

THE CORRUPT PUBLIC SERVANTS (FORFEITURE OF PROPERTY) BILL

A bill to provide for the forfeiture of illegally acquired properties of corrupt public servants and for matters connected therewith or incidental thereto.

WHEREAS for the effective prevention of corruption by public servants which is having a deleterious and deadening effect on administrative efficiency, developmental activities and programmes it is necessary to devise effective and prompt-measures to deprive persons engaged in such activities of their ill-gotten gains;

AND WHEREAS many such public servants are stashing away their ill-gotten gains in numbered accounts in foreign banks and in many other ways outside the territory of India and whereas it is necessary to identify and seize those assets for being utilised for public purposes and whereas it is necessary for achieving the said purpose to declare the very holding or possession of illegally acquired properties an offence;

AND WHEREAS prosecution of corrupt public servants under the provisions of the Indian Penal Code, 1860 and the Prevention of Corruption Act, 1988 has become difficult on account of various systemic defects and as a result of which the number of prosecutions and more so the number of convictions of corrupt public servants is ridiculously low compared to the widespread corruption prevailing every level of administration;

AND WHEREAS such public servants have been augmenting such gains by violations of Wealth Tax, Income Tax and other laws or by other means and have thereby been increasing their resources for operating in a clandestine manner;

AND WHEREAS such persons have in many cases been holding the properties acquired by them through such gains in the name of their relatives, associates and confidants;

AND WHEREAS it is necessary to forfeit all such properties ignoring all kinds of devices and transactions;

BE it enacted in the Fifty-ninth Year of the Republic of India as follows:

1. Short title, extent and commencement.—(1) This Act may be called the Corrupt Public Servants (Forfeiture of Property) Act.

(2) It extends to the whole of Kerala.

(3) It shall come into force on such date as may be notified by the Government.

2. Application.— The provisions of this Act shall apply to the following persons, namely:—

a) Every public servant—

- (i) Who has been found guilty of corruption in a disciplinary/ departmental enquiry or by a court; or
- (ii) Who is holding or is in possession of illegally acquired properties; or
- (iii) Who is found holding or in possession of properties whether in the course of a search, raid or survey by an authority or in any other manner whatsoever, which are disproportionate to his known means of income;

- (b) Every person who is a relative of the public servant referred to in clause (a);
- (c) Every associate of the public servant referred to in clause (a);
- (d) Any holder of any property which was at any time previously held by the public servant referred to in clause (a), unless such holder proves that he was a transferee in good faith for adequate consideration;
- (e) Any person who has deposited any amounts or other movable properties in any bank or any other concern outside the territory of India, or has acquired any properties outside the territory of India without the requisite permission of the appropriate authority in India.

Explanation.—1 For the purposes of clause (b) of this sub-section, “relative” in relation to a public servant means—

- (i) Spouse of the public servant;
- (ii) Brother or sister of the public servant;
- (iii) Brother or sister of the spouse of the public servant;
- (iv) Any lineal ascendant or descendant of the public servant;
- (v) Any lineal ascendant or descendant of the spouse of the public servant;
- (vi) Spouse of the person referred to in clause (i), clause (iii) or clause (v);
- (vii) Any lineal descendant of the person referred to in clause (ii) or clause (iv).

Explanation.—2 For the purposes of clause (c), “associate”, in relation to a public servant means—

- (i) Any individual who had been or residing in the residential premises (including outhouses) of such public servant;
- (ii) Any individual who had been or is managing the affairs or keeping the accounts of such public servant;
- (iii) Any association of persons, body of individuals, partnership firm or private company within the meaning of the Companies Act, 1956, of which such public servant had been or is a member, partner or director;

(iv) Any individual who had been or is a member, partner or director of an association of persons, body of individuals, partnership firm or private company referred to in clause (iii) at any time when such public servant had been or is a member, partner or director of such association, body, partnership firm or private company;

(v) Any persons who had been or managing the affairs, or keeping the accounts, of any association of persons, body of individuals, partnership firm or private company referred to in clause (iii);

(vi) The trustee of any trust, where—

(a) The trust has been created by such public servant; or

(b) The value of the assets contributed by such public servant (including the value of the assets, if any, contributed by him earlier) to the trust amounts, on the date on which the contribution is made, to not less than twenty per cent of the value of the assets of the trust on that date;

(vii) Where the competent authority, for reasons to be recorded in writing, considers that any properties of such public servant are held on his behalf by any other person, such other person.

