMT-2015 through the Centralized Counseling Committee and by DME & R, HP. After exhausting the merit list, HPU had issued the subsequent notices as per Annexure-11 and Annexure-12 of the complaint for filling up the vacant seats of MMMC & H, Kumarhatti, on the basis of merit of AIPMT-2015 and accordingly 144 seats of different categories (except NRI six seats) have been filled up on the basis of merit of AIPMT-2015 through Centralized Counseling Committee headed by the DME & R, HP. Registrar, has filed a copy of notification dated 15-07-2015 and a copy of proceedings of the meeting of the Counseling Committee dated 27-05-2015 with the reply as Annexures R-3/C and R-3/D respectively. He has further stated that being a Member Secretary of the Counseling Committee, he has participated in the admission process of the MMMC & H, Kumarhatti for the Session 2015-16. He has further stated that in view of the factual situation stated in the reply, the complainant can have no grievances what so ever against the HPU. Therefore, the complaint devoid of merits deserves to be rejected.

Having examined the entire controversies raised by the complainant in this complaint and in the light of replies submitted by DME-R, HP and Registrar, HPU. I am of the view that the Lokayukta have got no jurisdiction, authority and power to enquire into the allegations made in this complaint against Maharishi Markandeshwar, University, Solan which is a Private University governed under Act No. 16 of 2016. The Chancellor and other Officers/Officials of MMU do not attract the definition of "public servants" as defined under Section 2 of Prevention of Corruption Act, 1988 and Section 13 of the Himachal Pradesh Lokayukta Act, 2014(Act No. 23 of 2015). The contents of the "complaint" are not covered under the provision of Section 2, Sub-Section (1) Clause (b) of Act No. 23 of 2015 as the complainant has not alleged that a public servant as defined under the Act has committed an offence punishable under the Prevention of Corruption Act, 1988 or the Himachal Pradesh Prevention of Specific Corrupt Practices Act, 1983.

Hence, this complaint is not maintainable before the Lokayukta. Further, it is pertinent to point out that the subject matter of the complaint has already been decided on 24-08-2015 by the Hon'ble High Court of Himachal Pradesh in CWP No. -2617/2015 titled MMU-Vs.-State of Himachal Pradesh and others decided as stated by DME & R in his reply. DME& R, HP has also specifically stated in the reply that the issue in respect of affiliation of MMMC & H, Kumarhatti with Himachal Pradesh University is subjudice before the Hon'ble High Court of HP in CWP No. 4773/2015 titled MMMC & H, Kumarhatti- Vs.- State of Himachal Pradesh and others. In the facts and circumstances of the case, this complaint deserves and accordingly shall stand filed on this short ground.

However, I am making it clear that I have not expressed any opinion on the merits of the alleged grievances made by the complainant in this complaint and nothing said by me in this order should be interpreted or construed as an expression of opinion on the merits of the case. The complainant, if he so desires is at liberty to approach an appropriate authority/Tribunal or Court for redressal of grievances in accordance with law.

61. Complaint No.20/2016-1(A) Loka

22-11-2016.

Smt. Ved Prakash, Pradhan Gram Panchayat Kashlog has preferred a photostat copy of resolution No. 15 passed by the Gram Panchayat Kashlog in its meeting held on 17-04-2016. All the members of the Gram Panchayat participated in the meeting and unanimously passed the resolution No. 15 in its meeting held on 17-04-2016. A photostat copies of the said resolution were also sent to the Chief Minister, Himachal Pradesh, Industry Minister, Himachal Pradesh and Sub-Divisional Officer (Civil) Arki, District Solan for their information and redressal of the grievances of the people of Gram Panchayat.

Briefly stated the grievances alleged by the Gram Panchayat in the complaint are that M/S Gujrat Ambuja Cement Company, Dharlaghat has closed old Bus Stand, Public Road provided by the HPPWD to Gram Panchayat Kashlog by carrying out regular mining operation and blasting work as a result there of the village people are facing lots of difficulties in ferrying the patients to the hospitals for treatment. Besides, Government Ration Depot, catering the needs of 10-12 Villages are being deprived of collecting essential commodities from the Government Ration Depot. The contents of the resolution reveal that due to blasting work some residential houses of the people of the area are also damaged and some houses have become un-safe to live in.

By means of this unanimous resolution passed by the members of the Gram Panchayat, Kashlog, under the Chairmanship of the Pradhan, a request is made to the Lokayukta to take appropriate legal action against the Cement company who has damaged the residential houses of the village people due to regular blasting work undertaken by the company and restore the basic needs of the roads and water *etc etc.* to them.

On receipt of a copy of the resolution, it was noticed that the complaint suffered from legal formalities such as the contents of the same are not supported by an affidavit duly attested by the competent authority nor any allegation of corruption against a 'public servant' has been alleged as defined under the Prevention of Corruption Act, 1988 or the Himachal Pradesh Prevention of Specific Corrupt Practices Act, 1983, in terms of the definition of "complaint" as defined under Section 2(1) Clause (b) of the Himachal Pradesh Lokayukta Act, 2014(Act No. 23 of 2015).

However, looking to the grievances of the general public, the Lokayukta by order dated 13-05-2016 has requested Sub-Divisional Officer (C) Arki to submit action taken report if any, based on the resolution No. 15 dated 17-04-2016, passed by the Gram Panchyat Kashlog, a copy thereof is alleged to have been sent to the SDO (C) Arki for taking appropriate action in the matter. The SDO (C) Arki was requested to submit the desired action taken report to the Secretary, Lokayukta within one month from the date of receipt of a copy of the said order.

The complaint file would reveal that the SDO (C) Arki has not complied with the order dated 13-05-2016 till 23-06-2016, on which date a reminder was sent to him to do the needful within one month from the date of receipt of a communication from this office. Again, on 11-07-2016, one more opportunity of one month came to be granted to the authority concerned, but the authority concerned has not cared or bothered to submit the desired action taken report within the stipulated period. Resultantly, by order dated 21-09-2016, the SDO (C) Arki has been granted further period of one month to do the needful, but the authority has again defaulted in complying

with the earlier repeated orders of the Lokayukta till 27-10-2016. In this view of the matter, the Lokayukta was left with no other option except to pass a detailed order reminding the authority to comply with the orders/directions of the Lokayukta which are mandatory and of binding nature on the administrative authority and it is his boundant duty and obligation to see complete implementation of such orders/directions in their true spirit and substance. The administrative authority was also reminded that non-compliance of the orders/directions of the Lokayukta can entail serious consequences as provided under Section 53 of the Himachal Pradesh Lokayukta Act, 2014(Act No. 23 of 2015). Section 53 empowers and authorizes the Lokayukta to punish for Contempt of Courts of its order as a High Court has under the provision of Contempt of Courts Act, 1971.

By way of indulgence, the administrative authority was granted one month further period to ensure compliance of the orders/directions without default, demur and delay. The said order was also duly conveyed to the authority by Reader to Lokayukta on the same day.

Pursuant to the last order dated 27-10-2016, Shri L.R. Verma, HAS, SDO (C) Arki, District Solan, has sent a letter dated 11th November, 2016 to the Secretary, Lokayukta, Himachal Pradesh stating details of the action taken by the authority on the basis of the resolution of Gram Panchayat Kashlog. For reference the relevant contents of the letter for the purpose of deciding this complaint read as under:—

“The stretch of road known as Karadaghat –Kashlog from 8/800 to 10/0 was closed as per letter No. PB(B) F (5)65/2009-L dated 20th Feb, 2014 of the Pr. Secretary (PW) to the Govt. of H.P. and letter No. SK/SLN/2014-78592 dated 30th Oct., 2014 of the District Collector, Solan as the land under old road was diverted to the Ambuja Cement Company under Forest Conservation Act and newly alternative road was constructed by the Ambuja Cement from Chandi Link Road Km. 0/255 to Kashlog village 1/035 km. which is opened to ply the vehicles (copies enclosed for ready reference). At present the Ration Shop has been shifted in the private house of Sh. Gulaba Ram son of Sh. Sunder of village Kashlog and the monthly rent of said premises is also being paid by the Ambuja Cement Company. Presently there is no problem to the local people regarding availability of ration from Depot and to hospitalize the sick people.

It is further requested that a committee has been constituted to assess the loss occurred due to blasting and the compensation is being paid to the sufferers. The local people want to joint (seek) above-mentioned alternative road further to main road which would be possible on availability of land and with the help of PWD Department. The Executive Engineer PWD Department has been directed to survey of the road.

Therefore, keeping in view the above facts and circumstances, every possibility has been made to redress the grievances of the local people as per their demand made in the resolution”.

He has also submitted that the delay in replying was not intentional and if it is considered so, the under signed tender the conditional apology.

Having independently examined the above extracted contents of the letter, I am of the considered view that the authority has taken all possible steps to redress the grievances of the

public contained in the resolution of the Gram Panchayat. As already submitted in the earlier part of this order, the Lokayukta has no jurisdiction or power to take cognizance of the matter in issue alleged in the resolution of the Gram Panchayat. In the peculiar facts and circumstances, no further actions need to be taken in this matter. Hence, the complaint shall stand filed on these short grounds. An apology tendered by the SDO (C) Arki in his letter is accepted.

However, I am making it clear that I have not expressed any opinion on the merits of the alleged grievances raised in this resolution and nothing said by me in this order should be interpreted or construed as an expression of opinion on the merits of the complaint. The Gram Panchayat, if it is still not satisfied with the action taken report of the SDO(C) Arki, is at liberty to approach the appropriate authority/Tribunal for redressal of its grievances in accordance with law.

62. Complaint No.44/2016-1(A) Loka

24-11-2016.

Shri Vinod Kumar, complainant herein has addressed this complaint to the Revenue Secretary, Shimla, Himachal Pradesh, a copy of the same has been sent to the Lokayukta under registered cover. The complainant has levelled inter-alia allegation of acts of omission and commission and misuse of official power by some lower revenue officials posted in Tehsil Amb.

Facts in brief are that the complainant claims to be co-sharer and owner in possession of land measuring 0-17-97 Hects comprising Khewat No. 168, Khatauni Nos. 202 to 205, Khasra Nos. 2495, 2524, 2494, 2504, 2529, 2505 and 2507 situate in Village Nari, Tehsil Amb. According to the complainant, his predecessor in interest filed an application for correction of revenue entries before the Settlement Officer, Kangra at Dharamshala which came to be accepted by the authority vide order dated 28-07-1990.

Feeling aggrieved against the order of the Settlement Officer, Shri Narain Prakash Bharti had filed an appeal before the Divisional Commissioner, Kangra at Dharamshala who remanded the case to the Settlement Officer on technical ground vide order dated 27-11-1991. Later on, the Assistant Settlement Officer had rejected the correction application of the predecessor in interest of the complainant vide order dated 19-12-1992. The Assistant Settlement Officer in his order, nowhere stated about the implementation of his order regarding the possession of Shri Narain Prakash Bharti nor the order had indicated that necessary entry in the revenue record be made in favour of Shri Narain Prakash Bharti.

The complainant has stated that Shri Narain Prakash Bharti in connivance with the lower revenue official of the Tehsil has recorded the entry in revenue record showing Shri Narain Prakash Bharti in possession of the land in question on the basis of Rapat No. 278 dated 22-04-1993 which has caused prejudice and miscarriage of justice to the complainant.

The complainant has also averred that Shri Narain Prakash Bharti is not resident of the State of Himachal Pradesh and he could not purchase agriculture land in Himachal Pradesh, as such any sale deed of land executed between Shri Narain Prakash Bharti and other co-sharers of the complainant are in valid and illegal in view of the provision of Section 118 of Himachal Pradesh Tenancy and Land Revenue Act. The complainant has also alleged that Shri Narain Prakash Bharti

is a 'Sadhu' and he has encroached upon some land belonging to Samadhi of Baba Mai Dass, who allegedly had got Darshan of "Mata Chintpurni" at a place where famous Mata Chintpurni Temple has been constructed. The complainant has also stated that Shri Narain Prakash Bharti has succeeded to obtain agriculturist certificate from Naib-Tehsildar-Bharwain on 13-01-2016, it has also illegal and he has filed application for cancellation of the said agriculturist certificate before the Collector Amb, which is till pending for adjudication.

On the above said premises, the complainant by way of this complaint has requested the Lokayukta that a detailed inquiry be got conducted through some independent agency against Shri Narain Prakash Bharti and some revenue officials of Tehsil Amb/Bharwain who have committed the illegal offence in-conivance with Shri Narain Prakash Bharti by changing the revenue entry in the revenue record in his favour.

