

GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS

LOK SABHA
STARRED QUESTION NO.*168

TO BE ANSWERED ON THE 17TH DECEMBER 2013/AGRAHAYANA 26,1935 (SAKA)

POLICE REFORMS

*168. PROF. (DR.) RANJAN PRASAD YADAV:
SHRI RAJIV RANJAN SINGH AL/AS LALAN SINGH:

Will the Minister of HOME AFFAIRS be pleased to state:

(a) whether the Supreme Court had issued directives to the Union Government and the State Governments on Police Reforms and working of State police in 2006;

(b) if so, the details thereof;

(c) whether the said directives have been implemented by the Union/State Governments;

(d) if so, the details thereof along with the names of the States which have not implemented the said directives; and

(e) the steps being taken by the Union Government to persuade the remaining States to implement the directives of the Supreme Court ?

ANSWER

MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS
(SHRI MULLAPPALLY RAMACHANDRAN)

(a) to (e): A Statement is laid on the Table of the House.

STATEMENT IN REPLY TO LOK SABHA STARRED QUESTION NO. *168 FOR 17.12.2013.

(a): Yes, Madam.

(b): The Supreme Court of India has passed a judgement on September 22, 2006 in Writ Petition (Civil) No. 310 of 1996 – Prakash Singh and Others vs Union of India and Others on several issues concerning Police reforms. The Court in the said judgement directed the Union Government, State Governments and Union Territories to set up mechanisms by 31st December, 2006 and file affidavits of compliance by January 3, 2007. A statement listing the Hon'ble Supreme Court's seven directives in this regard is at **Annexure-I**. Out of the seven directives, the first six are being implemented by State Governments and Union Territories while the seventh directive relates solely to the Central Government.

(c) to (e): "Public Order" and "Police" are "State subjects" falling in Entry 1 & 2 of List-II of the Seventh Schedule of the Constitution of India and therefore, the responsibility for implementation of the directions of the Hon'ble Supreme Court falls within the domain of the State Governments / Union Territory Administrations.

Regarding the seventh directive of the Hon'ble Court referred to in Annexure-I, the Union Government has constituted a Committee on National Security and Central Police Personnel Welfare on 02.01.2007 under the chairmanship of the Union Home Minister to prepare panels for the appointment of Chiefs of Central Para Military Forces (CPMFs) and consider other issues pertaining to the service conditions of the CPMF personnel. An Interlocutory Application was also filed before the Supreme Court on 12.02.2007, apprising the progress made, and *inter alia*, seeking directions, if any, from the Hon'ble Supreme Court.

In so far as implementation of first six directives by Union Territories (UTs) is concerned, the position varies widely in respect of UTs due to their unique characteristics in terms of legal, administration demographic profiles. The Ministry of Home Affairs filed another application dated 12.2.2007 in respect of UTs in the Hon'ble Court stating the difficulties in the implementation of its directions and sought modification of orders dated 22.9.2006 and 11.1.2007.

While the above application has not yet been disposed, a number of steps have been taken to implement the directions of the Hon'ble Court. Implementation status of Supreme Court's directions in respect of UTs is at **Annexure-II**.

Thus in UTs, there has been a significant and substantial compliance by the Government of India except only those issues in which appropriate clarification and modifications have been sought in application dated 12.2.2007 before Supreme Court.

On May 16, 2008, the Hon'ble Supreme Court, as regards the implementation of the various directions made earlier in its judgement dated September 22, 2006, directed to set up a Committee under the Chairmanship of Justice K.T. Thomas, former retired Judge of the Supreme Court and two other Members to examine the affidavits filed by the different States and the Union Territories in compliance to the Court's directions with reference to the ground realities; advise the respondents wherever the implementation is falling short of the Court's orders, after considering the respondents' stated difficulties in implementation etc.