Explanation.—3 For the avoidance of doubt, it is hereby provided that the question whether any person is a person to whom the provisions of this Act apply may be determined with reference to any facts, circumstances or events (including any conviction or detention) which occurred or took place before the commencement of this Act.

3. Definitions.—(1) In this Act, unless the context otherwise requires—

(a) “Competent authority” means the competent authority designated under subsection

(1) of Section 5 and shall include the competent authorities designated as such under sub-section (2) of Section 5.

(a) “Corruption” includes (i) conduct of the nature specified in any of the offences mentioned in the Prevention of Corruption Act and the offences mentioned in Sections 166 to 169, 197, 217 to 219, 409, 477-A and 489-A to 489-E of the Indian Penal Code, 1860 and (ii) such conduct as is inconsistent with the integrity, a public servant is expected to possess and which causes or likely to cause loss or prejudice to the interest of the State or to the public interest, as the case may be.

(b) “Government” means the Government of Kerala.

(c) “Illegally acquired property”, in relation to any person to whom this act applies, means—

(i) Any property acquired by such person whether before or after the commencement of this Act, wholly or partly out of or by means of any income, earnings or assets derived or obtained from or attributable to any activity prohibited by or under any law for the time being in force. [Relating to any matter in respect of which State Legislature has power to make laws; or]

- (ii) Any property acquired by such person whether before or after the commencement of this Act, wholly or partly out of or by means of any income, earnings or assets in respect of which any such law has been contravened; or
- (iii) Any property acquired by such person whether before or after the commencement of this Act, wholly or partly out of or by means of any income, earnings or assets the source of which cannot be proved and which cannot be shown to be attributable to any act or thing done in respect of any matter in relation to which Parliament has no power to make laws; or
- (iv) Any property acquired by such person, whether before or after the commencement of this Act, for a consideration, or by any means, wholly or partly traceable to any property referred to in sub-clauses (i) to (iii) or the income or earnings from such property;
- (v) Any property held by or in possession of such person, whether before or after the commencement of this Act, which is disproportionate to his known lawful sources of income or for which he cannot satisfactorily account for and includes.
 - (A) Any property held by such person which would have been, in relation to any previous holder thereof, illegally acquired property under this clause if such previous holder had not ceased to hold it, unless such person or any other person who held the property at any time after such previous holder or, where there are two or more such previous holders, the last of such previous holders is or was a transferee in good faith for adequate consideration;
 - (B) Any property acquired by such person, whether before or after the commencement of this Act, for a consideration, or by any means, wholly or partly traceable to any property falling under item (A), or the income or earnings therefrom;

Explanation.—(1) If the value of illegally acquired property increases after it was acquired or if a different property or asset is acquired or created out of or with the aid of or by transfer of the illegally acquired property, all such increase in value or other property or asset so acquired or created shall be and shall be treated as illegally acquired property. If however the value of the property diminishes after it is acquired, the person concerned shall be liable to make good the diminution in value.

Explanation.—(2) Illegally acquired property includes property acquired or held by, or in possession of, a person to whom this Act applies, outside the territory of India,

(d) “Public servant” means a person holding or who has held an office or post in the State Government or any statutory corporation, agency or company subject to the control of the State Government financed wholly or partly by it or a local body or University and shall include—

Any person who has held or is holding the office of the Chief Minister, or is or has been a member of State Legislature, or is holding or has held any office in the personal staff of a Ministers.

