

LÉGISLATION
(TENTH LOK SABHA)

ELEVENTH REPORT

[Presented on 25 August, 1994]



LOK SABHA SECRETARIAT
NEW DELHI

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LOK SABHA SECRETARIAT

CORRIGENDA
TO

THE ELEVENTH REPORT OF THE COMMITTEE ON
SUBORDINATE LEGISLATION (TENTH LOK SABHA)

S.No.	Page No.	Line	For	Read
1	1	30	ever	never
2	2	36	workings	wordings
3	5	(i) 33	amendment	amended
4	15	(ii) 34	aeronautical	Aeronautical
5	23	10	That	that
		2	Report	Introduction

CONTENTS

	PARA NO.	PAGE NO.
COMPOSITION OF THE COMMITTEE		(iii)
REPORT		
I. Introduction	1-4	1
II. The Kandla Port Pilot Service (Training, Grading and Seniority) Regulations, 1992 (GSR 806-E of 1992)	5-10	1
III. The Spices Board (Quality Marking) Regulations, 1992 (GSR 73-E of 1992)	11-16	3
IV. The Defence Aeronautical Quality Assurance Service (Amendment) Rules, 1992 (SRO 142 of 1992)	17-21	4
V. The New Mangalore Port Trust Employees (Family Security) (First Amendment) Regulations, 1992 (GSR 843-E of 1992)	22-23	6
VI. The Indian Foreign Service, Branch 'B' (Departmental Promotion Committees and Establishment Boards) Amendment Regulations, 1992 (GSR 451 of 1992)	24-25	6
VII. The Ministry of Law, Justice and Company Affairs—Vidhi Sahitya Prakashan (Group 'C') Recruitment (Amendment) Rules, 1993 (GSR 171 of 1993)	26-29	7
VIII. The Tea Board (Amendment) Bye-Laws, 1992 (GSR 452 of 1992)	30-31	8
IX. The Prevention of Food Adulteration (III Amendment) Rules, 1992 (GSR 591-E of 1992)	32-35	9
Appendices		
I. Summary of main recommendations/ observations made by the Committee.	b	15
II. Minutes of the Twenty-eighth, Thirty-first and Thirty-third sittings of the Committee.		23

**COMPOSITION OF THE COMMITTEE ON SUBORDINATE
LEGISLATION
(1993-94)**

1. **Shri Amal Datta — *Chairman***
2. **Shri Prithviraj D. Chavan**
3. **Shri Guman Mal Lodha**
4. **Shri Dharampal Singh Malik**
5. **Shri Rasheed Masood**
6. **Shri M.V.V.S. Murthy**
7. **Shri D. Pandian**
8. **Dr. A.K. Patel**
9. **Shri Rajendra Kumar Sharma**
10. **Shri K.G. Shivappa**
11. **Shri Mohan Singh (Deoria)**
12. **Prof. K.V. Thomas**
13. **Shri Umrao Singh**
14. **Shri Swarup Upadhayay**
15. **Shri Ratilal Kalidas Varma**

SECRETARIAT

Shri G.L. Batra	—	<i>Additional Secretary</i>
Shri S.C. Gupta	—	<i>Joint Secretary</i>
Shri R.K. Chatterjee	—	<i>Deputy Secretary</i>
Shri Ram Kumar	—	<i>Under Secretary</i>

REPORT

I

INTRODUCTION

1. The Chairman of the Committee on Subordinate Legislation, having been authorised by the Committee to submit the Report on their behalf, present this Eleventh Report.

2. The matters covered by this Report were considered by the Committee at their sittings held on 28 October, 1993 and 12 January, 1994 respectively.

3. The Committee considered and adopted this Report at their sitting held on 25 January, 1994.

The Minutes of the sittings relevant to this Report are appended to it.

4. For facility of reference and convenience, recommendations/observations of the Committee have been printed in thick type in the body of the Report and have also been reproduced in a consolidated form in Appendix I to the Report.