The copies of this complaint are endorsed to the Principal Secretary, Chief Minister of Himachal Pradesh, Shimla, CID Wing Una District Una, The Chief Secretary (Home) Shimla.

On scrutiny of this complaint, it was noticed that the same suffers from legal infirmities in as much as that the complaint is not accompanied by an affidavit alleging that public servant has committed a offence punishable under the Prevention of Corruption Act, 1988 or the Himachal Pradesh Prevention of Specific Corrupt Practices Act, 1983, in terms of the provision of Section 2(1) Clause (b) of the Himachal Pradesh Lokayukta Act, 2014 (Act No. 23 of 2015). The complainant has also not alleged any allegations of corruption against a specific "public servant" (revenue official) in terms of Section 13 of the Act No. 23 of 2015. The subject matter of the complaint is in the nature of the revenue land transaction and correction of revenue entries in the revenue record based on Rapat No. 278 dated 22-04-1993. Therefore, the subject matter of this complaint is outside the jurisdiction, power and authority of the Lokayukta in the light of the provision of Act No. 23 of 2015. Section 48 of Act No. 23 of 2015 deals with limitation within which the Lokayukta has got jurisdiction and power to enquire or investigate in to any complaint. It provides that if the complaint is made after the expiry of a period of five years from the date on which the offence mentioned in the such complaint is alleged to have been committed, the Lokayukta was not inquire or investigate into any complaint. The cause of action in the present case pertains to the year 1993 when Rapat No. 278 was entered by the revenue staff on 22-04-1993. Further, the complainant has not alleged that the revenue official(s) of the Tehsil has committed any offence.

In the facts and circumstances, no action needs to be taken in this matter against the erring public servant in terms of the provision of Act No. 23 of 2015. Hence, this complaint shall stand filed on the above stated short ground.

However, I am making it clear that I have not expressed any opinion on the merits of the grievances made by the complainant in this complaint and nothing said by me in this order should be interpreted or construed as an expression of opinion on the merits of the case. The complainant, if he so desires, is at liberty to approach for redressal of his grievances in accordance with law. The authority(s) who seized the subject matter of the dispute, shall consider the matter independently in accordance with law, un-influenced by any observation made in this order.

63. Complaint No.58/2013-1(A) Loka

30-11-2016

This complaint has been preferred by as many as 54 residents of Gram Panchayat Hatli, Development Block Bhatiyat, District Chamba on 31-12-2013. The contents of the complaint are supported by an affidavit of Shri Surjeet Singh duly attested by the Executive Magistrate, Shahpur alongwith photostat copies of the complaints allegedly made to various higher authorities of the State Government besides, Photostat copy of Muster-Roll giving the names of the workers who were engaged under Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) Scheme for the execution of development works within the Panchayat area. The allegations levelled against the above named Pradhan and Junior Engineers read as under:—

- (1) Mis-appropriation of funds in the execution of various development works.
- (2) Mis-behaviour by Pradhan Gram Panchayat Hatli and use of un-preliminary/indecent language by her against the general public.
- (3) Irregularities in maintaining the Muster-Rolls prepared under MGNREGA for execution of the development works”

Having examined the nature of the allegations made in the complaint supported by documents, Lokayukta by order dated 15-03-2014 requested the Director, Panchayati Raj Department, Himachal Pradesh to conduct preliminary inquiry himself about the authenticity and genuiness of the allegations or get the inquiry conducted through Deputy Director/Joint Director of Panchayati Raj Department. The Inquiry Officer was requested to record the oral evidence of the parties and their witnesses, if any, examined by them during the course of the inquiry and to take relevant documents into consideration if any, produced before him by the parties.

The Director, Panchayati Raj Department was also requested to submit the inquiry report alongwith the entire record including action taken report, if any, to the Secretary, Lokayukta within two months from the date of receipt of a copy of the order.

The Director, Panchayati Raj Department vide letter dated 2nd April, 2014 addressed to the Secretary has requested for the grant of more time for doing the needful as the Deputy Directors/Joint Directors of the department were engaged in Loksabha election duties during the relevant period. Consequently, one month further time was granted on 11th April, 2014 as requested. The complaint file would reveal that Director, Panchayati Raj Department by office order dated 13-05-2014 had appointed Shri Satish Sharma, Deputy Director, Panchayati Raj Department to conduct a preliminary inquiry in the matter and submit inquiry report within one month positively. It appears from the complaint file that Shri Satish Sharma, Deputy Director-cum-Inquiry Officer, Panchayati Raj Department had visited Gram Panchayat, Hatli on 19-06-2014. He had recorded joint statements of as many as eight residents of Gram Panchayat who were present on the spot and signed the complaint. Statement of Smt. Reeta Rani who at the relevant time was Pradhan, Gram Panchayat and Joint statement of Shri Bhushan Dass, Up-Pradhan, Shri Raj Singh Ward Member, Shri Karnail Singh Ward Member, Smt. Asha Devi Ward Member, No.-1 and Smt. Asha Devi Ward Member, No.-2 and Smt. Sarita Devi, Ward Member were recorded on the spot. They had also filed photostat copies of some documents in support of their stands. The

Inquiry Officer on consideration of the entire material on record came to the conclusion that out of eight development works executed/being executed under various heads, only four could be inspected at the time of re-assessment by the Assistant Engineer, DRDA Chamba. The expenditure incurred on the re-assessed works was found below original assessment. As per the summary of the works, an amount of Rs. 1, 45,005/- was found having been mis-appropriated and accordingly, he recommended that the mis-appropriated amount shall be recovered from the erring office bearers of the panchayat.

Against charge No.-2, the Inquiry Officer has concluded that the complainants have failed to provide any concrete evidence to substantiate their allegations regarding mis-behaviour by Pradhan and use of descent language by her. Hence, the second charge could not be proved. Under Charge No. 3, the Inquiry Officer has also found irregularities in the Muster-Rolls maintained for execution of the development works. He has concluded that Shri Virender Singh, S/O Shri Vikram Singh was marked present on Muster-Roll No. 7076 w.e.f. 01-03-2013 to 18-03-2013 and was also marked a present in a training camp on "First Aid" at CHC Shahpur w.e.f. 01-03-2013 to 15-03-2013. This charge was substantiated on perusal of Muster-Roll No. 7076 and certificate issued by BMO Shahpur. Consequently, the Inquiry Officer has concluded that it was not possible for one individual simultaneously to be present at two different places. Therefore, he has recommended that the amount paid to Shri Virender Singh shall be recovered from him.

On the basis of the inquiry report, the Joint Director-cum-Deputy Secretary, Panchayati Raj Department vide letter dated 11th November, 2014 has informed the Principal Secretary, Lokayukta that total sum of Rs. 1,46,955/- including Rs. 1950/- wrongly paid to Shri Virender Singh, who had never worked in execution of the development works under taken by the Gram Panchayat was ordered to be recovered from erring panchayat office bearers in terms of Section 142 of the Himachal Pradesh Panchayati Raj Act, 1994. Therefore, a copy of the inquiry report was sent to the Deputy Commissioner, Chamba, District Chamba for effecting the recovery of the defaulted amounts. A copy of the inquiry report alongwith photostat copies of the statements of the parties recorded by the Inquiry Officer in the course of the inquiry and other relevant documents was also sent to the Principal Secretary, Lokayukta.

Having considered the inquiry report, the Lokayukta by order dated 15-11-2014 had requested the Deputy Commissioner Chamba, District Chamba to submit action taken report on the basis of the inquiry report submitted to him by the Joint Director-cum-Deputy Secretary, Panchayati Raj department against the erring Gram Panchayat office bearers. The desired action taken report was to be submitted to the Lokayukta within six weeks from the date of receipt of a copy of the said order. The complaint file would reveal that the Deputy Commissioner Chamba, District Chamba despite reminder letter dated 03-06-2015 has not cared or bothered to submit the desired action taken report till 20-07-2015. Consequently by order dated 29-07-2015, by way of indulgence one more opportunity of one month was given to the Deputy Commissioner to do the needful without default, demur and delay. But, the Deputy Commissioner despite the repeated reminder orders has not given serious consideration to the earlier orders. Resultantly, a detailed order dated 16-03-2016 came to be passed reminding the authority concerned that the orders/directions made by the Lokayukta are mandatory and imperative in nature on the administrative authority and it is his boundant duty and obligation to see complete implementation of such orders/directions in its true spirit and substance. He was also reminded that the Lokayukta has to hold a judicial office and discharge function akin to Judge's function. Non-compliance of the orders/directions can entail serious consequences as provided under Section 53 of the Himachal Pradesh Lokayukta Act, 2014

(Act No. 23 of 2015) which empowers the Lokayukta to exercise some jurisdiction, power and authority in respect of contempt of itself as a High Court has and may exercise and for this purpose, the provision of the Contempt of Courts Act, 1971 shall have effect. Again, last opportunity of one month was granted to the authority concerned to submit desired action taken report to the Lokayukta from the date of receipt of a copy of the order. Reader to Lokayukta has sent a copy of the order to the Government for compliance.

Pursuant to the order dated 16-03-2016, the Deputy Commissioner perhaps has understood the importance of the orders /directions of the Lokayukta being a judicial authority under the statute enacted by the State Government, has *vide* letter dated 6th April, 2016 informed the Reader, Lokayukta that Smt. Reeta Rani Ex- Gram Panchayat Hatli, Shri Ashwani Pathania, Junior Engineer and Shri Ravinder Kumar, Junior Engineer have been held guilty by the Inquiry Officer for mis-appropriating the Government funds. Therefore, FIR has been ordered to be registered against them and in addition *vide* letter dated 1st April, 2016, he has directed the Chief Executive Officer-cum-Additional District Magistrate, District Chamba, to initiate the departmental action against the erring officials by preparing /serving upon them charge sheets and submit the report immediately to him. He has also stated that final action taken report will be submitted to the Lokayukta immediately on its receipt from the concerned quarters.

In view of the action having been taken by the Deputy Commissioner, one month further time was given to him *vide* order dated 29-04-2016 to do the needful. But, no final action taken report has been submitted by the authority concerned despite the expiry of the stipulated period. Consequently, by order dated 02-06-2016, the Deputy Commissioner was again granted further period of one month to submit the final action taken report. The complaint file would reveal that the Deputy Commissioner has again failed to comply with the repeated orders/directions of the Lokayukta till 05-07-2016, on which date a detailed order containing two and half pages was recorded by the Lokayukta and a copy thereof was sent to him on the same date by this office. It is a matter of great concern that the Deputy Commissioner Chamba, District Chamba has repeatedly defaulted in complying with the orders of the Lokayukta despite the fact that he has again and again been given sufficiently long time. Consequently, by order dated 12-08-2016, and subsequent orders dated 23-09-2016 and 04-11-2016, the Deputy Commissioner was again reminded to comply with the orders/directions of the Lokayukta in their true spirit and substance.

In the face of the above facts and circumstances narrated herein above, it was with great difficulty that the Deputy Commissioner *vide* letter dated 04-11-2016, down loaded through e.mail addressed to the Lokayukta, has submitted inquiry report submitted by Shri A.K.Sood (HAS), Sub Divisional Officer (C) Bhattiyat, District Chamba in respect of charges framed against Shri Ravinder Kumar, Junior Engineer and Shri Ashwani Pathania, Junior Engineer Development Block Bhattiyat, District Chamba.

I have examined the inquiry report submitted by the Joint Director-cum-Deputy Secretary, Panchayati Raj Department and two inquiry reports submitted by the SDO (C) Bhattiyat. The Deputy Secretary-cum-Inquiry Officer, Panchayati Raj Department on the basis of the statements of the parties and their witnesses coupled with the documentary evidence produced on record during the course of the inquiry, the Inquiry Officer has concluded as under :—

“(1) Mis-appropriation of funds in the execution of various developmental works :—

Total eight development works executed/being executed under various heads were questioned by the complaints. Out of these eight works only four could be inspected at the time of

re-assessment by the Assistant Engineer DRDA, Chamba. The expenditure incurred on the works which were re-assessed was found to be below original assessment. As per the summary of these works report (Annexure-I) an amount of Rs. 1,45,005/- appears to be mis-appropriated and is as such recoverable.

(2) Mis-behaviour by Pradhan, Gram Panchayat Hatli.

Complainants failed to provide any concrete evidence to substantiate their allegations regarding mis-behaviour by Pradhan and use of indecent language by her. Hence, this charge could not be proved.