(e) “Prescribed” means prescribed by rules made under this Act.

(f) "Person" includes a public servant within the meaning of clause (c) and his/her relative and/or associate referred to in Section 2.

(g) "Property" includes cash, jewellery or any article of value and any interest in property movable or immovable;

(h) "Trust" includes any other legal obligation.

4. Prohibition of holding illegally acquired property.—(1) As from the commencement of this Act, it shall not be lawful for any person to whom this Act applies to hold any illegally acquired property either by himself or through any other person on his behalf.

(2) Where any person holds any illegally acquired property in contravention of the provisions of sub-section (1) such property shall be liable to be forfeited to the Government in accordance with the provisions of this Act.

(3) Notwithstanding anything contained in sub-section (2), a person holding or in possession of illegally acquired property in contravention of the provisions of sub-section (1) shall, on conviction by a criminal court, be liable to be punished with imprisonment which shall not be less than one year but which may extend to seven years. In any such trial, the provisions contained in Section 20 of the Prevention of Corruption Act, 1988 shall apply.

5. Competent Authority.—(1) Government shall designate the Director, Vigilance Department as the competent authority to exercise the powers and perform the functions of the competent authority under this Act.

(2) The Director of Vigilance Department shall be entitled to delegate his powers and functions to the officers subordinate to him and not below the rank of Deputy Superintendent of Police in respect of such public servants or class or classes of public servants, as the case may be, as may be specified by him. On such delegation, such officers shall exercise all the powers, and perform all the functions of the competent authority under this Act in respect of the public servants or cases or the class or classes of public servants or cases as may have been specified by the Director of Vigilance Department.

6. Power to call for Information.—(1) If the competent authority has reason to believe that any person is in possession of or holding illegally acquired properties, whether within the State or outside the State or abroad, it may serve a notice upon such person to disclose, by way of an affidavit, a true, full and up-to-date list of properties held by him or in his possession and those held by or in possession of his relatives and associates. The competent authority may after making such enquiry as it may think fit, take such action on the basis of the information so furnished and the other material, if any, gathered by it including the action contemplated by Section 7.

Explanation.—The death of the public servant or the person to whom this Act applies, whether before the issuance of a notice under this section or under section 7 or any other provision of this Act or during the pendency of any proceedings under this Act shall not prevent the initiation or continuation of the proceedings under this Act and all or any proceedings under this Act can

be initiated or continued against the relatives or associates of the public servant or against the legal representatives of the person to whom this Act applies, as the case may be.

(2) Any person furnishing false information under sub-section (1) and any person refusing to furnish information called for under sub-section (1) shall on conviction by a criminal court, be liable to be punished by imprisonment of either description for a term which may extend to three years or fine or both.

(3) Notwithstanding anything contained in the Criminal Procedure Code, 1973, the offence under sub-section (2) shall be tried as a summary case and the procedure prescribed in Chapter XXI of the said Code [except sub-section (2) of section 262] shall be applicable thereto.

7. Notice of Forfeiture.—(1) If, having regard to the value of the properties possessed or held, whether within the territory of India or anywhere else, by any person to whom this Act applies, either by himself or through any other person on his behalf, his known sources of income, earnings or assets, and any other information or material available to it as a result of action taken under Sections 6, 17, 18 or 13 or otherwise, the competent authority has reason to believe (the reasons for such belief to be recorded in writing) that all or any of such properties are illegally acquired properties, it may serve a notice upon such person (hereinafter referred to as the person affected) calling upon him within such time as may be specified in the notice which shall not be ordinarily less than thirty days, to indicate the sources of his income, earnings or assets, out of which or by means of which he has acquired such property, the evidence on which he relies and other relevant information and particulars, and to show cause why all or any of such properties, as the case may be, should not be declared to be illegally acquired properties and forfeited to the Government under this Act,

(2) Where a notice under sub-section (1) to any person specifies any property as being held on behalf of such person by any other person, a copy or the notice shall also be served upon such other person.