II

THE KANDLA PORT PILOT SERVICE (TRAINING, GRADING AND SENIORITY) REGULATIONS, 1992 (GSR 806-E OF 1992)

(A)

5. Regulations 16 of the Kandla Port Pilot Service (Training, Grading and Seniority) Regulations, 1992 (published in the Gazette of India: Extraordinary dated 12 October, 1992) read as under:—

“16. *Interpretation:* In case of any doubt or difference of opinion about the interpretation of any of the Regulations or the application, it shall be referred to the Chairman, *whose decision shall be final.*”

6. It was felt that the regulation, as worded, was apt to give an impression in the mind of the general public that the jurisdiction of the law courts was being ousted, which could ever be the intention of any subordinate legislation. In this connection, attention of the Ministry of Surface Transport was invited to an oft-repeated recommendation of the Committee made in para 17 of their Eighth Report (Tenth Lok Sabha) to the effect that the interpretation clause, wherever considered necessary, be

modelled on regulation 24 of the Kandla Port Employees' (allotment of Residences) Regulations, 1964 so as to do away with the probable notion that the jurisdiction of the law courts was being ousted in any manner. In their reply dated 29 October, 1993, the Ministry stated that the Kandla Port Trust had been advised to amend Regulation 16 (Interpretation Clause) as suggested.

7. The Committee note that on being pointed out, the Ministry of Surface Transport have advised the Kandla Port Trust to amend regulation 16 of the Kandla Port Pilot Service (Training, Grading and Seniority) Regulations, 1992 on the pattern of regulation 24 of the Kandla Port Employees, (Allotment of Residence) Regulations, 1964 with a view to do away with any notion that the jurisdiction of the law courts is being ousted and for the sake of uniformity. The Committee desire the Ministry to ensure that the necessary amendment is carried out at the earliest.

(B)

8. Regulation 17 of the Kandla Port Pilot Service (Training, Grading and Seniority) Regulations, 1992 read as under:—

“17. *Relaxation of provisions of the regulations—*

Notwithstanding anything contained hereinbefore, the Chairman, may, at his discretion, relax any of the regulations mentioned above in exigencies of work or situation, the reasons for which shall be recorded by him in writing.”

9. It was felt that the regulations conferred wide discretionary powers on the Chairman in the matter of relaxation of these regulations. Normally, the provisions of the statutory regulations cannot be altered except through the process of formal amendments and with the approval of the Central Government. The Ministry of Surface Transport were asked to state as to how it was ensured that such unfettered powers were not abused in any manner. In their reply dated 29 October, 1993, the Ministry stated that the Kandla Port Trust had been asked to delete regulation 17 (Relaxation of provisions of the regulations) accordingly.

10. The Committee note that on being pointed out, the Ministry of Surface Transport have advised the Kandla Port Trust to delete regulation 17 of the Kandla Port Pilot Service (Training, Grading and Seniority) Regulations, 1992, which seek to confer wide discretion on the Chairman, in the matter of relaxation of the regulations. The Committee desire the Ministry to ensure that the necessary amendment for omitting the regulation is notified without delay.

²⁴ *Interpretation of regulations.*—If any question arises as to the interpretation of these regulations, the same will be decided by the Board.

III

THE SPICES BOARD (QUALITY MARKING) REGULATIONS, 1992
(GSR 73-E OF 1992)

(A)

11. The Spices Board (Quality Marking) Regulations, 1992 were published in the Gazette of India: Extraordinary, dated 31 January, 1992. Sub-regulation (10) of regulation 3 of the said regulations read as under:—

“3. *Conditions to Affix Logo—*

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(1) In the case of non-approval and withdrawal of approval, the unit shall be re-assessed on an application made by the packer *and on the order of the Chairman.*

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12. It was felt that the unit should be re-assessed on an application made by the packer without subjecting it to the order of the Chairman. The concerned Ministry of Commerce were requested to state whether they had any objection to amending the regulation to the desired effect. In their reply dated 29 July, 1993, the Ministry stated as under:—

“.....the observations of the Committee on Subordinate Legislation have been examined and as suggested by the Committee, necessary amendments have been made in Regulation 3(10)..... of the Spices Board (Quality Marking) Regulations, 1992 *vide* Spices Board (Quality Marking) Notification S.O. No. 210 dated 19.1.93...”

13. The Committee note with satisfaction that on being pointed out, the Ministry of Commerce have since amended sub-regulation (3) of regulation 10 of the Spices Board (Quality Marking) Regulations, 1992 *vide* S.O. 210 published in the Gazette of India dated 6 February, 1993 so as to provide for re-assessment of the unit on an application made by the packer, without subjecting it to the order of the Chairman of the Spices Board.