(3) Irregularities in the Muster-Rolls of MGNREGA:—

Sh. Virender Singh, S/ O Sh. Vikram Singh was shown present on the Muster Roll NO. 7076 of MGNREGA *w.e.f.* 1-3-2013 to 15-3-2013 and was also remained present in a training camp on “First Aid” at CHC Shahpur *w.e.f.* 1-3-2013 to 18-3-2013. This is evident from the perusal of Muster-Roll Nos. 7076 and certificate issued from the O/o BMO Shahpur. Hence, this charge is also proved. Attendance of one individual simultaneously at two different places is not possible. The labour payment given to the said Sh. Virender Kumar is recoverable.

Signed
SATISH SHARMA,
*Deputy Director-cum-Inquiry Officer,
Panchayati Raj Department, Shimla-171009 (HP).*

Pursuant to office order of the Deputy Commissioner dated 1st April, 2016, Shri Ashwani Kumar Sood (HAS), SDO (C) Bhattiyat, District Chamba has conducted inquiries in respect of charges framed against Shti Ashwani Pathania, Junior Engineer and Shri Ravinder Kumar, J. E. Development Block Bhattiyat. He has framed as many as two charges against Shri Ashwani Pathania, J. E. and one charge against Shri Ravinder Kumar, J. E. The Inquiry Officer has also recorded the statement of Shri Onkar Singh Nirala the then Assistant Engineer (Dev.) office of DRDA Chamba (PW-1), Shri Rakesh Mehra, Superintendent Grade-II, District Panchayat Officer Chamba (PW-2), Smt. Shashi Kala, Clerk office of PO, DRDA Chamba (PW-3) and Shri Prabhat Singh, Clerk office of BDO Bhattiyat (PW-4). The inquiry report reveals that the SDO (C) Bhattiyat was appointed as Presenting Officer by the Chief Executive Officer, Jilla Parishad-cum-Additional Magistrate Chamba vide office order No. 2602 dated 13-10-2106 wherein it has been mentioned that the show cause notice was served to Shri Ashwani Pathania, J. E. on 16-05-2016, but the delinquent did not whose to submit his reply to the notice. Besides the above mentioned four witnesses, the Presenting Officer has also produced three witnesses on behalf of the state namely Shri Ajay Dogra, J.E. Development Block Bhattiyat (PW-5), Shri Suresh Kumar Panchayat Inspector, Development Block Bhattiyat (PW-6) and Shri Karam Singh Naryal (PW-7).

On the basis of the scrutiny of the record produced by the Presenting Officer, statements of PWs and submission made before the Inquiry Officer, the Inquiry Officer has concluded that the Assistant Engineer Development Works found the re-assessment of the construction work re-assessed by the Assistant Engineer, Chamba was not made as per Measurement Book(MB). The re-

assessment was made merely on the statements of the complainants without verifying the fact from the technical official. The Assistant Engineer has also not associated any official of the BDO office at the time of re-assessment which would prove that no proper opportunity/intimation was given to the delinquent official during re-assessment. The Assistant Engineer (Dev) DRDA Chamba has also stated in his statement before the SDO (C) that the re-assessment was not got verified from technical officials. Shri Onkar Singh Nirala (PW-1), Assistant Engineer (Dev) has also admitted in his cross-examination before the SDO (C) that he had made re-assessment report as per record available at the spot when the inquiry was conducted by Deputy Director-cum-Inquiry Officer, Panchayati Raj Department. Having considered the entire statement of the Assistant Engineer, the Inquiry Officer has observed that the re-assessment report was prepared by him in hasty manner without intimation to the concerned technical official, besides he has not given reasonable opportunity to the delinquent official to put his version during re-assessment of the works. According to the Inquiry Officer, the Assistant Engineer, should have re-assessed the construction works in the presence of technical person to assess hidden items (steel), collection and carriage of sand, stones and bajri items. It is further observed that the Assistant Engineer has not associated Pradhan, Gram Panchayat Hatli nor the concerned Panchayati Secretary/JE on 23-08-2014, 5-09-2014 and 06-09-2014, when the re-assessment of the works was conducted by him. On the perusal of the comparison the statements made by the delinquent official, the Inquiry Officer has concluded that it was not possible to ascertain the correctness of the amounts spent on actual works done as shown in the MB and re-assessment report. In that view of the matter the Inquiry Officer has concluded that both the charges were not proved against the delinquent official by leading sufficient and convincing evidence during the course of the inquiry.

Similarly, on perusal of the second inquiry report submitted against Shri Ravinder Kumar, J. E, the Inquiry officer on the scrutiny of the same set of evidence of the witnesses, has concluded that single charge framed against the delinquent official has not been proved by the complainants by leading sufficient and convincing evidence.

The Deputy Commissioner vide letter dated 4th November, 2014 has submitted two sets of inquiry reports conducted by SDO (C) Bhattiyat against Shri Ashwani Pathania, J. E. and Shri Ravinder Kuamar, J. E., Development Block Bhattiyat. The photostat of the inquiry reports would reveal that the Inquiry Officer has not enclosed the statements of the witnesses recorded by him during the course of the inquiry.

The complaint file reveals that the Deputy Commissioner vide letter dated 30th June, 2016 has informed this office that a sum of Rs. 48,335/- has been deposited by Smt. Reeta Rani, Ex-Pradhan in the account of GP Hatli vide receipt No. 180065 dated 11-12-2015.

In the facts and circumstances, the complainants have been able to substantiate only one allegation against Smt. Reeta Rani, Ex-Pradhan for mis-appropriation of Government funds to the tune of Rs. 48,335/- and the said amount has been deposited by her in the panchayat account. The SDO (C) Bhattiyat second inquiry Officer has concluded in his inquiry reports that none of the charges levelled against Shri Ashwani Pathania, J. E. and Shri Ravinder Kumar, J.E. Development Block Bhattiyat, have been proved.

Having independently examined the inquiry report, and on the basis of the material, information and documents collected by the Inquiry Officer, I am of the view that both the Inquiry Officer have appreciated oral and documentary evidence produced before them by the parties during the course of the inquiries, I find no sound and cogent reasons to differ with the findings

recorded and conclusion arrived at by them in the inquiry reports. The complainants have failed to produce sufficient evidence to substantiate the allegations made in the complaint against Smt. Reeta Rani, Ex-Pradhan against charges No.-2 and 3 and against Shri Ashwani Pathania, J. E and Shri Ravinder Kumar, J. E. Development Block Bhattiyat. Hence, no further action needs to be taken in this matter. The complaint according shall stand filed.

Needless to point out that I have not expressed any opinion on the merits of the alleged grievances made by the complainants in this complaint and nothing said by me in this order should be interpreted or construed as an expression of opinion on the merits of the case. The complainants, if they so desire are at liberty to approach the appropriate authority/Tribunal for redressal of their grievances in accordance with law.

Before parting with this case, I express my displeasure that the Deputy Commissioner Chamba, District Chamba could have the luxury of adopting dilly dallying approach in complying with the first order of the Lokayukta dated 15-11-2014 followed by subsequent reminder dated 03-06-2015, 29-07-2015, 16-03-2016, 29-04-2016, 02-06-2016 and 05-07-2016. It appears from the letter of the Deputy commissioner dated 30th June, 2016 that the SDO (C) Bhattiyat was appointed as Inquiry Officer to conduct inquiry in respect of charges framed against Shri Ashwani Pathania, J. E. and Shri Ravinder Kumar, J. E. Development Block Bhattiyat. The administrative authority of the district administration was expected to act swiftly and promptly to get the report completed within the stipulated period granted to the authority(s) from time to time from November, 2014 till 2016 and it was only on 04-11-2016 that the Deputy Commissioner Chamba, District Chamba has submitted the inquiry reports to the Lokayukta. The administrative authority has taken approximately two years to comply with the orders/directions of the Lokayukta and such in different and perfunctory approach and attitude towards sensitive issue need to be corrected and improved.

Be that as it may, I do express pious hope that the high responsible officer of the state administration would now ensure that in future the authority shall ensure the compliance of the orders/ directions of the Lokayukta in letter and spirit without default, demur and delay.

64. Complaint No. 25/2016-I (A) Loka

30.11.2016

Smt. Savitri Devi has filed this complaint through Shri Bhagi Rath Kapil her Husband and General Power of Attorney. The complainant has levelled allegations of taking bribe money of Rs. 2000/- from her by Shri Varinder Singh, Patwari Halqa, Shilla and Shri Hans Raj Kanungo-I Dharamshala for getting the demarcation conducted of her land bearing khata No. 306/130, measuring 0-57-31 Mauja, Harnaid.

It is the case of the complainant that on dated 25.04.2013, she preferred an application to the Tehsildar, Dharamshala for carrying out the demarcation of her land. For this purpose, she met the above said revenue officials as many as four times, but they have not paid any heed to her request. Consequently, on demand made by Shri Virender Singh and Shri Hans Raj Kanungo-I Dharamshala, she had to pay Rs. 2000/- bribe money to them to get the matter settled. According to the complainant, she had made complaints to the Hon'ble Chief Minister, Himachal Pradesh, Hon'ble Urban Development Minister, Himachal Pradesh and Sub Divisional Officer (Civil) Dharamshala against the erring revenue officers, but nothing effective has been done by the

authorities till the date of filing of this complaint on 01.06.2016. She further stated that the warrant of the eviction order detailed in the body of the complaint is lying pending before the Tehsildar Dharamshala for execution since both the erring revenue officers has demanded bribe money from affected parties.

On the above said premises, the complainant by way of this complaint has requested to get a fair and impartial inquiry conducted in the matter. In support of the complaint the GPA has filed affidavit duly attested by Ms. Priti Raj Pal, Oath Commissioner Dharamshala, alongwith photocopy of various documents obtained by him under the RTI Act, 2005.

Having gone through the nature of the allegation made against public servants by an old and helpless woman, the Lokayukta considered it necessary and inexpedient in the interest of justice and fair play to get the inquiry conducted from the Deputy Commissioner Kangra at Dharamshala or to get the matter inquired into through any officer not below the rank of Sub-Divisional Officer (Civil) of District Kangra and take consequential action against the erring revenue officials, in case allegation made in the complaint are found correct. Inquiry report with action taken thereon and statements and documents taken on record by the Inquiry Officer were requested to be sent to the Secretary, Lokayukta within two months from the date of receipt of copy of the order.

Reader to Lokayukta has duly conveyed the order of the Lokayukta dated 04.06.2016 alongwith photocopy of the complaint and other documents enclosed thereto to the Deputy Commissioner Kangra at Dharamshala, for necessary action and compliance.

Pursuant to the order of the Lokayukta dated 04.06.2016, the Deputy Commissioner Kangra at Dharamshala, *vide* his letter dated 21.07.2016 has informed the Reader to Lokayukta that the Sub-Divisional Officer (Civil) Dharamshala, has been appointed Inquiry Officer to inquire into allegations levelled in the complaint against the revenue officials of the District and the Inquiry Officer has also been directed to submit the inquiry report to the Deputy Commissioner within 15 days positively.

Consequently, the Lokayukta by order dated 05.08.2016 has requested the Deputy Commissioner Kangra at Dharamshala, to comply with the earlier order dated 04.06.2016 within further period of one month from the date of receipt of gist of the order. The Deputy Commissioner *vide* letter dated 03.08.2016 has informed the Secretary, Lokayukta that Shri Bhagi Rath Kapil, GPA Holder of Smt. Savitri Devi *vide* his letter dated 03.08.2016 has requested for the change of Sub Divisional Officer (Civil) Dharamshala being Inquiry Officer and the inquiry shall be got conducted through some other Revenue Officer. The Deputy Commissioner has accepted his request and entrusted the inquiry to Shri Shashi Negi (HAS) Assistant Commissioner to Deputy Commissioner. The Deputy Commissioner therefore has requested the Lokayukta to extend time for submitting the inquiry report by two months. In view of the latest development and reasons stated by the Deputy Commissioner in his letter dated 03.08.2016, the Lokayukta granted two months further time for doing the needful from the date of receipt of a copy of the order. The complaint file reveals that the Deputy Commissioner has not submitted the desired action taken report within the stipulated period. Consequently, by order dated 07.11.2016 passed by the Lokayukta one month further period was granted to the authority concerned to comply with the earlier repeated orders in letter and spirit without default, demur and delay. The Deputy Commissioner accordingly *vide* letter dated 04.11.2016 addressed to the Secretary, Lokayukta has furnished the inquiry report conducted by Shri Balbir Thakur (HAS) Additional District Magistrate Kangra at Dharamshala, alongwith handwritten statements of the parties and photocopies of other documents.