(3) (a) Simultaneously with the issuance of the notice under subsection (1) or at any time thereafter, the Competent Authority may attach all the properties generally, or any of the properties specified in the notice, held by or in possession of the person to whom the notice under sub-section (1) is issued. Such attachment shall be effective till the passing of the final orders by the Competent Authority, unless vacated by the Competent Authority earlier.

Explanation.— An order of attachment issued under this clause shall also operate as an injunction against the person restraining him from transferring or dealing with the attached properties in any manner, except under the orders of the Competent Authority.

(b) An order under clause (a) can also be directed to any person or bank or any other institution, authority or organization, holding properties for and on behalf of the person to whom the notice under sub-section (1) is or has been issued. On being apprised of such order, the person, the bank, the institution, authority or organisation shall hold all the properties of the person to whom the notice under sub-section (1) is issued or the specified properties, as the

case may be, subject to the orders of the Competent Authority and shall not part with those properties except under the orders of the Competent Authority.

(4) (a) Where any claim is preferred to, or any objection is made to the attachment of any property under sub-section (3) on the ground that such property is not liable to such attachment, the competent authority shall proceed to investigate the claim or objection,

Provided that no such investigation shall be made where the competent authority considers that the claim or objection was designedly or unnecessarily delayed.

(b) The claimant or objector must adduce evidence to show that the property attached is not liable to be forfeited under the provisions of this Act.

(c) Where upon such investigation, the competent authority is satisfied that such property is not liable to be forfeited under the provisions of this Act, he shall release the same from attachment. In case he is not so satisfied, he shall disallow the claim or the objection.

(d) Where a claim or objection is preferred, the party against whom the order is made may institute a suit in a Civil Court to establish the right which he claims to the said property but subject to the result of such suit, if any, the order of the competent authority shall be conclusive.

8. Forfeiture of property in certain cases.—(1) The competent authority may, after considering the explanation, if any, to the show cause notice issued under Section 7 and the materials available before it and after giving to the person affected (and in a case where the person affected holds any property specified in the notice through any other person, to such other person also) a reasonable opportunity of being heard, by order, record a finding whether all or any of the properties in question are illegally acquired properties.

(2) Where the competent authority is satisfied that some of the properties referred to in the show-cause notice are illegally acquired properties but is not able to identify specifically such properties, then, it shall be lawful for the competent authority to specify the properties, which, to the best of its judgment, are illegally acquired properties and record a finding accordingly, under sub-section (1).

(3) Where the competent authority records a finding under this Section to the effect that any property is illegally acquired property, it shall declare that such property shall, subject to provisions of this Act stand forfeited to the Government free from all encumbrances.

(4) Where any shares in a company stand forfeited to the Government under this Act, then, the company, shall, notwithstanding anything contained in the Companies Act, 1956, or the articles of association of the company, forthwith register the Government as the transferee of such shares.

9. Burden of Proof.—In any proceedings under this Act, the burden of proving that any property specified in the notice served under Section 7 is not illegally acquired property shall be on the person affected.

10. Fine in lieu of Forfeiture.—(1) Where the competent authority makes a declaration that any property stands forfeited to the Government under Section 8 and it is a case where the source of only a part, being less than one-half, of the income, earnings or assets with which such property was acquired has not been proved to the satisfaction of the competent authority, it shall make an order giving an option to the person affected to pay, in lieu of forfeiture, a fine equal to one and one-fifth times the value of such part.

Explanation.—For the purposes of this sub-section, the value of any part of income, earnings or assets, with which any property has been acquired, shall be—

- (a) In the case of any part of income or earnings, the amount of such part of income or earnings;
- (b) In the case of any part of assets, the proportionate part of the full value of the consideration for the acquisition of such assets;

(2) Before making an order imposing a fine under sub-section (1), the person affected shall be given a reasonable opportunity of being heard.