(B)

14. Regulation 9 of the Spices Board (Quality Marking) Regulation, 1992 read as under:—

“9. *Appeal—*A Packer aggrieved by non-approval, suspension of approval or withdrawal of approval of a unit may appeal within thirty days of receipt of the communication to the Ministry of Commerce, Government of India. *The decision on such an appeal shall be final.*”

15. It was felt that the workings “*decision on such an appeal shall be final*” were apt to give an impression that the jurisdiction of law courts was being ousted, which could never be the intention of any subordinate legislation. The concerned Ministry of Commerce were requested to state

whether they had any objection to amending the regulations to do away with that impression. In their reply dated 29 July, 1993, the Ministry stated as under:—

“.....the observations of the Committee on Subordinate Legislation have been examined and as suggested by the Committee, necessary amendments have been made in.... regulation 9 of the Spices Board (Quality Marking) Regulations, 1992 *vide* Spices Board (Quality Marking) Notification S.O. No. 210 dated 19.1.93.....”

16. The Committee note with satisfaction that on being pointed out, the Ministry of Commerce have since deleted the words ‘the decisions on such an appeal shall be final’ from regulation 9 of the Spices Board (Quality Marking) Regulations, 1992 *vide* S.O. 210 dated 6 February, 1993. The Committee trust that the Ministry would evolve suitable procedural safeguards with a view to avoid recurrence of such errors in future.

IV

THE DEFENCE AERONAUTICAL QUALITY ASSURANCE SERVICE (AMENDMENT) RULES, 1992 (SRO 142 OF 1992)

(A)

17. The Defence Aeronautical Quality Assurance Service (Amendment) Rules, 1992 were published in the Gazette of India, dated 18 July, 1992. It was noticed therefrom that the short title to the amendment rules did not indicate the serial number of the amendment made to the principal rules during the year 1992. Since an amendment had already been issued during 1992, the extent amendment could have been numbered as ‘Second Amendment’ so as to distinguish it from earlier one for facility of reference and for the sake of uniformity of procedure. The matter was taken up with the Ministry of Defence on 5 May, 1993 for ascertaining their comments. In their reply dated 6 October, 1993, the Ministry stated as under:—

“.....this Ministry has issued a notification (SRO No. 131 dt. 30.8.93)* amending further the DAQAS (Amendment) Rules, 1992. The shortcomings in the Amendment Rule *ibid* pointed out by the Committee on Subordinate Legislation has been rectified *vide* the notification dated 30.8.93.....”

18. The Committee note that on being pointed out, the Ministry of Defence have come out with another amendment notification *vide* S.R.O. 131 published in the official Gazette dated 25 September, 1993 with a view to identify the Defence Aeronautical Quality Assurance Service (Amendment) Rules, 1992 (S.R.O. 142 of 1992) as Second Amendment made to the principal recruitment rules during the year 1992. However, the fact remains that the Ministry moved in the matter only when the error was pointed out to them by the Committee. The Committee view with concern the scant

* Actually published in the Gazette of India, Part II, Section 4, dated 25 September, 1993.

attention being paid by the Ministry to the formulation of amendments to the statutory rules. They desire that the Ministry should evolve suitable safeguards with a view to avoid recurrence of such lapses in future.

19. Sub-rule (3) of rule 9, as amended, of the Defence Aeronautical Quality Assurance Service Rules read as under:—

“9. *Probation*

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- (3) If, during the period of probation or any extension thereof, as the case may be, Government is of opinion that an officer is not fit for permanent appointment, Government may discharge or revert the officer to the post held by him prior to his appointment in the service, as the case may be.

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**”

20. It was observed that the rules did not provide for recording reasons in writing before the Government discharged or reverted an officer to the post held by him prior to his appointment in the service, in case an officer was not found fit for permanent appointment. As a safeguard against any arbitrary use of the given discretion, it was felt that the reasons for the discharge or reversion ought to be recorded in writing in each case. The matter was taken up with the concerned Ministry of Defence for ascertaining their comments. In their reply dated 6 October, 1993, the Ministry intimated that sub-rule (3) of rule 9 of the rules *ibid* has since been amended *vide* S.R.O. 131 published in the official gazette dated 25 September, 1993, to the necessary effect, namely—

- “(3) If on the expiration of the period of probation referred to in sub-rule (1) of this rule or any extension thereof, as the case may be, the Government is of the opinion that a person is not fit for permanent appointment or if, at any time during such period of probation, or extension thereof, the Government is satisfied that the officer will not be fit for permanent appointment on the expiry of such period of probation or extension thereof, the Government may, *after recording reasons in writing*, discharge or revert the officer to his substantive post, as the case may be.”

21. The Committee note with satisfaction that on being pointed out by them, the Ministry of Defence have since amendment sub-rule (3) of rule 9 of the Defence aeronautical Quality Assurance Service Rules *vide* S.R.O. 131 dated 24 September, 1993 so as to provide for recording of reasons in writing before discharge or reversion of an officer to his substantive post, as the case may be, if he is found fit for permanent appointment. The Committee desire that the regulation should as well provide for communicating the reasons to the person concerned.