Having independently examined the inquiry report and on the material, information and documents collected by the Inquiry Officer, I am of the view that the complainant at this stage of preliminary inquiry has not substantiated the allegations of demand or acceptances of illegal gratification of Rs.2000/- by Shri Virender Singh Patwari and Shri Hans Raj Kanungo for conducting the demarcation of the land. The Inquiry Officer has also observed that the allegations made in the present complaint were earlier dealt with/inquired into by the Tehsildar, Dharamshala, but the complainant was not satisfied with the inquiry so conducted by the Tehsildar. Later on the Deputy Commissioner, Kangra at Dharamshala, vide his office letter No. 2270/SKC dated 21.07.2016 has entrusted the inquiry to the SDO(C) Dharamshala, but during the course of inquiry proceedings, the complainant is stated to have made an application before the Deputy Commissioner, Kangra at Dharamshala and requested that the said inquiry be conducted by any officer other than SDO (C) Dharamshala in the interest of justice and fair play. The Deputy Commissioner again has accepted the request of the complainant and he has appointed the Assistant Commissioner to Deputy Commissioner, Kangra at Dharamshala as Inquiry Officer vide office order dated 03.08.2016. However, looking to the seriousness of the charge made against two revenue officials of the District, the Deputy Commissioner in his wisdom by office order dated 20.10.2016 has entrusted the inquiry to the Additional District Magistrate (ADM) Kangra at Dharamshala.

Shri Bhagi Rath Kapil husband and GPA of complainant in his oral evidence made before the Inquiry Officer has stated that Shri Virender Singh, Patwari had received illegal gratification of Rs.2000/- from the complainant for carrying out the demarcation of his wife's land. He has produced attested copy of statement made by his witness namely Shri Ishwar Dass, S/O Shri Bhagat Ram R/O Village Chettru (Bagli) before Tehsildar, Dharamshala (1st Inquiry Officer) and SDO(C) Dharamshala (IInd Inquiry Officer). He has also stated before the Inquiry Officers that Shri Ishwar Dass has made the same statement before AC to DC Kangra at Dharamshala. He further stated that the application/ statements made by the delinquent official before SDO(C) Dharamshala on 17.08.2015 and 03.08.2016 should not be considered since these were recorded after the completion of the inquiry by SDO(C) Dharamshala on 17.08.2015. He also stated that that Shri Virender Singh, Patwari Halqa Shilla has misbehaved with his wife at his residence and none of the Inquiry Officers who conducted the inquiry at hand before this inquiry was entrusted has considered the said fact. He has alleged that the demarcation application was kept pending by Halqua Patwari for about 13 months despite order dated 02.05.2013, recorded by Kanungo, which was finally presented to him on 09.06.2014 for demarcation. He further stated that *vide* Government order No. PER AP-B(E)(3)-17/2012 dated 10.07.2013 no revenue officials holding the post of Patwari or Kanungo can be posted in a Circle adjoining to his home Circle, (copy of the said order has not been produced by the complainant), but despite the order of the State Government Shri Virender Singh Patwari, is posted in Patwar Circle at Shilla which is adjoining to his home Patwar Circle, Mant. In support of this allegation, the complainant has produced a photocopy of Halqua Patwari Mant.

In support of their defenses, Shri Hans Raj Kanungo and Shri Virender Singh, Patwari have also made their statements before the Inquiry Officer. Shri Hans Raj, Kanungo has stated that he had received an application of Smt. Savitri Devi dated 25.04.2013 requesting for the demarcation of her land. He sent the application to Patwari Halqua Shilla and finally the demarcation was conducted on spot on 09.06.2014 and before the final demarcation was conducted, he has visited the spot for carrying out the demarcation, where Shri B.R. Kapil, husband and GPA of the complainant was present. The final demarcation so conducted was accepted by the complainant and

this complaint after the gap of one and half years is not tenable and justified. He further stated that he has no knowledge of any money transaction between the complainant and the Patwari, nor any illegal gratification as alleged by the complainant has been taken by him, nor any illegal gratification of Rs.2000/- has been taken by Patwari in his presence. He further stated that Shri Ishwar Dass witness, examined by the complainant has frequently denied his statement before the Inquiry Officer who conducted the inquiry before the present inquiry has been started. He further stated that there were 12-13 Patwar Circles in his Kanungo Circle and during the relevant period he remained busy in HPCA case also (case was being probed by witnesses) and was honored for outstanding works and a certificate to this effect was available on main file. He stated that he carried out the ejection order with the then officer on the spot at Shilla Chowk, Ghanyara and Sidhbari *etc.* (copy marked on exhibit R/3).

Shri Virender Singh, Patwari, Patwar Circle, Shilla has denied all the allegations levelled against him. He stated that the demarcation of the land is the subject of field Kanungo concerned and the Patwari is only to assist the Kanungo and to produce relevant revenue record. He has pointed out contradiction in the statement made by Shri Ishwar Dass and the allegation of acceptance of illegal gratification of Rs. 2000/- by him. He has stated that the complainant in the complaint file before the Hon'ble Lokayukta has stated that after receiving Rs. 2000/- as bribe the demarcation of the land was done within a week, whereas as per the statement of Shri Ishwar Dass, Rs.2000/- were paid on the day of demarcation. He has also denied that he accepted four currency notes of Rs.500/- each for conducting the demarcation as the demarcation was carried out by the Field Kanungo on the spot. He has also stated that the complainant in written complaint presented to the Collector has stated that Shri B. R. Kapil had called Shri Ishwar Dass to hold 'Zereb' whereas Shri Vikas S/o Shri Kuldeep Chand, r/o Village Passu was available on the spot for holding the 'Zereb' and statement made by Shri Vikas to this effect is available on the case file.

He has denied the allegation of misbehavior with Smt. Savitri Devi being baseless and unfounded his defense is that he has gone to the house of Smt. Savitri Devi alongwith Chowkidar to inform her about the tour of Tehsildar in case titled Bhagi Rath Kapil Vs.Purushotam *etc.* As regard his posting, he has complied with the Government order and given his joining report at Shilla Patwar Circle (copy marked on exhibit R/4).

On scrutiny of the entire oral and documentary evidence led by the parties during the course of the inquiry, the Inquiry Officer has conclude as under :—

“The undersigned has gone through the record available in the case and has perused all the statements recorded minutely. As regards allegation in delay for carrying out the demarcation, there has been a delay of about 13 months. Shri Hans Raj, Kanungo has tried to justified the delay owing to heavy rush of work in his Kanungo Circle, more so because of ongoing Vigilance probe into HPCA case where his services were frequently required. He has even been rewarded and his services were appreciated by the Vigilance Department for rendering his valuable assistant in the investigation of several important cases. Though, Shri Hans Raj, Kanungo remained busy in the above probe, due care should have also been paid in discharging his duty towards the general public. Hence delay is not justified and action as deemed fit may be initiated by the competent authority.

As per the record available and from the perusal of the statements recorded, there is nothing concrete which may prove that any gratification was accepted by the Patwari Halqua as he had only assisted the filed Kanungo who carried out the demarcation of the land of the complainant. Moreover, the complainant couldn't produce the witness Shri Ishwar Dass,

S/o Shri Bhagat Ram R/o Village Bagli, Tehsil Dharamshala, District Kangra before the undersigned on the day of inquiry.

Similarly, the allegation of misbehavior with Smt. Savitri Devi w/o Shri Bhagi Rath Kapil by Shri Virender, Patwari is also not proved in the absence of any evidence/witness.

So far, the appointment/transfer of Patwari is concerned, Shri Virender is presently posted at Patwar Circle Sheela which is adjoining to his home Patwar Circle Mant. The competent authority may take necessary action on this issue.

The inquiry report is submitted for kind perusal and necessary action please”.

-Sd-
(BALBIR THAKUR, HAS),
Additional District Magistrate,
Kangra at Dharamshala.

Having bestowed my thoughtful consideration to the factual allegations made in the complaint and scrutiny of the oral and documentary evidence of the parties led before the Inquiry Officer, I am of the view that the Inquiry officer has conducted the inquiry fairly and in a transparent manner. I find no good and cogent reason to differ with the findings recorded and the conclusion arrived at by the Inquiry Officer.

On the basis of the inquiry report the Deputy Commissioner, Kangra at Dharamshala vide letter No. 3590/SKC dated 4.11.2016 has informed the Secretary, Lokayukta that ‘Censure’ is being issued to Shri Hans Raj Kanungo for delaying demarcation of the land of Smt. Savitri Devi and Shri Virender Singh Patwari, Patwar Circle Shilla has been ordered to be transferred to Patwar Circle, Jadrangal with immediate effect.

In the light of the action already by the competent authority(s) against the erring public servants named in this complaint, no further action needs to be taken in this matter. Hence, this complaint shall stand filed.

Needless to say that I have not expressed any opinion on the merits of the allegations made in this complaint. The complainant if she so desires is at liberty to approach the appropriate authority/Tribunal/Court for redressal of her grievances in accordance with law.

65. Complaint No. 46/2016-1 (A) Loka

07.12.2016.

A copy of an anonymous complaint addressed to the Hon’ble Chief Minister of Himachal Pradesh has been received by this office on 06-12-2016. The contents of the complaint are that one Smt. Rama Sood alias Rama Attri, is presently working as TGT (Arts) in Government Senior Secondary School Kuthera, District Hamirpur. She belongs to Sood community, but she is married to a Scheduled Caste man. On the basis of false caste certificate, she has managed to get

government job as a TGT, whereas the Government Notification provided that caste of a person is decided by birth and not by marriage of a party. It is stated that Soods are not Scheduled Caste people.

On the basis of the above stated facts, by way of this complaint, it is requested to order inquiry and punish the corrupt employee Smt. Rama Attri, who is due for retirement in December, 2016. Photocopies of the complaint are also addressed to the Director General of Police, Himachal Pradesh, Director Education, Himachal Pradesh, Deputy Director, Education, Hamirpur, Deputy Commissioner, Hamirpur and Member Anti-Corruption Club, Hamirpur.

The contents of the complaint would reveal that the same cannot be entertained and dealt with by the Lokayukta as the complainant suffers from legal infirmity as provided under the H. P. Lokayukta Act, 2014 (Act No. 23 of 2015).

The so called allegations alleged against a teacher working in Government School are not within the purview of the provisions of Act No. 23 of 2015, nor they do constitute any offence punishable under the provisions of the Corruption of Prevention Act, 1988 or the H. P. Prevention of Specific Corrupt Practices Act, 1983.

In that view of the matter, no action needs to be taken in this matter. Hence, the complaint shall stand filed on this short ground, without expressing any opinion on the merits of the averments made therein.

66. Complaint No.05/2016-1(A) Loka

19-12-2016

Shri R. K. Mankotia complainant herein claiming himself a Advocate, has preferred a copy of the complaint supported by affidavit duly attested by Notary Public, Jawali and photostat copies of orders of the Assistant Collector 1st Grade, Tehsil Jawali, copies of revenue records and communications of the Revenue Department of the State Government. The complainant has levelled allegations of acts of omission and commission and misuse of official positions by Shri Chander Kumar (Ex-Minister and Ex. MP), State of Himachal Pradesh in-connivance with the above named revenue officers of the Revenue Department.

Briefly stated the facts giving rise to the filing of this complaint are that Shri Chander Kumar (Ex.-Minister and Ex-MP) had constructed his residential house in Village Dhan, Tehsil Jawali and adjoining to his residential house a piece of land comprising Khasra Nos. 1757/1586/1 and 1587/2, Plots-3, measuring 00-08-47 HM situated in Mohal Dhan was owned by the State of Himachal Pradesh. Shri Chander Kumar being a political influential person of the area had constructed building/shed measuring approximately 23x14 sq meters on the said Government land. His son Shri Neeraj Bharti, is presently holding the office of the Chief Parliamentary Secretary (Education) to the Government of Himachal Pradesh.