(3) Where the person affected pays the fine due under sub-section (1), within such time as may be allowed in that behalf, the competent authority may, by order, revoke the declaration of forfeiture under Section 8 and thereupon such property shall stand released.

11. Procedure in relation to certain trust properties.—In the case of any person referred to in clause (vi) of Explanation 2 of Section 2, if the competent authority, on the basis of the information and materials available to it, has reason to believe (the reasons for such belief to be recorded in writing) that any property held in trust is illegally acquired property, it may serve a notice upon the author of the trust or, as the case may be, contributor of the assets out of or by means of which such property was acquired by the trust and the trustees, calling upon them within such time as may be specified in the notice which shall not ordinarily be less than thirty days, to explain the source of the money or other assets out of or by means of which such property was acquired or, as the case may be, the source of the money or other assets which were contributed to the trust for acquiring such property and thereupon such notice shall be deemed to be a notice served under Section 7 and all the other provisions of this Act shall apply accordingly.

Explanation.—For the purposes of this section “illegally acquired property” in relation to any property held in trust, includes –

- (i) Any property which if it had continued to be held by the author of the trust or the contributor of such property to the trust would have been illegally acquired property in relation to such author or contributor;
- (ii) Any property acquired by the trust out of any contributions made by any person which would have been illegally acquired property in relation to such person had such person acquired such property out of such contributions.

12. Certain transfers to be null and void.—Where after the issue of a notice under Section 7 or under Section 11, any property referred to in the said notice is transferred by any mode whatsoever such transfer shall, for the purposes of the proceedings under this Act, be ignored and if such property is subsequently forfeited to the Government under Section 8, then the transfer of such property shall be deemed to be null and void.

13. Appeal to the High Court.—(1) An appeal shall lie to the High Court within whose territorial jurisdiction the competent authority is located against an order passed under Sections 8, 10 or 11.

(2) The appeal under sub-section (1) shall be heard by a Division Bench, as may be designated by the Chief Justice of the High Court.

(3) The appeal shall be preferred within 45 days of the date on which the order appealed against is served upon the appellant:

Provided that the High Court may entertain an appeal preferred beyond 45 days in case the appellant satisfies that there was sufficient cause for not preferring the appeal within the period prescribed.

14. Notice or order not to be invalid for error in description.—No notice issued or served, no declaration made, and no order passed, under this Act shall be deemed to be invalid by reason of any error in the description of the property or person mentioned therein if such property or person is identifiable from the description so mentioned.

15. Bar of jurisdiction.—No order passed or declaration made under this Act shall be appealable except as provided therein and no Civil Court shall have jurisdiction in respect of any matter which the High Court or any competent authority is empowered by or under this Act to determine, and no injunction shall be granted by any Court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act.

16. Competent authority to have powers of civil court.—(1) The competent authority shall have all the powers of a civil court while trying a suit under the Code of Civil Procedure, 1908, in respect of the following matters, namely:—

- (a) Summoning and enforcing the attendance of any person and examining him on oath;
- (b) Requiring the discovery and production of documents;
- (c) Receiving evidence on affidavits;
- (d) Requesting any public record or copy thereof from any court or office;
- (e) Issuing commissions for examination of witnesses or documents;
- (f) Any other matter, which may be prescribed.

(2) The competent authority shall be deemed to be a civil court for the purposes of Section 195 and Chapter XXVI of the Code of Criminal Procedure, 1973 and every proceedings before the

competent authority shall be deemed to be a judicial proceeding within the meaning of Sections 193 and 228 for the purposes of Section 196 of the Indian Penal Code.