**THE NEW MANGALORE PORT TRUST EMPLOYEES (FAMILY SECURITY) (FIRST AMENDMENT) REGULATIONS, 1992
(GSR 843-E of 1992)**

22. The New Mangalore Port Trust Employees (Family Security) (First Amendment) Regulations, 1992 were published in the Gazette of India: Extraordinary, dated 2 November, 1992. It was observed that the notification did not contain the usual foot-note indicating the particulars of publication of the principal regulations and the subsequent amendments made thereto for facility of reference. On 27 July, 1993, the matter was taken up with the concerned Ministry of Surface Transport for ascertaining whether any corrigendum to rectify the error has since been issued. In their reply dated 22 November, 1993, the Ministry stated as under:—

“....corrigendum to the New Mangalore Port Trust Employees (Family Security) (1st Amendment) Regulations, 1992 (GSR No. 843-E of 1992) containing the usual foot-note, has been published in the Gazette of India with GSR No. 618 (E) dated the 20 September, 1993....”

23. The Committee note that on being pointed out, the Ministry of Surface Transport have since issued the requisite corrigendum to the New Mangalore Port Trust Employees (Family Security) (First Amendment) Regulations, 1992 to incorporate the usual foot-note indicating the particulars of publication of the principal regulations vide G.S.R. 618-E Dated 20 September, 1993. However, they find that the Ministry had moved in the matter only after the error was pointed out to them by the Committee. The Committee, therefore, recommend that the Ministry should evolve suitable procedural safeguards against recurrence of such lapses.

THE INDIAN FOREIGN SERVICE, BRANCH 'B' (DEPARTMENTAL PROMOTION COMMITTEES AND ESTABLISHMENT BOARDS) AMENDMENT REGULATIONS, 1992 (GSR 451 of 1992)

24. The Indian Foreign Service, Branch 'B' (Departmental Promotion Committees and Establishment Boards) Amendment Regulations, 1992, were published in the Gazette of India dated 10 October, 1992. It was observed that the notification did not contain the usual foot-note indicating the particulars of publication of the principal regulations and the subsequent amendments made thereto, for facility of reference. The concerned Ministry of External Affairs were asked to state if any corrigenda etc. has since been issued to rectify the error. In their reply dated 17 August, 1993, the Ministry stated as under:—

“....Corrigendum to rectify the error has not yet been issued. The Ministry is, however, taking necessary steps to do so at an early date.”

25. The Committee note that on being pointed out, the Ministry of External Affairs have proposed to take necessary steps to issue a corrigendum with a view to insert the requisite foot-note indicating the particulars of publications of the principal regulations and the subsequent amendments made thereto in the notification containing the Indian Foreign Service, Branch 'B' (Departmental Promotion Committees and Establishment Boards) Amendment Regulations, 1992. The Committee trust the Ministry would do the needful without further loss of time. The Committee would further like to focus the attention of the Ministry of their earlier observations made in para 87 of Sixth Report (Seventh Lok Sabha), namely—

“The Committee are unhappy to note that their recommendation regarding giving of foot-notes to the amending Rules indicating the particulars of earlier amendments had not been uniformly followed in all cases. The Committee desire the Ministry of Law (Legislative Department) that while vetting the Rules, they should also see that the practice is followed by all Ministries/Departments in letter and spirit.”

VII

THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS, VIDHI SAHITYA PRAKASHAN (GROUP 'C') RECRUITMENT (AMENDMENT) RULES (GSR 171 OF 1993)

(A)

26. The Ministry of Law, Justice and Company Affairs, Vidhi Sahitya Prakashan (Group 'C') Recruitment (Amendment) Rules, 1992 were published in the Gazette of India dated 3 April, 1993. It was observed that the short title to the Amendment Rules bore the year as 1992 whereas the rules were published in the year 1993. Normally, the year in short title correspond to the year of its publication in the official gazette. The matter was taken up with the concerned Ministry of Law, Justice and Company Affairs for ascertaining the reasons for departure from the normal practice in this respect. In their reply dated 4 November, 1993, the Ministry stated as under:—

“*Short title*:— On going through our records it has come to notice that the notification was issued in the first week of November, 1992.”

