

**GOVERNMENT OF INDIA
HOME AFFAIRS
LOK SABHA**

UNSTARRED QUESTION NO:1507

ANSWERED ON:27.11.2001

PROMULGATION OF ORDINANCE VIZ POTO TO DEAL WITH TERRORISM

AMAR ROY PRADHAN;BAHADUR SINGH KOLI;BRAHMANAND MANDAL;GANGASANDRA SIDDAPPA BASAVARAJ;N.N. KRISHNADAS;RAMDAS ATHAWALE;RAVINDRA KUMAR PANDEY;T. GOVINDAN;Y.S. VIVEKANANDA REDDY

Will the Minister of HOME AFFAIRS be pleased to state:

- (a) whether the Government had promulgated an ordinance viz `POTO` to deal with terrorism;
- (b) if so, the details thereof;
- (c) whether the Government have issued any instructions to the State Governments to implement the POTO and the response of the State Governments thereto;
- (d) whether the Government have taken into confidence the NHRC, NGOs, religious organizations and experts in the field;
- (e) if so, their views in the matter;
- (f) whether this ordinance has given vast powers to the Government/Investigating Authorities;
- (g) if so, the details of additional powers provided to POTO as compared to TADA; and
- (h) the time by which the Bill in this regard is likely to be introduced in Parliament?

Answer

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (CH. VIDYASAGAR RAO)

(a) to (h): A statement is laid on the Table of the House.

STATEMENT FOR PARTS (a), (b), (c), (d), (e), (f), (g) & (h) OF LOK SABHA UNSTARRED QUESTION NO. 1507 FOR ANSWER ON 27.11.2001.

(a) to (e): The Prevention of Terrorism Ordinance, 2001 (No. 9 of 2001) has been promulgated on 24.10.2001. The key features of the Ordinance are:-

- (i) Section 3 of the Ordinance provides for a comprehensive definition of `terrorist acts`;
- (ii) The Ordinance brings within its purview offences relating to financing of terrorism and unauthorized possession of hazardous explosives and weapons of mass destruction.
- (iii) There are provisions enabling declaration of organisations involved in terrorism as terrorist organisations under a prescribed procedure. Any person who is a member of, or supports such terrorist organisations by way of raising finances or arranging or participating in meetings etc. commits an offence under the Ordinance.
- (iv) Provisions relating to interception of wire and electronic communication by investigating agencies with safeguards.
- (v) Investigation of an offence under the Ordinance to be done by an officer not below the rank of Deputy Superintendent of Police.
- (vi) No court can take cognizance of an offence under the Ordinance unless sanction of the State Government or the Central Government, as the case may be, is obtained.
- (vii) The Ordinance provides safeguards against abuse of the provision relating to admissibility of confession made before a police officer.
- (viii) Intimation of arrest of the accused will have to be provided to a family member immediately after arrest and this fact to be recorded by the police officer. A Legal Practitioner on behalf of accused shall be allowed to meet him during interrogation.

(ix) Prosecutions of police officers for mala fide actions under the Ordinance with provision of compensation to affected persons in such cases.

(x) Special Courts will be designated to try offences.

(xi) Bail provisions have been made less stringent as compared to TADA.

The State Governments have been advised to take necessary steps for implementing the provisions of the Ordinance. While some of the State Governments have informed that they are in the process of initiating necessary action for implementing the Ordinance, responses from other State Governments are still awaited.

The draft Bill on the subject was prepared by Law Commission after circulating a working paper to all the concerned authorities, organisations and individuals for eliciting their views. The draft Bill was also discussed in the meeting of the Consultative Committee of Ministry of Home Affairs on 17.7.2000 and in the conference of Chief Ministers on Internal Security held on 5.8.2000. It was circulated to all the State Governments/UT administrations for soliciting their comments on the same. The National Human Rights Commission (NHRC) gave its opinion that there was no need to enact such a law and pointed out some areas of concern.

The Ordinance was finalised after considering the suggestions received from different quarters.

(f) & (g): The Prevention of Terrorism Ordinance, 2001 seeks to provide an effective framework of law to deal with the menace of terrorism. The Ordinance contains provisions which harmonize, to the extent possible, the safeguards for civil liberties with security imperatives. Some of the new provisions under the Ordinance relate to offences by terrorist organisations, financing of terrorism and possession of weapons of mass destruction. At the same time, some of the provisions in the erstwhile TADA alleged to have caused hardships or led to its misuse were either deleted or modified suitably.

(h): The Bill is proposed to be introduced in Parliament during the winter session of 2001.