17. Information to competent authority.—(1) Notwithstanding anything contained in any other law, for the time being in force the competent authority shall have power to require any officer or authority of the Government or a local authority or a Bank, a company, a firm or any other institution, establishment, organization or any individual to furnish information in relation to such persons, points or matters as in the opinion of the competent authority will be useful for, or relevant to, the purposes of this Act. Failure to furnish information shall be punishable with imprisonment of either description for a term which may extend to three years and fine.

(2) Notwithstanding, anything contained in the Criminal Procedure Code, 1973, the offence under sub-section (1) shall be tried as a summary case and the procedure prescribed in Chapter XXI of the said Code [except sub-section (2) of Section 262] shall be applicable thereto.

(3) Any officer of the Income Tax Department, the Customs Department or the Central Excise Department or any officer of enforcement appointed under the Foreign Exchange Regulation Act, 1973, may furnish suo motto any information available with him to the competent authority if in the opinion of the officer such information will be useful to the competent authority for the purposes of this Act.

18. Summoning of the Statement of assets.—The Competent Authority shall be entitled to summon the statement of assets filed under Kerala Lok Ayukta Act, 1999 (8 of 1999) or under the Kerala Government Servant Conduct Rules, 1910 and any other law for the time being in force and take such action thereon as may be called for under the provisions of this Act.

19. Certain officers to assist competent authority.—For the purposes of any proceedings under this Act, the competent authority is empowered to require the assistance of any of the officers of the State Government; Statutory Corporation, Company subject to the control of the State Government; a local authority or University or such other officers as may be specified by the Government.

20. Power of competent authority to require certain officers to exercise certain powers.—For the purposes of any proceedings under this Act or the initiation of any such proceedings, the competent authority shall have power to cause to be conducted any inquiry, investigation, search and seizure or survey in respect of any person, place, property, assets, documents, books of accounts or any other relevant matters.

21. Power to take possession.—(1) Where any property has been declared to be forfeited to the Government under this Act, or where the person affected has failed to pay the fine due under sub-section (1) of Section 10 within the time allowed therefore under sub-section (3) of that Section, the competent authority may order the person affected as well as any other person who may be in possession of the property to surrender or deliver possession thereof to the competent authority or to any person duly authorized by it in this behalf within thirty days of the service of the order.

(2) If any person refuses or fails to comply with an order made under sub-section (1), the competent authority may take possession of the property and may for that purpose use such force as may be necessary.

(3) Notwithstanding anything contained in sub-section (2), the competent authority may, for the purpose of taking possession of any property referred to in sub-section (1), requisition the services of any police officer to assist the competent authority and it shall be the duty of said officer to comply with such requisition.

22. Rectification of mistakes.—With a view to rectifying any mistakes apparent from record, the competent authority or the High Court, as the case may be, may amend any order made by it within a period of one year from the date of the order:

Provided that if any such amendment is likely to affect any person prejudicially, it shall not be made without giving to such person a reasonable opportunity of bearing heard.

23. Findings under other laws not conclusive for proceedings under this Act.—No finding of any officer or authority under any other law for the time being in force shall be conclusive for the purposes of any proceedings under this Act.

24. Service of notices and orders.—Any notice or order issued or made under this Act shall be served—

(a) By tendering the notice or order or sending it by registered post to the person for whom it is intended or to his agent;

(b) If the notice or order cannot be served in the manner provided in clause (a), by affixing it on a conspicuous place in the property in relation to which the notice or order is issued or made, or on such conspicuous part of the premises in which the person for whom it is intended is known to have last resided or carried on business or personally worked for gain.

25. Protection of action taken in good faith.—No suit prosecution or other proceedings shall lie against the Government or any officer of the Government for anything which is done, or intended to be done, in good faith, in pursuance of this Act, or the rules made thereunder.

26. Punishment for giving false information.—(1) Whoever, with intent to cause injury to or defame, any person, gives any information or complaint to the competent authority which he either knows or has reason to believe to be false or with reckless disregard for truth, shall be punished with imprisonment of either description for a term which may extend to three years or fine or both.