27. The Committee are not satisfied with the reply of the Ministry of Law and Justice. They observe that as per an oft-repeated recommendation of theirs, the responsibility of a Ministry does not cease with the sending of a notification to the Press. After the rules, regulations etc. have been published in the gazette the Ministry concerned should take immediate steps to examine whether the same have been correctly printed and, if necessary, should issue a corrigendum thereto. These observations were also circulated to all Ministries/Departments vide the then Department of Parliamentary Affairs O.M. No. F 32-40/72-R&C dated 28 February, 1973. The Committee regret to note that despite their categorical findings, the Ministry have not taken any action to rectify the error that has crept into the short title of

the statutory rules nor did they show any intention to rectify it even when pointed out to them. The Committee desire the Ministry to take immediate steps to rectify the error and to evolve suitable remedial measures in order that such lapses do not recur in future.

(B)

28. In respect of the Ministry of Law, Justice and Company Affairs, Vidhi Sahitya Prakashan (Group 'C') Recruitment (Amendment) Rules, 1992 (GSR 171 of 1993), the notification dated 2 November, 1992 was published in the official gazette on 3 April, 1993 i.e. after a gap of 5 months. The Ministry of Law were enquired of the reasons for the delayed publication of the notification. In their reply dated 4 November, 1993 the Ministry stated as under:—

"Delay in publication of notification:—

Inadvertantly the Hindi version of the notification could not be sent while issuing the English version. The same was therefore returned by the Government of India Press. After doing the needful, it was again sent back to them. This has taken sometime, which is regretted."

29. The Committee note that the Hindi version of the notification dated 2 November, 1992 could not be sent while issuing the English version thereof to the Government of India Press due to some inadvertence in the Ministry of Law & Justice. The notification was, therefore, returned by the Press. It again took the Ministry some more time to do the needful, for which they have regretted. However, the Committee are inclined to observe that this goes to speak of the scant attention with which the important matters like the statutory rules are being dealt with in the Ministry. The Committee need hardly emphasize that the procedural safeguards in the Ministry should be strengthened with a view to check recurrence of such lapses in future.

VIII

THE TEA BOARD (AMENDMENT) BYE-LAWS, 1992 (GSR 452 of 1992)

30. The Tea Board (Amendment) Bye-laws, 1992 were published in the Gazette of India dated 10 October, 1992. The notification did not contain the usual foot-note indicating the particulars of publication of the principal Bye-laws and the subsequent amendments made thereto, for facility of reference. The matter was taken up with the concerned Ministry of Commerce for ascertaining whether any corrigenda to rectify the error has since been issued. In their reply dated 5 August, 1993, the Ministry stated as under:—

"..... this Ministry accepts the observation of the Lok Sabha Sectt..... and necessary corrigenda etc. to rectify the error will be issued in due course."

31. The Committee note that on being pointed out, the Ministry of Commerce have agreed to issue the necessary corrigenda to rectify the error that has crept into the notification providing for the amendment of the Tea Board Bye-laws with a view to indicate the particulars of publication of the principal bye-laws and the subsequent amendments made thereto for facility of reference. The Committee desire the Ministry to do the needful without further delay. However, the Committee are constrained to note that the instances of omission of the foot-note continue to occur despite their categorical findings to that effect. In this connection, the Committee would like to focus the attention of the Ministry to their earlier observations made in para 87 of Sixth Report (Seventh Lok Sabha) referred to elsewhere in this Report. The Committee trust the Ministry would evolve suitable procedural safeguards to check recurrence of lapses of the like nature.

IX

THE PREVENTION OF FOOD ADULTERATION (III AMENDMENT) RULES, 1992 (GSR 591-E of 1992)

32. The Prevention of Food Adulteration (III Amendment) Rules, 1992 were published in the Gazette of India: Extraordinary, dated 15 June, 1992. It was observed from its Preamble that whereas certain draft rules for eliciting public opinion were published in the official gazette on 11 February, 1991, the final rules were notified in the gazette dated 15 June, 1992 *i.e.* after a spell of more than 16 months. The matter was taken up with the concerned Ministry of Health and Family Welfare for ascertaining the reasons for the inordinate delay in publication of the final rules. In their reply dated 8 September, 1993, the Ministry stated as under:—

“The undersigned is directed to refer to Lok Sabha Secretariat O.M. No. 38/9 (4)/CIL/93 dated 22.7.93 on the above subject and to say that this Ministry has prepared a progress chart to expedite finalisation of notifications, a copy of which is enclosed.”

Copies of the O.M. referred to above along with the recommendations of the Committee have been circulated to the Ministry of Law, Legislative Department (O.L. Wing), Dte. of Printing and the Ministries/Departments concerned with the finalisation of Notifications for compliance at their end.

