



**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 9022 of 2025

Amitabh Thakur

.....Petitioner(s)

Versus

State Of U.P. Thru. Prin. Secy. Legislative Deptt.
Lko. And Another

.....Respondent(s)

Counsel for Petitioner(s) : Nutan Thakur, Deepak Kumar
Counsel for Respondent(s) : C.S.C.

with

**HIGH COURT OF JUDICATURE AT ALLAHABAD
LUCKNOW**

WRIT - C No. - 9055 of 2025

Amitabh Thakur

.....Petitioner(s)

Versus

State Of U.P. Thru. Prin. Secy. Legislative Deptt.
Lko. And 5 Others

.....Respondent(s)

Counsel for Petitioner(s) : Nutan Thakur, Deepak Kumar
Counsel for Respondent(s) : C.S.C., Amarendra Pratap Singh, Gaurav Mehrotra

Court No. - 2

**HON'BLE MRS. SANGEETA CHANDRA, J.
HON'BLE BRIJ RAJ SINGH, J.**

1. Heard learned Counsel for the petitioner, Sri Rajesh Tiwari, learned Standing Counsel appearing on behalf of the State, Sri A.P. Singh, learned Senior Advocate, assisted by Sri Amrendra Pratap Singh, learned counsel for the respondent, Sri Gaurav Mehrotra, learned Counsel representing the respondent no.3 and Sri Abhilash Kumar Singh, Advocate, who has filed power on behalf of the respondent no.6 in Writ-C No.9055 of 2025.

2. Writ-C No.9022 of 2025 has been filed with the following main prayers:-

"(a) Kindly strike down and accordingly declare the word "Chief Minister" in section 2(g) of the Uttar Pradesh Lokayukta and Up-Lokayuktas Act, 1975, as

nullity and void.

(b) Kindly strike down and accordingly declare the words "Provided that the Lokayukta or an Up-Lokayukta shall, notwithstanding the expiration of his term continue to hold office until his successor enters upon his office" in section 5 of the Uttar Pradesh Lokayukta and Up-Lokayuktas Act, 1975, as unconstitutional.

(c) Kindly issue a writ in the nature of Mandamus or any other appropriate writ, order or direction thereby directing the concerned respondents not to give effect to the word "Chief Minister" in section 2(g) and the words "Provided that the Lokayukta or an Up-Lokayukta shall, notwithstanding the expiration of his term continue to hold office until his successor enters upon his office" in section 5 of the Uttar Pradesh Lokayukta and Up-Lokayuktas Act, 1975."

3. Writ-C No.9055 of 2025 has been filed with the following main prayers:-

"(a) Kindly issue a writ in the nature of Quo Warranto or any other appropriate writ, direction or order, thereby directing OP No 4 to 6, Justice Sanjay Mishra, presently Lokayukta, Uttar Pradesh, Lucknow, Mr Shambhu Singh Yadav, presently Up Lokayukta, Uttar Pradesh, Lucknow and Mr Dinesh Kumar Singh, presently Up Lokayukta, Uttar Pradesh, Lucknow to kindly vacate their respective offices in the Lokayukta, UP office with immediate effect.

(b) Kindly issuing a writ in the nature of Mandamus or any other appropriate writ, direction or order to the concerned respondents to ensure earliest appointment of an appropriate person to the position of Lokayukta of Uttar Pradesh, at the earliest, say within 02 months."

4. A preliminary objection has been raised by Sri Rajesh Tiwari, learned Additional Chief Standing Counsel, saying that prayer clause (b) of Writ-C No.9022 of 2025 prays for declaring the words mentioned in Section 5 " provided that Lokayukta or Up-Lokayukta shall notwithstanding the expiration of his term continue to hold office until his successor enters upon his office" as unconstitutional, but such issue has already been decided by Hon'ble Supreme Court in *Mohd. Saeed Siddiqui Vs. State of Uttar Pradesh and Another*, reported in **2014 (11) SCC 415**.