(2) Notwithstanding anything in the Criminal Procedure Code, 1973, the offence under sub-section (1) shall be tried as a summary case and the procedure prescribed in Chapter XXI of the said Code [except sub-section (2) of Section 262] shall be applicable thereto.

27. Act to have overriding effect.—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any or other law for the time being in force.

28. Provisions of the Act not to apply to certain properties held in trust.—Nothing contained in this Act shall apply in relation to any property held by a trust or an institution created or established wholly for public religious or charitable purposes—

- (i) Such property has been so held by such trust or institution from a date prior to the commencement of this Act; or
- (ii) Such property is wholly traceable to any property held by such trust or institution prior to the commencement of this Act.

29. Power to make rules.—The Government may by notification in the Gazette make rules prospectively or retrospectively for carrying out the provisions of this Act.

30. Act to be in addition to any other law.—Any proceeding taken under any law for the time being in force shall not preclude the competent authority under this Act from taking any action or initiating any proceedings under this Act.

Statement of Objects and Reasons

Corruption is one of the greatest evils which eat into the vitals of the present day society. From 1988 onwards we are having Prevention of Corruption Act. But still the evil has extended its tentacles widely into almost all fields of human activities. Prosecution of corrupt public servants under the provisions of the Indian Penal Code, 1860 and the Prevention of Corruption Act, 1988 has become difficult on account of various systemic defects and as a result of which the number of prosecutions and more so the number of convictions of corrupt public servants is ridiculously low compared to the widespread corruption prevailing at every level of administration.

Experience hitherto establishes that prosecution and punishment for a period of imprisonment even may not be a sufficient deterrent for people not to become corrupt. Corrupt public servants are now stashing away their ill-gotten gains in numbered accounts in foreign banks in many other ways outside the territory of India. Similarly, such people have been augmenting such gains by violations of Wealth Tax, Income Tax and other laws and as such gaining immeasurable financial control in society. Therefore the Commission is of the considered view that it is necessary and proper to recommend the passing of a new legislation containing new provisions which will enable the Government or other authorities functioning under the Act to reach at the ill-gotten gains and to forfeit the same and use it for public good. It is with this object that the Bill is being recommended by the Commission. Section 2 of the Act the outset itself indicates the various categories of people who may come within the fold of the provisions of the Act. A very wide range of people are statutorily mentioned as persons coming within the purview of the Act. Similarly the word “illegally acquired property” has been defined in a very wide manner to take in all classes of illegal gains. Section 4 of the bill declares that as from the date of commencement of this Act, it shall not be lawful for any person to whom the Act applies to hold any illegally acquired property either by himself or through any other person on his behalf. Possession of property in violation of the above mandate is declared as an offence punishable with imprisonment which shall not be less than one year but which may extend to

seven years. The punishment is over and above the deprivation of property by forfeiture. As per Section 5 of the Bill the Competent Authority shall be a person who has been a Judge of the High Court or of the Supreme Court to enquire into and decide and forfeit the illegally acquired property of public servants, their relations, associates, name lenders etc. For discharging the very onerous duties of the competent authority under the Act he has been given very wide powers including power to call for all informations about the illegally acquired properties inside or outside the State, power of attaching the properties even before a final decision is taken so as to disable the public servant or his relations or from transferring the ill-gotten assets to others. There is also a provision stating that all transfers of illegally acquired properties shall be void if such transfer is effected after the issue of notice of forfeiture. Another important provision in the Bill is Section 9 which states that "in any proceedings under this Act the burden of proving that any property specified in the notice of forfeiture is not illegally acquired property shall be on the person affected. The competent authority shall consider all the materials before it may finally decide the case. Against the decision of the competent authority the affected party shall have a right of appeal to the High Court. Appeal filed shall be heard and decided by a Division Bench of the High Court. There is a total bar for all other courts in entertaining any proceedings which is to be entertained and decided by the Competent Authority and the High Court.