33. The difficulties encountered while finalising the notifications include:—

- (i) As per normal procedure, a period of 90 days is given for inviting objection/suggestions from the public on the proposed draft notifications. In order to keep to the time limit of six months finalisation of the notification, this period is reduced from 90 days to 60 days. This result in the non-availability of the suggestions/

observations from the all States especially in the North-East region, Andaman and Nicobar Islands etc. within the stipulated period and further delays the process of suggestions from all quarters.

- (ii) A period of about two months is needed by the Director General of Health Services in compiling and scrutinizing the comments received from the public in consultation with experts.
- (iii) After the final notification is drafted, it is sent to Ministry of Law (Legislative Deptt.) and O.L. Wing for vetting and Hindi version of the notification which takes about a couple of months because the notifications relating to Food and Drug are highly technical in nature. The notifications are finally sent to the Govt. of India Press for publication after obtaining the approval of Minister for Health and Family Welfare. The entire process normally takes more than 6 months before a notification is finalised and published in the Gazette of India. However, efforts are always made to reduce the time taken in finalisation of the Notifications to the extent possible."

34. The Committee are constrained to observe that instances of inordinate delays in publication of the final rules continue to occur in spite of the recommendation of the Committee in para 68 of their Twenty-Fourth Report (Seventh Lok Sabha) that the gap between publication of the draft and final rules should not be more than 6 months. In the present case, the delay in publication of final amendment rules about Prevention of Food Adulteration has been attributed by the Ministry of Health and Family Welfare mainly to the following factors:

- (i) time taken in finalisation of the objections/suggestions received from the public on the draft rules;
- (ii) time taken in inter-departmental consultations in compiling and scrutinising the comments; and
- (iii) time taken in getting Hindi translation of the final rules from the official Language Wing.

35. The Committee cannot help observing that these difficulties are not of such a serious nature as to justify the gap of 16 months between the publication of the draft and final amendment rules. One of the reasons advanced by the Ministry is that even after the final notification is drafted, its vetting and preparation of Hindi version by the Ministry of Law (Legislative Wing) and Official Language Wing takes about a couple of months. Such delays can hardly be justified. Apparently, no sincere efforts have been made to implement the recommendation of the Committee. They would like the Ministry to ensure that in future such instances of inordinate delays do not recur and the time limit of 6 months fixed by the Committee is adhered to.

NEW DELHI;
January, 1994

Magha, 1915 (Saka)

AMAL DATTA,
Chairman,
Committee on Subordinate Legislation.

ANNEXURE

(Vide Para 32 of the Report)

PROGRESS CHART TO EXPEDITE GAZETTE NOTIFICATION

- (1) As soon as the draft notification is sent to press for publication, the relevant file will be returned to D.G.H.S. by Department of Health for cutting stencils of the office copy of the notification and circulating the cyclostyled copies of the notification to all concerned for inviting comments.**
- (2) After expiry of last date for receipt of comments, the objections/suggestions will be compiled/scrutinised within shortest possible time and final draft be prepared.**
- (3) The Directorate General of Health Services will thereafter make an entry in the register on which date the file containing final notification is referred to Deptt. of Health and will send a reminder to Department of Health at an interval of 15-20 days.**
- (4) Department of Health will also make a register indicating on which date they have sent the notification to Ministry of Law/O.L.W. etc. and will remind them fortnightly to expedite the notification.**
- (5) All notifications be published in Extraordinary Gazette.**

APPENDICES

APPENDIX I

(Vide para 4 of the Report)

Summary of Recommendations made in the Eleventh Report of the Committee on Subordinate Legislation

(TENTH LOK SABHA)

Sl. No.	Reference to Para No. in the Report	Summary of Recommendations
1	2	3
1.	7 & 10	<p>The Committee note That on being pointed out, the Ministry of Surface Transport have advised the Kandla Port Trust to amend regulation 16 of the Kandla Port Pilot Service (Training, Grading and Seniority) Regulations, 1992 on the pattern of regulation 24 of the Kandla Port Employees (Allotment of Residence) Regulations, 1964 with a view to do away with any notion that the jurisdiction of the law courts is being ousted and for the sake of uniformity. The Committee desire the Ministry to ensure that the necessary amendment is carried out at the earliest.</p> <p>The Committee note that on being pointed out, the Ministry of Surface Transport have advised the Kandla Port Trust to delete regulation 17 of the Kandla Port Pilot Service (Training, Grading and Seniority) Regulations, 1992, which seek to confer wide discretion on the Chairman, in the matter of relaxation of the regulations. The Committee desire the Ministry to ensure that the necessary amendment for omitting the regulation is notified without delay.</p>
2.	13 & 16	<p>The Committee note with satisfaction that on being pointed out, the Ministry of Commerce have since amended sub-regulation (3) of regulation 10 of the Spices Board (Quality Marking) Regulations, 1992 vide S.O. 210 published in the Gazette of India dated 6 February, 1993 so as to provide for re-assessment of unit on an application made by the packer, without subjecting it to the order of the Chairman of the Spices Board.</p>