The Committee submitted its report to Hon'ble Supreme Court in August, 2010. The said report has been circulated to States and Union Territories by the Registry of the Supreme Court on 04.10.2010. The Hon'ble Court is monitoring the status of implementation of its directions.

The matter was last heard on 16.10.2012. All the States, Union Territories and the Union of India were directed to submit status reports in respect of implementation of the directions which had been given by the Supreme Court on 22nd September, 2006. The Ministry of Home Affairs has filed a Status Report by way of Affidavit in the Hon'ble Supreme Court on 26.2.2013.

The Hon'ble Supreme Court's directions vide its judgment dated 22nd September, 2006 in Writ Petition (Civil) No. 310 of 1996

(1) Constitute a State Security Commission on any of the models recommended by the National Human Right Commission, the Reberio Committee or the Sorabjee Committee.

(2) Select the Director General of Police of the State from amongst three senior-most officers of the Department empanelled for promotion to that rank by the Union Public Service Commission and once selected, provide him a minimum tenure of at least two years irrespective of his date of superannuation.

(3) Prescribe minimum tenure of two years to the police officers on operational duties.

(4) Separate 'investigating' police from 'law and order' police, starting with towns/urban areas having population of ten lakhs or more, and gradually extend to smaller towns/urban areas.

(5) Set up a Police Establishment Board at the state level for, *inter alia*, deciding all transfers, postings, promotions and other service related matters of officers of and below the rank of Deputy Superintendent of Police.

(6) Constitute Police Complaints Authorities at the State and District levels for looking into complaints against police officers.

(7) Set up a National Security Commission at the Union Level to prepare a panel for being placed before the appropriate Appointing Authority, for selection and placement of Chiefs of the Central Police Organisations (CPOs), who should also be given a minimum tenure of two years.

Implementation of Supreme Court's directions in WP (Civil) No. 310/1996 in respect of the Union Territories (UTs)

(1) Ministry of Home Affairs vide Order dated 07.02.2013 constituted Security Commission for all UTs (except Delhi). It has been decided that there shall be a separate Security Commission for each of the UTs (except Delhi) with Union Home Secretary as the Chairman. The Security Commission for Delhi be headed by the L.G., Delhi.

(2) Regarding selection methodology and minimum tenure of Chief of Police and key functionaries such as Zonal Inspector Generals, Range Deputy Inspector Generals, District Superintendents of Police and Station House Officers of UTs, the Ministry has taken a policy decision that senior level of police functionaries would have a minimum tenure of two years in the constituents, as far as possible, subject to superannuation. The draft Delhi Police Bill, presently under consideration of the Government, provides for a minimum tenure of two years for all key functionaries, subject to their attaining the age of superannuation, including the Commissioner of Police.

(3) Regarding separation of 'law and order' police from 'investigation' police, the separation has to start in towns/urban areas having a population of 10 lakh or more. Only the UT of Delhi qualified under this criterion and it has been implemented in Delhi. The draft Delhi Police Bill provides for creation of Crime Investigation Units in all Police Stations for investigation of economic and heinous crimes. Similarly, in major Police Stations of UT of Puducherry, 'law and order' has been separated from 'investigation'. An enabling provision has been made in the Punjab Police Act, 2007 as extended to Chandigarh, regarding creation of Crime Investigation Units in police stations.

(4) Regarding setting up of a Police Establishment Board, the direction has been complied in all UTs, keeping in view the divergent Police / Administrative hierarchies in the various territories. However, it has been prayed in the modification application dated 12.2.2007 filed in the Supreme Court that Police Establishment Board may not be entrusted with the Appellate functions as it would dilute the functional control and authority of the supervisory police officers.

(5) Orders constituting Police Complaint Authorities (PCAs) for UTs have been issued by MHA on 23rd March, 2010. In respect of Delhi, the request of Govt. of NCT of Delhi to treat its Public Grievances Commission as the PCA had been accepted as an interim arrangement till the enactment of the Delhi Police Act.