According to the complainant, the local peoples of the area had made several complaints to the higher authorities of the state administration relating to the un-authorized occupation of the Government land by Shri Chander Kumar, but no legal action appears to have been taken by the concerned authorities against him till date. The revenue officials of Tehsil Jawali, in the year, 2005

had started proceedings against Shri Pawan Kumar, S/O Shri Lachman Dass, who at the relevant time was in Government service and had served as domestic servant of Shri Chander Kumar, for his ejection from the encroached land Under Section 163 of the Himachal Pradesh Land Revenue Act, before the Tehsildar-cum-Assistant Collector 1st Grade Jawali. The Tehsildar issued notice to Shri Pawan Kumar for his ejection from lands comprising Khasra No. 1586/1, measuring 00-00-52 HM, Khasra No. 1587/1 measuring 00-00-48 HM and Khasra No. 1587/1 measuring 00-01-20 HM. Shri Pawan Kumar did not choose to contest the proceedings for reasons best known to him. Consequently, Tehsildar-cum-Assistant Collector 1st Grade, Jawali in case No. 12/05/R/Teh vide order dated 01-12-2006 had directed the ejection of Shri Pawan Kumar from the encroached land. According to the complainant, despite the ejection order dated 01-12-2006, the Tehsildar Jawali has not issued warrant of possession against the encroacher nor the authority has started proceedings for taking the possession of the land and kept the matter pending till 29-10-2015. The Tehsildar, surprisingly has communicated a false report with hidden truth and suppressing material facts, to the Secretary (Revenue), State of Himachal Pradesh vide his letter dated 21-08-2013 alongwith the order dated 01-12-2006. Later on, the state Government vide order dated 31-10-2013 had granted the area of the encroached land, to Shri Chander Kumar in exchange of his private land bearing Khasra No. 1754/1 measuring 0-08-50. The complainant has stated that the Tehsildar had submitted a false report intentionally to hide the factual position on the spot with a sole object and purpose to help Shri Chander Kumar and thereby to get political blessings /advantages from him and his son.

The complainant has stated further that the Tehsildar has not mentioned regarding the unallotable pool of the land and existence of the road on the spot and that the State Government was not competent to grant exchange of land under Rule 27 of the Himachal Pradesh Nautor Rules, 1968, unless the building standing/shed constructed over the encroached land was dismantled or auctioned by the authority.

On the above said premises, the complainant, by way of this complaint has requested to get some inquiry/investigation conducted by the CBI and criminal/departmental proceedings be intimated against the erring revenue officials alongwith others who are involved in the scam either directly or indirectly, in the interest of justice.

The complainant has addressed copies of this complaint to the Hon'ble Prime Minister, Director CBI, New Delhi, the Hon'ble Chief Minister, State of Himachal Pradesh, Shri P. K Dhumal, Ex-Chief Minister, The Hon'ble Governor, State of Himachal Pradesh, The Principal Secretary(Revenue) Government of Himachal Pradesh, Deputy Collector Kangra Division at Dharamshala alongwith photostat copy of the communication dated 27-07-2013 sent by Shri Roshan Lal, Under Secretary(Revenue) to the Government of Himachal Pradesh to the Deputy Commissioner, District Kangra at Dharamshala and a photostat copy of corrigendum issued by the Principal Secretary (Revenue) to the Government of Himachal Pradesh on 20-11-2013, making some correction in the description of the granted land, photostat copy of the report dated 21-08-2013 submitted by Tehsildar, Jawali to the Deputy Commissioner, Kangra at Dharamshala, photostat copies of the proceedings of case No. 12/05 /R/Teh titled State Vs. Pawan Kumar initiated against the alleged encroacher since April 23, 2005 to 29-10-2015, photostat copies of summons issued to the encroacher, statement of Shri Ram Singh Patwari and Photostat copy of warrant of possession issued by the Assistant Collector 1st Grade Jawali to the Girdawar Halka and photostat copy of Jamanbandi for the year 1998-99 of the land encroached by Shri Pawan Kumar.

Having examined the seriousness of the allegations of 'corruption' and misuse of official positions by Shri Chander Kaumar (Ex-Minister and Ex-MP) who is presently holding the office of Chairman, Backward Class Commission at Kangra and the above named public servants, the Lokayukta vide order dated 02-04-2016 has requested the Deputy Commissioner, District Kangra at Dharamshala to submit the action taken report if any, based on the complaint allegedly submitted to him by the complainant. The needful was to be done within a period of two months from the date of receipt of a copy of the order. The Deputy Commissioner has not responded to the order of the Lokayukta till 23/06/2016, on which date, a reminder was sent to him to comply with the earlier order. The Deputy Commissioner, has again failed to submit the desired report within a stipulated period. Consequently, by order dated 01-08-2016, the Deputy Commissioner was again reminded to do the needful.

In response to the order dated 02-04-2016 followed by reminder orders dated 23-06-2016 and 01-08-2016, the Deputy Commissioner, District Kangra at Dharamshala has intimated the Secretary, Lokayukta that he has asked the SDO (C) Jawali to submit a detailed report about the genuineness and authenticity of the allegations made in the complaint. Consequently, the Lokayukta has granted one more opportunity to the Deputy Commissioner to submit the desired report, but till 19-02-2016, the Deputy Commissioner againn has failed to furnish a desired report till 19-09-2016 on which date further period of one month was granted to the authority to do the needful without default, demur and delay.

Pursuant to the last order dated 19-09-2016, the Deputy Commissioner vide letter dated 17-10-2016 has submitted inquiry report dated 05-09-2016 furnished to him by the SDO (C) Jawali alongwith the documents collected and statements recorded by the Inquiry Officer during the course of the inquiry for perusal and further order.

I have independently examined the inquiry report and on the basis of the material, information and documents collected by the Inquiry Officer during the course of the inquiry as well as 'Zimini' orders recorded by the Assistant Collector 1st Grade , Jawali on different dates commencing from 23-04-2005 to 29-10-2015 recorded in the proceedings of Case No. 12/05/R/Teh titled State Vs. Pawan Kumar and 'Rojnamcha Wakyati' No. 64 dated 07-10-2016 prepared by Halka Kanungo for the year 2007-2008 Patwar Circle Dhan, Tehsil Jawali.

On scrutiny of the inquiry report and oral and documentary evidence collected by the inquiry Officer and in the face of the allegations made in the complaint, the Lokayukta vide order dated 22-10-2016 has requested the Tehsildar-cum-Assistant Collector 1st Grade, Tehsil Jawali to produce following original records on 25-11-2016 for perusal :—

- 1) "Original record of case No. 12/05/R/Teh, dated 16-03-2005 titled State of Himachal Pradesh-Vs.-Pawan Kumar, s/o Shri Lachman Dass decided by the Assistant Collector, 1st Grade Jawali on 01-12-2006.
- 2) Original record of 'Zimnii' orders commencing from 22-02-2007 to 29-10-2015 recorded by Assistant Collector 1st Grade, Jawali in proceedings State of Himachal Pradesh-Vs.-Pawan Kumar.
- 3) Original record of Rapat Rojnamcha Wakyati' No. 64 dated 17th October, 2007 for the year 2007-08 Patwar Circle Dhan.

- 4) The original case file pertaining to the Government Land bearing Khasra Nos. 1757,1587/2 and 1586/1 Kita-3 granted to Shri Chander Kumar, S/o Shri Beli Ram, R/o Mohal Dhan, Tehsil Jawali in exchange of his private land comprising Khasra No. 1754”.

Pursuant to the order dated 22-10-2016, Shri Munish Chaudhary, Tehsildar, Tehsil Jawali, District Kangra was present in person. He has produced the original records listed at serial Nos. 1, 2 and 3 mentioned in the earlier part of this order. However, no original case file of serial No. 4 has been produced. When the Tehsildar was asked the reason of not bringing the original case file of the grant of Government land to Shri Chander Kumar in exchange of his private land, the Tehsildar has stated that the Government land which was un-authorizedly occupied by Shri Pawan Kumar was granted to Shri Chander Kumar in exchange of his private land by the State Government in relaxation of Rule 27 of the Himachal Pradesh Nautor rules, 1968 vide order 31-1-2013. He has stated that no original record of the grant of the said land was maintained in the office of the Tehsildar, Jawali nor the original file of the granted land was available in the office of the Deputy Commissioner, District Kangra at Dharamshala.

On perusal, the record of the Tehsildar would reveal that Shri Chander Kumar had directly applied for the grant of Nautor land in exchange of his private to the Financial Commissioner Himachal Pradesh under the Himachal Pradesh Nautor Rules, 1968. Shri Munish Chaudhary, Tehsildar Jawali has submitted his reply to the SDO (C) Jawali on this subject on 5th August, 2016. The reply of the Tehsildar would reveal that he has denied the allegations made by the complainant of misuse of his official position and to gain any favour or blessings from Shri Chander Kumar. The Inquiry Officer has also recorded the statements of Shri Pawan Kumar, Shri Wakil Singh Girdawar Kanungo and reports furnished by Patwari Halka and Knaungo Girdawar alongwith Rapat Rojnamcha Wakiyati No. 64 dated 17th October, 2007 prepared by Halka Kanungo whereby he has stated that Shri Pawan Kumar had been ejected from the encroached land owned by the State Government pursuant to the order of the Tehsildar-cum-Assistant Collector 1st Grade dated 01-12-2006 in case No. 12/2005 titled State of Himachal Pradesh Vs. Pawan Kumar and that the wall constructed on the encroached Government land had been demolished on spot. The Tehsildar has also submitted copy of the report dated 21-08-2013 to the Deputy Commissioner on the subject of grant of Government land to Shri Chander Kumar in exchange of his private land. This report would reveal that before the authority had recommended for the grant of Nautor land to Shri Chander Kumar in exchange of his private land, he had consulted the members of the Gram Panchayat and right holders of the area, who had not raised any objection against the grant.

On the basis of the oral and documentary evidence, the SDM Jawali has made observation, which reads as under:—

“From the above Para wise allegation and its out come, it is observed that the land bearing Khasra No. 1757, 1587/2, 1586/1 of state of HP and the land bearing Khasra No. 1754/1 of Sh. Chander Kumar was got exchanged only after the approval from the Govt. of H. P. vide letter No.—Rev. D(G) 6-51/2005 dated 31-10-2013. The entire record along with statements is therefore submitted to worthy Deputy Commissioner Kangra at Dharamshala for information and necessary action in this matter.

Signed
*Sub Divisional Magistrate,
 Jawali Distt. Kangra H.P”.*

In the facts and circumstances, stated herein above, I find no sound and cogent reasons to differ with the reasonings recorded and the conclusion arrived at by the Inquiry Officer. The complainant has not led an iota of evidence to prima-facie substantiate the allegations of 'corruption' and misuse of official positions by Shri Roshan Lal (Under Secretary) and Shri Munish Chaudhary, Tehsildar Jawali in-connivance with Shri Chander Kumar (Ex-Minister and Ex-MP), nor he could substantiate that the public servants against whom the allegations are made have committed offence punishable under the Prevention of Corruption Act, 1988 or the Himachal Pradesh Prevention of Specific Corrupt Practices Act, 1983 in terms of definition of 'complaint' contained in clause (b) Sub-Section (1) Section 2 of the Himachal Pradesh Lokayukta Act, 2014(Act No. 23 of 2015). The pith and substance of the complaint, prima-facie would reveal that the complainant has raised serious objection against the grant of Government land to Shri Chander Kumar in exchange of his private land in purported discretion of relaxation of Rule 27 of the Himachal Pradesh Nautor Rules, 1968. Therefore, the subject matter of the grant of Nautor land is outside the authority, jurisdiction and power of the Lokayukta under the relevant provisions of Act No. 23 of 2015. Hence, the Lokayukta cannot go and take cognigence of the subject matter of grant of Nautor Land by the State Government to a private party in exchange of his land. Therefore, the complaint accordingly, shall stand filed on this short ground.

I am making it clear that I have not expressed any opinion on the merits of the grievances made by the complainant in this complaint and nothing said by me in this order should be interpreted or construed as an expression of opinion on the merits of the case. The complainant, if he so desires, is at liberty to approach the competent authority/Tribunal/Court for redressal of his grievances in accordance with law.

**DETAIL OF COMPLAINTS OF CORRUPTION AND CRIMINAL MIS-CONDUCT
AGAINST POLICE PERSONNEL, DECIDED DURING THE YEAR, 2016**

1. Complaint No. P-7/2015-Loka

11-01-2016.