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The Committee note with satisfaction that on being pointed out, the Ministry of Commerce have since deleted the words '*the decisions on such an appeal shall be final*' from regulation 9 of the Spices Board (Quality Marking) Regulations, 1992 *vide* S.O. 210 dated 6 February, 1993. The Committee trust that the Ministry would evolve suitable procedural safeguards with a view to avoid recurrence of such errors in future.

3. 18 & 21

The Committe note that on being pointed out, the Ministry of Defence have come out with another amendment notification *vide* S.R.O. 131 published in the official gazette dated 25 September, 1993 with a view to identify the Defence Aeronautical Quality Assurance Service (Amendment) Rules, 1992 (S.R.O. 142 of 1992) as Second Amendment made to the principal recruitment rules during the year 1992. However, the fact remains that the Ministry moved in the matter only when the error was pointed out to them by the Committee. The Committee view with concern the scant attention being paid by the Ministry to the formulation of amendments to the statutory rules. They desire that the Ministry should evolve suitable safeguards with a view to avoid recurrence of such lapses in future.

The Committee note with satisfaction that on being pointed out by them, the Ministry of Defence have since amended sub-rule (3) of rule 9 of the Defence aeronautical Quality Assurance Service Rules *vide* S.R.O. 131 dated 24 September, 1993 so as to provide for recording of reasons in writing before discharge or reversion of an officer to his substantive post, as the case may be, if he is found fit for permanent appointment. The Committee desire that the regulation should as well provide for communicating the reasons to the person concerned.

4. 23

The Committee note that on being pointed out, the Ministry of Surface Transport have since issued the requisite corrigendum to the New Mangalore Port Trust Employees (Family Security) (First Amendment) Regulations, 1992 to incorporate the usual foot-note indicating the particulars of publication of

1	2	3
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the principal regulations *vide* G.S.R. 618-E dated 20 September, 1993. However, they find that the Ministry had moved in the matter only after the error was pointed out to them by the Committee. The Committee, therefore, recommend that the Ministry should evolve suitable procedural safeguards against recurrence of such lapses.

5. 25 The Committee note that on being pointed out, the Ministry of External Affairs have proposed to take necessary steps to issue a corrigendum with a view to insert the requisite foot-note indicating the particulars of publications of the principal regulations and the subsequent amendments made thereto in the notification containing the Indian Foreign Service, Branch 'B' (Departmental Promotion Committees and Establishment Boards) Amendment Regulations, 1992. The Committee trust the Ministry would do the needful without further loss of time. The Committee would further like to focus the attention of the Ministry of their earlier observations made in para 87 of Sixth Report (Seventh Lok Sabha), namely:—

“The Committee are unhappy to note that their recommendation regarding giving of foot-notes to the amending Rules indicating the particulars of earlier amendments had not been uniformly followed in all cases. The Committee desire the Ministry of Law (Legislative Department) that while vetting the Rules, they should also see that the practice is followed by all Ministries/Departments in letter and spirit.”

6. 27 & 29 The Committee are not satisfied with the reply of the Ministry of Law and Justice. They observe that as per an oft-repeated recommendation of theirs, the responsibility of a Ministry does not cease with the sending of a notification to the Press. After the rules, regulations etc. have been published in the gazette, the Ministry concerned should take immediate steps to examine whether the same have been correctly printed and, if necessary, should issue a corrigendum thereto. These observations were also circulated to all Ministries/Departments *vide* the then Department of Parliamentary Affairs O.M. No. F. 32-40/72-R&C
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dated 28 February, 1973. The Committee regret to note that despite their categorical findings, the Ministry have not taken any action to rectify the error that has crept into the short title of the statutory rules nor did they show any intention to rectify it even when pointed out to them. The Committee direct the Ministry to take immediate steps to rectify the error and to evolve suitable remedial measures in order that such lapses do not recur in future.

