

**GOVERNMENT OF INDIA
LAW , JUSTICE AND COMPANY AFFAIRS
LOK SABHA**

STARRED QUESTION NO:163

ANSWERED ON:25.07.2002

COMPLAINTS OF MALPRACTICES AND MISCONDUCT BY THE NOTARY PUBLIC

SURESH RAMRAO JADHAV (PATIL)

Will the Minister of LAW , JUSTICE AND COMPANY AFFAIRS be pleased to state:

(a) whether complaints of malpractices and misconduct by the Notary Public in various parts of the country, have been received by the Government;

(b) if so, the number of such complaints received during the last three years, State-wise; and

(c) the action taken against such erring Notary Public and number of certificates of practice cancelled during the last three years, year-wise/State-wise?

Answer

MINISTER OF LAW AND JUSTICE (SHRI K. JANA KRISHNAMURTHI)

(a) Yes, Sir.

(b) & (c) Eighteen complaints have been received from different States during the last three years. The State wise and Year-wise details of such complaints and action taken thereon are given in the Statement enclosed.

States from which the complaint have been received No. of complaints received Action taken
99-2000 2000-01 2001-02

Delhi - - 3 2 - pending
 1 - inquiry initiated

Gujarat - - 1 1 - pending

Maharashtra - - 2 1 - pending
 1- licence cancelled

Punjab 2 1 3 5 - pending
 1 - licence has not been renewed

Rajasthan 1 - - 1 - licence cancelled

Uttar Pradesh 1 1 3 1 - pending
 2 - action initiated
 2 - licences have been cancelled

Note for Supplementaries

Notaries are appointed as per the provisions of the Notaries Act, 1952 and the Notaries Rules, 1956. Under Section 3 of the said Act,

the Central Government as well as the State Governments are empowered to appoint notaries. The Central Government has power to appoint notaries for the whole or any part of the India whereas a State Government is empowered to appoint notaries for the whole or any part of the State concerned.

2. In a complaint received against a notary appointed by the Central Government inquiry into allegations of professional or other misconduct is taken as per the provisions of rule 13 of the Notaries Rules, 1956. Inquiry is initiated by seeking his comments/explanation on the complaint. On receipt of a reply/written statement of the notary concerned further inquiry is conducted if found necessary, otherwise necessary action is taken by the Central Government as per the provisions of rule 12(b) of the Notaries Rules. These are as under :-

- i) Cancelling the certificate of practice and perpetually debaring the notary from practice; or
- ii) suspending him from practice for a specified period; or
- iii) letting him off with a warning, according to nature and gravity of the misconduct of the notary proved.

3. The Government is also empowered to initiate suo motto action against a notary if he is found to be functioning in contravention of the provisions of the Notaries Act, 1952 and the Notaries Rules, 1956 or for acts of professional or other misconduct.

4. Under section 10 of the Notaries Act, 1952, the Government is empowered to remove from the register maintained by it, under section 4, the name of notary if he -

- (a) makes a request to that effect; or
- (b) has not paid any prescribed fee required to be paid by him; or
- (c) is undischarged insolvent; or
- (d) has been found, upon inquiry in the prescribed manner, to be guilty of such professional or other misconduct as, in the opinion of the government, renders him unfit to practise as a notary; or
- (e) is convicted by any court for an offence involving moral turpitude; or
- (f) does not get his certificate of practice renewed.

On removal of the name of a notary from the register on the grounds of misconduct his certificate of practice as a notary is also cancelled.

5. Nature and types of malpractices and misconduct found against notaries :-

- attesting of blank papers
- attesting incomplete documents with blank spaces
- attesting affidavits without identifying the deponents; without signatures of deponents
- not using proper seal as prescribed under rule 12 of the Notaries Rules
- being involved in criminal cases and cases involving moral turpitude
- practising in area other than assigned