This complaint has been filed by one Shri Hirdu Ram Chauhan claiming himself an employee of Himachal Pradesh Police Employee Union, against the Director General of Police, Himachal Pradesh. The complainant has alleged that the Director General of Police has committed a big scam of money in getting the Himachal Pradesh Police "Coffee Tab Book" published from M/S Niyogi Publication, New Delhi on exorbitant rates without observing codal formalities and inviting quotation *etc.* from competitive books publishers. He alleged that there is a possibility of embezzlement money to the tune of Rs.10,00,000/- (Ten Lacs) while giving order of publication to the said publisher who is said to be a close friend or well wisher of the Director General of Police.

According to the complainant, the Director General of Police Himachal Pradesh Police has obtained undue gain or favour to himself to the extent of Rs. 10,00,000/- (Ten Lacs) and caused undue harm to the State of Himachal Pradesh and thereby has given undue favour to his friend publisher.

On the above said premises, the complainant by way of this complaint has requested that the matter may be entrusted to CBI for holding independent probe and investigation and criminal case may be got registered against the erring police officers including the Director General of Police.

On receipt of the complaint, it was noticed that the same has not been filed in accordance with the mandatory provisions laid down under Section 2(b) of the Himachal Pradesh Lokayukta Act, 2014(Act No. 23 of 2015). Therefore, the complainant has been informed by Reader to Lokayukta by letter dated 9th November, 2015 to prepare a desired complaint on Form-I (complaint) supported by an affidavit on Form-II. Affidavit shall be prepared on non-judicial stamp paper of worth Rs. 3/- only and the same shall be got attested from the competent authority. He was also informed that after completing the desired formalities the complaint alongwith affidavit and other supporting document(s) if any, shall be sent in original to the Secretary Lokayukta within a period of one month from the date of receipt of letter of this office. He was also advised that if he would feel any problem or difficulty in understanding the procedural formalities as suggested to him, he was at liberty to visit the office of the Lokayukta or he could contact any official of the Lokayukta on telephone Nos. 2623339 and 2624908 during office hours on any working day. Photostat copies of Form-I (complaint) and Form-II (affidavit) was also enclosed alongwith the letter for ready reference and his guidance.

It appears from the record of the case file that the letter of the Reader was sent thrice through the peon of the office for deliver to the complainant, but the same has been received undelivered reporting that the officials working in PHQ, Shimla have orally informed the peon that Shri Hirdu Ram Chauhan claiming himself as an employee of Himachal Pradesh Police Employee Union is not actually working in PHQ Shimla nor he is an employee of Police Department. In view of this information given orally by the officials working in PHQ, Shimla to the peon of this office, the communication has been returned back un-delivered.

In the facts and circumstances, no cognizance can be taken on the basis of the allegations made in this complaint against police officer(s)/official(s) of the Police Department Himachal Pradesh.

Hence, this complaint shall stand filed without embarking upon and expressing any opinion on the merits of the subject matter in issue.

2. Complaint No. P-6/2015-1(A) Loka

27.02.2016.

Shri Balwant Singh the above named complainant has filed this complaint against above mentioned police officials who at the relevant time were posted in District Hamirpur.

Briefly stated the facts of the case are that on 28-04-2010 the complainant was elected President in the election of School Management Committee Bir Baghera. On 03-05-2010 Shri Desh Raj Chopra, Principal, Govt. Senior Secondary School Bir Baghera handed over one register of SMC to the complainant in the presence of Shri Ashok Kumar, S/o Shri Tulsi Ram, r/o Village Jol, Tehsil Sujampur and requested the complainant to get the signatures of other members of SMC thereon. The complainant accordingly, took the register and left the office of Principal for getting signatures of the members.

According to the averments made by the complainant in the complaint, the Principal with malafide intention lodged a false complaint on 03-05-2010 against him, alleging therein that at about 11.30 AM, the complainant entered into the office of the Principal and took the register from the office and absconded from the spot. Consequently, FIR No. 52/2010 dated 03-05-2010 came to be registered against the complainant under Section 406 Indian Penal Code (IPC).

The complainant states that when he reached at Hamirpur, he got a telephonic call from ASI Ravinder Nath who informed him that Principal Govt. Senior Secondary School, Bir Baghera had filed a written complaint to the Police Station alleging that the complainant took register of SMC Bir Baghera from his office and absconded from the spot. The Complainant was informed by the ASI Ravinder Nath that he should come to Police Station, Sujampur. Accordingly, the complainant met ASI Ravinder Nath and showed him the proceeding register and after having seen the register, ASI made a telephonic call from the complainant's contact number 98162-76449 to the Principal on his mobile number. The Principal requested ASI Ravinder Nath not to take any legal action on his complaint filed against the complainant, which was evident from GD entry number 41(A) dated 03-05-2010, Police Station, Sujampur.

That on dated 04-05-2010 ASI Ravinder Nath made a telephonic call to the complainant, asking him to hand over the register of SMC to the Principal Govt. Senior Secondary School, Bir Baghera. The complainant accordingly, handed over the register to the Principal on the same day in the presence of Shri Rakesh Sharma, R/O Village Baghera and Shri Sunil Kumar, r/o Village Jol. On 04-05-2010 ASI Ravinder Nath came to school and under the influence of interested politicians, arrested the complainant in the presence of the persons present in the school and confined him in police custody at Police Station Sujampur as an accused in FIR No. 52/2010 dated 04-05-2010 under Section 406 IPC.

The complainant after getting bail on 05-05-2010 made a written complaint to Shri Kuldeep Sharma, Superintendent of Police, District Hamirpur. Shri Kuldeep Sharma, S. P. assigned inquiry to Shri Rajesh Kumar (The then Deputy Superintendent of Police Hamirpur) who after going through the relevant records such as GD entries 39(A) and 41(A) dated 03-05-2010 Police Station Sujampur and verifying call details of mobile numbers 94185-10537 and 98165-17050 and having recorded the statement of Shri Kishori Lal, came to the conclusion that a false case has been registered against complainant just to humiliate him publically as the news of complainant's absconding with register was published in daily newspaper "Danik Bhaskar" and complainant was falsely implicated in the said case.

According to the complainant, the Dy. S.P. Rajesh Kumar directed ASI Ravinder Nath, and Inspector Ramesh Thakur that they were not performing their duties according to law and he had also issued a show cause notice to them, besides having apprised the Superintendent of Police, Hamirpur about true facts of the case.

The complainant also stated that the said officials framed the false challan against him to justify their illegal action regarding the lodging of the false case. The police had instituted the challan in the court of JMIC, Hamirpur (Court No.-1) who on scrutiny of the challan came to the conclusion that no prima-facie case was made out against the complainant for the commission of offence under Section 406 IPC and accordingly, he was discharged on 15-02-2012 by the Learned JMIC, Hamirpur.

Feeling aggrieved against the order of discharge recorded by the JMIC Hamirpur, the State filed revision petition in the Court of Sessions Judge, Hamirpur which was also dismissed on dated 03-11-2014. The complainant has been submitting a number of complaints in writing to the SHO Police Station Sujampur, Superintendent of Police, Hamirpur, IGP Mandi, DGP Himachal Pradesh, Shimla and Secretary, Home Department, Himachal Pradesh, but they have not taken any legal action against the above mentioned public servants.

According to the complainant, he belongs to Scheduled Caste community and is the Block President of United Servodya Sanghathan, Hamirpur and also State *Vice* President of Kabir Panth Smaj Sabha Sudhar Sabha. He has suffered mentally and physically due to illegal act and conduct of the aforesaid public servants.

On the above said premises, the complainant by way of this complaint has prayed that an inquiry may be initiated against the aforesaid public servants for not performing their duties as per provisions of law. The complainant has supported the contents of the complaint with sworn affidavit duly attested by Oath Commissioner, District Court, Hamirpur. He has also filed photostat copy of GD entry No. 39(A) and 41(A) of Police Station, Sujampur, photostat copies of affidavits of Shri Sunil Kumar and Shri Ashok Kumar, Photostat copy of newspaper cutting, copy of order of the JMIC-I, Hamirpur and a copy of order passed by Sessions Judge Hamirpur, copies of complaints made to SHO Police Station Sujampur, S. P. Hamirpur, IGP Mandi, DGP Himachal Pradesh Shimla and Secretary Home Department Shimla and a copy of Show cause notice issued by Dy. S. P. Rajesh Kumar to the erring Police Officer.

Having considered the nature of the allegations made in the complaint against the Police Officials, who at the relevant time were posted in District Hamirpur, Lokayukta *vide* order dated 30-12-2015 requested the Superintendent of Police, Hamirpur and IGP Mandi, District Mandi to

submit their separate replies to the averments made by the complainant in paragraph-9 of the complaint and, both the authorities were requested to do the needful within one month from the receipt of the letter of this office alongwith copies of the complaint.

In response to the order dated 30-12-2015, the Superintendent of Police, Hamirpur and the Dy. Inspector General of Police, Mandi have submitted their separate replies. They have stated that after the discharge order in a criminal case of the complainant recorded by the Judicial Magistrate 1st Class, Hamirpur dated 15th February 2012, opinion about the merit of the discharge order was obtained from District Attorney Hamirpur who has given opined as under:—

“The discharging of accused is technical one and is not on merit. From the fact, it appears that I/O has acted in good faith on the basis of complaint received by him. From the above facts, it can be concluded that no evidence for registering a case against anyone is available,”

In view of the legal opinion tendered by the Learned District Attorney, Hamirpur the allegations leveled by the complainant against the Police Officials have not been found substantiated.

Both the authorities have also stated that on the basis of complaint submitted before the Lokayukta by the complainant, inquiry was got conducted by Dy. Superintendent of Police, but during the inquiry it has been noticed that on the basis of earlier complaint Nos 140/Gen Dated 30-01-15, 1510/IGP dated 21-10-2015 and 1662/DGP dated 01-12-2015 an inquiry was got conducted by Dy. Superintendent of Police, Hamirpur, who on the basis of the inquiry had submitted his inquiry report to the Inspector General of Police, Mandi and copy thereof was also sent to the complainant. Again, on the basis of the complaint submitted by the complainant to the Lokayukta fresh inquiry was got conducted by Dy. Superintendent of Police, Hamirpur.

On the basis of the complaint, it was found that in the year 2010, the complainant had filed FIR No. 52/10 dated 04-05-2010 against the Police Officials named in this complaint under Section 406 IPC and one more FIR dated 54/10 dated 05-05-2010 against Shri Kishori Lal the then Pradhan Gram Panchayat Baghera under Section 3(1) (10) SC/ST Act, alleging therein that Shri Kishori Lal during a meeting of School Management committee had uttered derogatory words against him being belonging to SC community, as result there of the complainant felt insulted and humiliated. But on scrutiny of the FIR and other material on record, the allegations prima-facie were not found substantiated and accordingly, cancellation report of the FIR No. 54/10 dated 05-05-2010 was submitted before the competent court of jurisdiction. But the Learned Judge ordered re-investigation of the case which was got re-investigated by Shri Rakesh Singh Additional Superintendent of Police who concluded in the inquiry report that no prima-facie-case had been established by the complainant against Shri Kishori Lal, the then Pradhan Gram Panchayat Baghera, therefore, second cancellation report came to be filed on 05-05-2012 before the competent court of jurisdiction.

In regard to FIR No. 52/10 filed by the complainant against Shri Desh Raj Chopra, Principal, Shri Ravinder Nath ASI Police Station Sujapur has conducted inquiry and at the relevant time Inspector Shri Ramesh Thakur was posted as SHO, Police Station Sujapur, whereas Shri Kuldeep Sharma was posted as Superintendent of Police, Hamirpur. Challan against Shri Desh Raj Chopra Principal, was filed in the Court of Judicial Magistrate (Court No.-1) Hamirpur, who

discharged the accused and the State of Himachal Pradesh on the advice of the District Attorney preferred revision petition before the Learned Sessions Judge, Hamirpur who has dismissed the revision petition.

On the basis of the inquiry, conducted by the Dy. Superintendent of Police, Hamirpur, the Inquiry Officer concluded that the complainant and or his witness(s) has failed to substantiated allegations of filing a false case against the Police Officials. Therefore, on the basis of the evidence on record and the concurrent findings of two courts below, no departmental action or any other proceedings can be initiated against Police Officials whose names and designations are mentioned in the complaint. The Superintendent of Police, District Hamiirpur and Dy. Inspector General of Police, Central Zone, Mandi in their separate replies filed before the Lokayukta have categorically stated that the Police Officials have discharged their duties sincerely, faithfully and according to the established principleness of law.

In view of the report of the Inquiry Officer, coupled with the judicial orders of the courts below as well as the separate replies filed by the Superintendent of Police, Hamirpur and DIG Central Zone Mandi, no further action needs to be taken on this complaint. Hence, the complaint shall stand filed.