5. We have gone through the judgement rendered by Hon'ble Supreme Court in *Mohd. Saeed Siddiqui* (supra), and we find that the writ petitioner therein had challenged the continuance of Mr. Justice N.K. Mehrotra (Retired) as Lokayukta on the ground that under Section 5(1) of the Act, the term of the Lokayukta was only six years from the date on which he enters upon his office and under Section 5(3) it was provided that on ceasing to hold office, the Lokayukta or an Up-Lokayukta shall be ineligible for further appointment, either for Lokayukta or an Up-Lokayukta or any other capacity in the State Government. The Court noted that an amendment had been carried out under Section 5(1) and the term of Lokayukta was extended to eight years with effect from 15.03.2012 by way of an Ordinance. Later on an Amendment Act was notified on 06.07.2012 and the term was extended from 6 years to 8 years or till the successor enters upon his office. Therefore, the writ petition praying for Quo warranto against the then Lokayukta was dismissed. The Appeal has also been dismissed by the Supreme Court thereafter.

6. The Supreme Court had observed that the respondent no.2 therein was holding office of Lokayukta under a valid law enacted by the competent Legislature as amended by the Amendment Act of 2012.

7. In this case, the petitioner has challenged the amended provision itself extending the term of Lokayukta till such time his successor enters upon his office, therefore, judgement rendered in *Mohd. Saeed Siddiqui Vs. State of Uttar Pradesh and Another*, will not apply to the petitioner.

8. It has been submitted by learned Counsel for the State Respondents that the petitioner has filed another writ petition, namely, Writ-C No.9055 of 2025 praying for a direction to be issued to the respondent nos.4 to 6 i.e. the current Lokayukta and the Up-Lokayukta to vacate their respective offices

with immediate effect and a writ in the nature of mandamus to the State Respondents to ensure earliest appointment of an appropriate person to the position of Lokayukta of the State of Uttar Pradesh.

9. The said writ petition praying for a writ in the nature of Quo warranto would otherwise be not maintainable in view of the law settled by Hon'ble Supreme Court in the case of *Mohd. Saeed Siddiqui Vs. State of Uttar Pradesh and Another*, and, therefore the Writ Petition bearing number Writ-C No.9022 of 2025 has been filed with the aforesaid prayers.

10. We are, prima facie, of the opinion that the writ petition bearing number Writ-C No.9022 of 2025 cannot be dismissed on raising such preliminary objection by the counsel for the State Respondents.

11. At this stage, learned Counsel for the State Respondent has placed before this Court an order passed in Writ Petition (Civil) No.110 of 2019: *Shiv Kumar Tripathi Vs. State of U.P.*; on 16.01.2023, wherein the petitioner had sought a direction from the Supreme Court to amend the U.P. Lokayukta and Up-Lokayukta Act, 1975. The Court had observed that amendments cannot be issued to enact or amend the law, and therefore, the writ petition was dismissed.

12. It has also been submitted that the U.P. Lokayukta and Up-Lokayukta Amendment Act of 2024 notified on 26.02.2024 has now limited the tenure of sitting Lokayukta and Up-Lokayukta by mentioning therein that they shall continue for a period of five years or till they attain the age of seventy years, whichever is earlier, but this Act is prospective in nature and will not apply to the sitting Lokayukta and Up-Lokayukta.

13. We are of the considered opinion that insofar as Writ-C No.9022 of 2025 is concerned, the same is maintainable for the prayers made therein and hence, **we issue notice to the learned Advocate General as the petitioner has challenged the constitutionality of certain provisions of Lokayukta and Up-Lokayukta of the State of Uttar Pradesh, as aforesaid.**

14. Insofar Writ-C No.9055 of 2025 is concerned, which is also listed today at sl.no.56 in the list of fresh cases, we find that the prayer made therein is for a Writ in the nature of Quo warranto or any other appropriate writ directing the respondent nos.4 to 6 i.e. the current Lokayukta and Up-Lokayukta to vacate their respective offices with immediate effect and also

prayer has been made for a Mandamus to be issued to the respondent to ensure earliest appointment of an appropriate person to the position of Lokayukta of Uttar Pradesh at the earliest, say within a period of two months.

15. Insofar as prayer clause (a) is concerned, such prayer cannot be granted in view of the Amendment Act No.3 of 2024 notified on 26.04.2024, where such amendment has been made prospective in nature.

16. Insofar as prayer clause (b) of Writ-C No.9055 of 2025 is concerned, we are, *prima facie*, of the opinion that there is no subsisting legal right with the petitioner, nor any statutory duty has been cast upon the respondent which can impel us to grant a writ in the nature of Mandamus or issue such directions as prayed for.

17. Accordingly, **Writ-C No.9055 of 2025 is *dismissed*.**

18. List Writ-C No.9022 of 2025 after service of notice.

September 15, 2025

Rahul

(Brij Raj Singh,J.) (Mrs. Sangeeta Chandra,J.)