However, I am making it clear that I have not expressed any opinion on the merits of the grievances alleged by the complainant in this complaint and nothing said by me in this order should be interpreted or construed as an expression of opinion on the merits of the case. The complainant if he so desires is at liberty to approach the competent authority or the competent court for redressal of his grievances.

3. Complaint No. P-2/2016-1(A) Loka

30.04.2016

Shri Raj Pal, complainant herein has filed this complaint on sworn affidavit duly attested by Shri S.D. Sharma, Public Notarty Rajgarh against Shri Yogesh Rolta Deputy Superintendent of Police, Rajgarh, District Sirmour, H. P. The complainant has alleged that on dated 16.03.2016, the complainant's brother Shri Jai Pal had received a telephone call from the police station saying that some issue was to be discussed with him. His brother had reached Police Station, at about 3.00 PM and there he was brutally bitten up by the DSP who at the relevant time was in intoxicated condition. According to the complainant, his brother was lodged in the Police Station whole night without giving any intimation to his family or other relatives. It was only on dated 17.03.2016 when the Sub Divisional Magistrate released his brother on bail.

The complainant has also alleged that his brother is an RTI activist and the DSP has registered false case against him under Section 107/151 Cr. PC 1973, which has caused great mental and physical agony to him.

Having considered the nature of the allegations made against a police officer, the Lokayukta vide order dated 29.03.2016, has requested the Superintendent of Police, District Sirmour at Nahan to conduct a fair and independent inquiry into the allegations levelled against the police officer of the District and furnish the inquiry report alongwith action taken, if any, thereon to the Lokayukta within a period of one month from the date of receipt of a copy of the order.

The Secretary, Lokayukta has communicated a gist of the said order to the Superintendent of Police, District Sirmour at Nahan under registered confidential letter dated 29.03.2016.

Pursuant to the order of the Lokayukta dated 29.03.2016, the Superintendent of Police, Sirmour at Nahan has submitted inquiry report (in Hindi language) dated 19.04.2016.

Having bestowed my thoughtful consideration to the reasonings recorded and findings arrived at by the Inquiry Officer, I am of the view that the complainant has not substantiated his allegations of misuse of position and an acts of commission and omission alleged against the Police Officer. The Inquiry Officer is stated to have recorded the statements of Shri Raj Pal and his brother Shri Jai Pal Singh as well as the statement of Doctor who has medically examined Shri Jai Pal Singh during the course of the inquiry. In addition to the oral evidence, the Inquiry Officer has also summoned relevant record of the case from Station House Officer (SHO), Police Station Rajgarh.

The inquiry report would reveal that Shri Jai Pal Singh has filed a complaint No. 35 P.C.D. dated 03.02.2016 through the Superintendent of Police for investigation which was entrusted to Shri Yogesh Rolta, DSP Rajgarh. Shri Yogesh Rolta, on 16.03.2016 has summoned Shri Jai Pal Singh for investigation at Police Station Rajgarh. During the course of the investigation, Shri Jai Pal Singh became furious and started raising his voice to the high speed. Shri Yogesh Rolta requested Shri Jai Pal Singh to speak politely at a low voice, but Shri Jai Pal Singh suddenly got up from the chair and started giving beatings to the police officials who at the relevant time were standing by his side. He threatened the police officials that either he would kill them or he would kill himself. He immediately has fled away from the police station and in the process, he was struck up on the main gate of the police station. The police officials with great difficulty could over powered him, but he had tried to escape from their clutches and told them "छोडो मुझे मैं तो मर जाऊंगा" In the facts and circumstances Shri Jai Pal Singh was arrested by the Police for breach of peace under section 107/151 Cr.PC. He was taken to hospital and where doctor who medically examined him has opined that Shri Jai Pal Singh had sustained physical injury on his body by fall and not due to beaten. Shri Jai Pal Singh was produced before the SDM Rajgarh on dated 17.03.2016, on which date he was released on bail.

On the basis of the oral and documentary evidence and in the face of the opinion of the doctor, that Shri Jai Pal Singh received injury not by beatings but due to fall, the Inquiry Officer has concluded that Shri Jai Pal Singh and his brother Shri Raj Pal Singh who has filed this complaint have failed to substantiate their allegations of mal treatment meted to Shri Jai Pal Singh at the hands of Shri Yogesh Rolta, DSP Rajgarh and other police officials of the Police Station. The police official have discharged their official duties diligently, and effectively after considering the factual situation created by Sh. Jai Pal Singh in the Police Station during the course of the investigation of his complaint.

On the cumulative considerations of the relevant factual and legal aspects addressed to herein above, I do not find any sound, cogent and convincing reasons to differ with the findings recorded and the conclusion arrived at by the Inquiry Officer in her inquiry report. Therefore, the inquiry report accepted in its entity in the facts and circumstances of the case and this compliant shall stand filed.

However, I am making it clear that I have not expressed any opinion on the merits of the grievances alleged by the complainant in this compliant and nothing said by me in this order should be interpreted or construed as an expression of opinion on the merits of the case.

4. Complaint No.P-1/2016-1 (A) Loka

25-06-2016

One Shri Naresh Jaswaal has addressed this complaint on behalf of entire police force of Himachal Pradesh, where and whereby he has levelled allegations of acts of corruption, taking bribe money and misuse of their positions by the police personnel working in the office of the Director General Police, Shimla. The complainant has stated that Shri Hem Raj is working as Superintendent Grade-I, in the Police Head Quarter Shimla and he has been taking bribe money from the police officials for getting them transferred and posted at suitable places of their choices.

The complainant alleged that Shri Hem Raj has proclaimed himself intimately close to the Director General of Police and at his instance the members of the State Police Establishment Committee, constituted at the Police Head Quarter headed by the Director General of Police and are responsible for transfers and postings of non Gazetted Police Officers between the various wings of the Police organization and on deputation outside the organization and for entire range transfers in all wings of the police department. The complainant has given the names and designation of as many as 29 police officers who have been got transferred and posted by Shri Hem Raj Superintendent according to their choice after they have fulfilled his desire of giving bribe money and other costly gifts in lieu of their posting and transfers. According to the complainant, Shri Hem Raj Superintendent has openly claimed that he has obliged the higher authorities by giving bribe money to them so that at his instance, the transfers and postings of police officials could be managed at suitable places of their choices.

On the above said premises, by way of this complaint, the complainant has requested that appropriate legal action shall be initiated against Shri Hem Raj, Superintendent and he may be got transferred from the Police Head Quarter and justice be done to the entire police force of the State of Himachal Pradesh.

Having considered the nature of the allegations of corruption, taking bribe money and misuse of office position, it was considered necessary and expedient in the interest of justice and fair play to request Shri Hem Raj, Superintendent to submit detailed reply to meet the series of the allegations made against him in the complaint. The desired reply was to be filed within one month from the date of receipt of a copy of the order of the Lokayukta dated 24-05-2016, which was duly conveyed to Shri Hem Raj Superintendent on the same day by Reader to the Lokayukta.

Pursuant to the order of the Lokayukta, Shri Hem Raj, Superintendent Grade-I office of the Director General of Police, Himachal Pradesh has submitted the desired reply, which was received by this office on 23-07-2016. Shri Hem Raj, Superintendent has categorically denied the allegations made against him in the complaint. He has submitted that the complaint is frivolous having no substance and has been made with a objective to malign his image and career and he is working in the middle hierarchy of the Police Head Quarter. He stated that police establishment has been constituted at the Police Head Quarter as provided under Section 56 of Himachal Pradesh Police Act, 2007. The State Police Establishment Committee is headed by the Director General of Police and comprising four senior Police Officers not below the ranks of Inspector General of Police nominated by Director General of Police. The responsibility of the State Police Establishment Committee has also been provided in the Act itself. The Committee approves all postings and

transfers of non-Gazetted Police Officers between various wings of the Police Organization and deputation outside the organization and for inter range transfers in all wings with the prior approval of the Government in accordance with the directions in this regard. It is further stated that there is complete ban on the transfers and therefore, the transfers being made in the department on administrative grounds in public interests are invariably approved by the Hon'ble Chief Minister. He has stated the procedure being adopted by concerned branches of Police Head quarter on receipt of recommendations from various quarters before the State Police Establishment Committee and as and when the committee would fix the date and time to examine the transfer cases. The branches of the Police Head Quarter are concerned with the transfers only to submit the posting profile of the police personnel who are to be transferred and no recommendations are being made by the branches. He has reiterated the transfer matters are discussed in the meeting of the P.E.C. after due deliberations the transfers and postings will follow and the office Superintendent has no role to play in recommending the transfers. He further submitted that postings in the Police Station and Police Posts and in Subordinate Police Offices are made by District Superintendent of Police and Heads of concerned Police Offices and other police offices respectively and Police Head Quarter has no role in posting in the Police Stations/Police posts and other field police offices. He has again reiterated that the allegations of corruption and taking the bribe money made against him are false and frivolous. He has also denied that he was instrumental in getting the transfers and postings of twenty personnel whose names are mentioned in the complaint at the place of their choices. In the end, he has repeatedly, re-iterated that this complaint being fake and frivolous has been preferred with some hidden motive to tarnish his image amongst the officers and colleagues and has requested that this complaint shall be filed in view of the facts and circumstances detailed in the reply.

I have gone through the entire stand taken by Shri Hem Raj Superintendent in his parawise reply. On independent examination of the entire sets of allegations made in the complaint and the reply submitted by Shri Hem Raj, Superintendent in his detailed parawise reply, noticed herein above, I am of the view that the complainant has not prima-facie substantiated the acts of corruption and misuse of position *etc.* by Shri Hem Raj Grade-I. It is also worth while to mention that the contents of the complaint are not supported by sworn affidavit duly attested by the competent authority as mandated under the relevant provision of the Himachal Pradesh Lokayukta Act, 2014 (Act No. 23 of 2015) and the relevant Rules. The trend and tenor of the complaint reveal that the genuine aggrieved person(s) is not interested in disclosing his name and identity and name and address of Shri Naresh Jaswal written as addressor on the left side of the envelop has been used as a fake person. This office has addressed a communication to the complainant at his given address, but the letter has been received back un-delivered with a note of the Postal Authority "Apuran Galat patta". (in complete wrong address).

In view of the facts and circumstances, no further action needs to be taken in this matter. Hence, the complaint is ordered to be filed.

However, I am making it clear that I have not expressed any opinion on the merits of the alleged grievances made in the complaint and nothing said by me in this order should be interpreted or construed as an expression of opinion on the merits of the case. The parties if they so desire are at liberty to redress their grievances before appropriate authority /forum in accordance with Law.

5. Complaint No.P-3/2016-1(A) Loka

22-12-2016

Shri Om Prakash Sharma has filed this complaint supported by sworn affidavit duly attested by Shri Surinder Singh Deshta, Public Notary-cum-Advocate Shimla, against Shri Rakesh Kumar and Shri Suresh Kumar whereby and whereunder he has alleged that on 13th July, 2016 both the above said persons came with police force accompanied by about 25-30 young boys and party workers (100-150 persons) and started destroying his car shed and pucca path with the help of JCB machine. He also states that despite his complaint police personnels have not taken legal action against the defaulters. The grievances of the complainant are that for the last about 15-20 years, the opposite parties have been harassing and humiliating him and his family members. In the year 1987, Shri Suresh Kumar and Rakesh Kumar in-connivance and collusion with Patwari settlement had wrongly occupied about 30 Marlas (Canal 10 Marla) land which originally belonging to him and "Dev Sathan". The complainant further alleged that Shri Rakesh Kumar and Suresh Kumar having close relations with highly political leaders of the area, have threatened him with dire consequences and ASI Harjeet Singh and Constable Vikram Singh presently posted at police Chowki Dagoh, instead of taking any legal action against the culprits, have prepared false cases against him and his family members. Further, grievances of the complainant are that in the month of March, 2013, he had filed a case with Settlement Officer for correction of revenue entries, but, the Settlement Officer under the influence of the opposite parties have intentionally delayed those proceedings.

On the above said premises, the complainant by way of this complaint has requested that appropriate legal proceedings be initiated against Shri Suresh Kumar and Rakesh Kumar alongwith ASI Harjeet Singh and HC Vikram Singh and 25-30 police officials, who on 13th July, 2016 came to his house and threatened him and his family members with dire consequences.

Having considered the nature of the allegations, the Lokayukta by order dated 03-10-2016 has requested the SDM Amb, District Una to conduct preliminary inquiry himself into the allegations made by the complainant against the opposite parties. The SDM (Inquiry Officer) was also requested to record the statements of the complainant and his witness(s), if any, examined by him as well as the statements of the opposite parties and submit the inquiry report to the Secretary, Lokayukta alongwith the entire oral and documentary evidence taken on record during the course of the inquiry. The needful was to be done within two month from the date of receipt of a copy of the order.

The complaint file would reveal that the SDM, Amb, District Una has not furnished desired inquiry report within the stipulated period. Consequently, by order dated 13-12-2016, one month more time was allowed to the inquiry Officer to submit the desired inquiry report.

Pursuant to the order dated 03-10-2016, SDM, Amb Una vide confidential letter dated 12-12-2016 has submitted detailed inquiry report alongwith original copies of the statements made by the parties before him and photostat copies of the complaints allegedly filed by both the parties against each other as well as copies of the applications and orders recorded thereon by the subordinate court in civil suits filed by the parties against each other and photostat copies of revenue records. I have independently examined the statements of the complainant and his witnesses. In his statement, he has stated that he is a retired Army Officer and during his service

period Shri Suresh Kumar and Shri Rakesh Kumar had occupied his land and they are continuously harassing him un-necessarily. He has stated that Shri Jaidev (father of Shri Suresh Kumar and Rakesh Kumar) had acquired his land bearing Khasra No. 950 by illegal means and added that a chunk of land belonging to the complainant bearing Khasra No. 951 was also illegally encroached upon by Shri Jaidev. Similarly, piece of land measure about 19 Marla belonging to him bearing khasra No. 952 was also reduced to 3 Marla by the opposite parties by illegal means in his absence. The opposite parties have usurped total land measure 30 Marlas belonging to him. His brother has approached the Settlement Officer, Dharmshala, but the opposite parties have strong political connection and due to their influence, they have filed false cases against him. He has further cited some instances of threats given to him by the opposite parties. The police party has not taken any action against the defaulters but on the other hand they have implicated the complainant in false cases and at the instance of the opposite parties. He has stated that on 13th July, 2016, he was manhandled by the police and the opposite parties have destroyed his Cow shed, with the help of JCB machine. His complaint regarding the occurrence was also ignored by the police officials who have failed to discharge their official duties and have helped the opposite parties in doing illegal acts against the complainant.

Shri Somnath is the brother of the complainant. In his statement, he has stated that he is also Ex- Army personnel and during his service period and his brother Shri Om Prakash Sharma, in the year, 1987, Shri Jaidev and his family members in connivance with the Settlement Staff had taken their 14 Marla land and fifteen and half Marla land of "Dev Sathan". They have obtained information about grabbing of their land under the RTI Act, 2005, whereafter both the opposite parties have started quarrelling with them and threatened them with dire consequences. He alleges that whenever they went to the police station to lodge their complaints, no action has been taken by the police against the defaulters. He has stated that Shri Jaidev and his son have victimized him for the past 15-20 years. He has filed a case for the correction of settlement record before the Settlement Officer, Dharamshala. But, due to political links of the opposite parties, the authority concerned has also not decided the matter till date. His version was that on 13th July, 2016 around 1.30 PM about 20-25 young boys came to the house of Jaidev, father of Shri Suresh Kumar and Shri Rakesh Kumar and thereafter about three persons alongwith JCB machine came to the spot alongwith ASI Harjeet Singh and HC Vikram Singh alongwith thirty more police officials. The police officials manhandled his brother Om Prakash and his car shed and Pucca Rasta were dismantled with the help of JCB machine. He also stated that Kidney transplant of Shri OM Prakash (complainant) was conducted about few days prior to the incident and his brother had received injuries in the process. He lastly stated that police officials did not even bother to medically examined Shri Om Prakash, who has to go to Mohali to get his treatment done.

Smt. Sunita Sharma, wife of Shri Somnath has corroborated the version of her husband. However, she added that shed of Shri Om Prakash Sharma was already constructed and both the parties had agreed for the construction of the path in the presence of Pradhan and Up-Pradhan of Gram Panchayat. Shri Rakesh Kumar had completed his work, but destroyed the Cow shed and path leading to the house of Shri Om Prakash with the help of JCB machine. Shri Deepak Kumar Jariyal is a photographer by profession. He has stated that on 13-07-2016, he was called by Shri Om Prakash to the spot to take the photograph of dismantled structure. He has admitted that photographs (seven in numbers) placed on record alongwith inquiry report were taken by a boy working in his shop.

On the other hand, Shri Suresh Kumar and Shri Rakesh Kumar have filed their joint written reply dated 03-11-2016 duly signed by them. They have categorically stated that both Shri Om Prakash and his brother Shri Som Nath Sharma are trouble some persons and when ever anybody

tries to act against them legally, they would not hesitate in filing complaints against the persons concerned or officials of the revenue staff and police authority. They have also stated that many co-villagers have filed a numbers of FIRs and civil cases against both the brothers and in some cases, they were also found guilty and sentenced by the Courts. They have also given details of the case files pending against both the brothers under various IPC sections. According to their version, Gram Panchayat Amboa has also written to the police to take legal action against the complainant and his brother Shri Somnath. They have filed a photostat copy of the order dated 17-12-2013 passed by Civil Court granting interim injunction order in respect of the land bearing khasra Nos. 1517, 1518 and 1519, but both brother have disobeyed the said order of the Court and started construction on the said khasra numbers. Consequently, they approached the Civil Court to provide them police assistance to get the interim injunction order implemented on the spot and when police officials visited the spot and asked the complainant and his brother not to interfere in the lands in dispute, both the brothers started blaming them and filed false applications against them. They have also stated that in the past as well both the brothers have filed false complaints against them, which later on were proved false. Lastly, the opposite parties have requested the Inquiry Officer that the complaint filed by the complainant against them may be got rejected as the complainant and his brother are in the habits of wasting the precious time of the Government and the public authorities.

Statement of ASI Harjeet Singh, Incharge Police Chowki, Daulatpur Chowki was also recorded. He stated that after receipt of order from Civil Court, he visited the spot and directed Shri Om Prakash, complainant not to interfere in disputed land, who at the relevant time was constructing the path on the disputed land. He denied the allegations of the complainant that he alongwith the other police officials have mis-behaved with the complainant. He has stated that in compliance to the order of the Civil Court, demarcation was carried out of the disputed and on the spot and the land was found to be belonging to Rakesh Kumar. He further stated that there are many criminal cases pending against Shri Om Prakash, complainant.

Shri Vikram Singh, Constable No. 107, Police Chowki, Daulatpur Chowk in his version has stated that he visited the spot with the Chowki Incharge in compliance to the order of the Civil Court. On spot, the complainant was constructing the path on a disputed land and when he asked the complainant to stop the construction on the disputed land, the complainant mis-behaved with him. He stated that after great persuasion construction was stopped by the labourers. He categorically denied the allegations of the complainant that the police officials mis-behaved with him on the spot and further states that the complainant is in the habits of making false and baseless allegations against the police officials of the Police Chowki.

Shri Kuldeep Kumar Kanungo, Daulatpur Chowk Circle, District Una in his statement has stated that in compliance to the order of the Civil Judge, Jr. Division (Court No. 2), he visited the spot on 16-08-2016, in the presence of police officials Police Post, Daulatpur Chowk. He conducted the demarcation on spot alongwith Shri Harminder Singh, Patwari Halka and location of Khasra Nos. 1517, 1518 and 1519 was given to the police party. He stated that the disputed Khasra Nos. belonging to Suresh Kumar, S/ O Shri Jaidev *etc.* Shri Harminder Singh, Patwari Halka has corroborated the version of Shri Kuldeeps Kumar Kanungo and also stated that as per Jamabandi for the year 2014-2015 (photostat copy placed on record) Khasra Nos. 1517, 1518 and 1519 are in the ownership of Suresh Kumar *etc.*

The Inquiry Officer on the basis of the oral and documentary evidence produced before him by the parties has come to the following conclusion:—

“The complaint and opposite parties have rivalry over a piece of land. The complainant alleges that this land belonged to them and the respondents have colluded with settlement officials and became owners of his land. It is also an admitted fact that the case regarding this land is pending with Ld. Settlement Officer, Dharamshala. However, the rivalry of the both the parties are not limited to civil litigations only. They keep quarreling with each other and have filed number of police complaints of criminal nature against each other. This complaint to Hon’ble Lokayukta seems yet another attempt to vent their personal grudge and involve the other party at another forum.

During inquiry, the complainant was given opportunity to produce witnesses and evidence but he could not produce any independent witness and evidence which could substantiate the allegations levelled by him. On the other hand, respondents have produced on record various police reports against the complainant as well as a document issued by the Gram Panchayat which states that the complainant and his brother quarrel with their neighbours and don’t listen to Gram Panchayat. Further, from the perusal of the record it is evident that there is an injunction order issued by the Hon’ble Civil Court Amb regarding the disputed land and there are also the orders of the Hon’ble Civil court regarding providing police assistance for effective implementation of this injunction order. As per statements of the police officials and revenue Kanungo and patwari, they went to spot as per the directions and orders of the Hon’ble civil court. Thus, there seems nothing wrong on their part. Complainant would also not establish anything, which could support his version of wrongdoings by police on 13th July, 2016. Neither the complainant could establish that his cow shed and pakka path has been destroyed by the respondents/ police as alleged. As far as allegation regarding delay of case in the court of Ld. Settlement Officer, Dharamshala is concerned, this allegation again seems unfounded as complainant could not substantiate on this as well.

Thus, the allegations levelled in the complaint are not proved.

Signed
*Sub-Divisional Magistrate,
Amb, District Una, H.P”.*

Having independently examined the reasonings and findings recorded by the Inquiry Officer in his report, I do not find any sound and cogent reasons to differ with the same. The Inquiry Officer has exhaustively dealt with the evidence of the parties led before him after giving them reasonable opportunities and recorded the conclusion extracted herein above. The complainant has failed to substantiate the allegation of misuse of their official positions by Shri ASI Harjeet Singh and H. C. Vikram Singh in discharging their official duties. The police officials had visited the spot and got the demarcation conducted of the disputed land from the revenue officials of the Tehsil in pursuance of the interim injunction order passed by competent Civil Court. The complainant has also not led any convincing evidence before the Inquiry Officer to prove that the Settlement Officer, Dharmshala is lingering the proceedings filed before him by the complainant for correction of revenue record against the opposite parties. His mere appreciation that the Settlement Officer is under the influence of Shri Suresh Kumar and Rakesh Kumar, who

are backed by political leaders, cannot be accepted without leading satisfactory and convincing evidence on record. The bald statement of the complainant to this effect prima-facie seems unfounded and un-justified in the absence of any other positive evidence to corroborate his version.

In the facts and circumstances, the inquiry report submitted by the Inquiry Officer is accepted in its entirety. Therefore, no action deserves to be taken in this matter, Hence, the complaint shall stand filed.

I am making it clear that I have not expressed any opinion on the merits of the grievances made by the complainant in this complaint against private parties and or against the public servants and nothing said by me in this order should be construed or interpreted as an expression of opinion on the merits of the case. The complainant, if he so desires, is at liberty to redress his grievances before an appropriate authority /forum/Court in accordance with law.

EXPLANATORY NOTE

Various proposals/suggestions for making the H.P. Lokayukta Act, 2014 (Act No. 23 of 2015) more effective and strong:—

In this regard, the Hon'ble Lokayukta H.P. in his report, has made various suggestions/proposals such as:—

- (1) To Empower Lokayukta to take *suo-motu* cognizance on the allegations of corruption.
- (2) Creation/filling up of additional post of the Officers of "Inquiry Wing", "Prosecuting Wing" of Lokayukta and constitution of Special Court.
- (3) Adequate and suitable accommodation for the o/o Lokayukta.
- (4) Finalization of Rules:—
 - (i) H.P. Lokayukta (condition of Services) Rules, 2016,
 - (ii) H.P. Lokayukta (Proceeding) Rules 2016, &
 - (iii) H.P. Lokayukta (R &P and other conditions of Service of Officers/employees) Rules, 2016.

All proposals/suggestions made by the Hon'ble Lokayukta are under active examination at Government level and appropriate decision will be taken on them after getting the advice of concerned Advisory Departments *i.e* Personnel, Law and Registrar General, High Court.

आशीषमाजी

किरण

Chief Minister
Himachal Pradesh