The Committee note that the Hindi version of the notification dated 2 November, 1992 could not be sent while issuing the English version thereof to the Government of India Press due to some inadvertence in the Ministry of Law & Justice. The notification was, therefore, returned by the Press. It again took the Ministry some more time to do the needful, for which they have regretted. However, the Committee are inclined to observe that this goes to speak of the scant attention with which the important matters like the statutory rules are being dealt with in the Ministry. The Committee need hardly emphasize that the procedural safeguards in the Ministry should be strengthened with a view to check recurrence of such lapses in future.

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The Committee note that on being pointed out, the Ministry of Commerce have agreed to issue the necessary corrigenda to rectify the error that has crept into the notification providing for the amendment of the Tea Board Bye-laws with a view to indicate the particulars of publication of the principal bye-laws and the subsequent amendments made thereto for facility of reference. The Committee desire the Ministry to do the needful without further delay. However, the Committee are constrained to note that the instances of omission of the foot-note continue to occur despite their categorical findings to that effect. In this connection, the Committee would like to focus the attention of the Ministry to their earlier observations made in para 87 of Sixth Report (Seventh Lok Sabha) referred to elsewhere in this Report. The Committee trust the Ministry would evolve suitable procedural safeguards to check recurrence of lapses of the like nature.

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8. 34 & 35

The Committee are constrained to observe that instances of inordinate delays in publication of the final rules continue to occur in spite of the recommendation of the Committee in para 68 of their Twenty-Fourth Report (Seventh Lok Sabha) that the gap between publication of the draft and final rules should not be more than 6 months. In the present case, the delay in publication of final amendment rules about Prevention of Food Adulteration has been attributed by the Ministry of Health and Family Welfare mainly to the following factors:

i) time taken in finalisation of the objections/suggestions received from the public on the draft rules;

ii) time taken in inter-departmental consultations in compiling and scrutinising the comments; and

iii) time taken in getting Hindi translation of the final rules from the Official Language Wing.

The Committee cannot help observing that these difficulties are not of such a serious nature as to justify the gap of 16 months between the publication of the draft and final amendment rules. One of the reasons advanced by the Ministry is that even after the final notification is drafted, its vetting and preparation of Hindi version by the Ministry of Law (Legislative Wing) and Official Language Wing takes about a couple of months.

MINUTES

APPENDIX II

(vide Para 3 of the Report)

XXVIII

MINUTES OF THE TWENTY-EIGHTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (TENTH LOK SABHA) (1992-93)

The Committee met on Thursday, 28 October, 1993 from 15.30 hrs. to 16.15 hrs.

PRESENT

Shri Amal Datta

— *Chairman*

MEMBERS

2. Shri R. Dhanuskodi Athithan
3. Shri Ram Niwas Mirdha
4. Shri Shravan Kumar Patel
5. Shri Mohan Singh
6. Kumari Frida Topno

SECRETARIAT

1. Shri S.C. Gupta — *Joint Secretary*
2. Shri R.K. Chatterjee — *Deputy Secretary*
3. Shri Ram Kumar — *Under Secretary*

2. The Committee considered Memoranda Nos. 72 to 77 as follows:—

(i) *The Prevention of Food Adulteration (III Amendment) Rules, 1992 (GSR 591-E of 1992)*—(Memorandum No. 72)

3. The Committee noted that instances of inordinate delays in publication of the the final rules continued to occur in spite of the recommendation of the Committee in para 68 of their Twenty-Fourth Report (Seventh Lok Sabha) that the gap between publication of the draft and final rules should not be more than 6 months. The Committee felt that the difficulties were not of such a serious nature as to justify the gap of 16 months between the publication of the draft and final amendment rules. The Committee observed that no sincere efforts had been made to implement their recommendation and, therefore, liked the Ministry to ensure that in future instances of such inordinate delays should not recur and the time-limit of 6 months fixed by the Committee be adhered to.

(ii) *The Spices Board (Quality Marking) Regulations, 1992 (GSR 73-E of 1992)*—(Memorandum No. 73)

(A)

4. The Committee noted that the Ministry of Commerce had already amended sub-regulation (3) of regulation 10 of the Spices Board (Quality Marking) Regulations, 1992 so as to provide for re-assessment of the unit on an application made by the packer without subjecting it to the order of the Chairman of the Spices Board.

(B)

5. The Committee noted with satisfaction that the Ministry of Commerce had already deleted the words 'the decisions on such an appeal shall be final' from regulation 9 of the Spices Board (Quality Marking) Regulations, 1992.

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(iv) *The Tea Board (Amendment) Bye-laws, 1992 (GSR 452 of 1992)*—Memorandum No. 75)

7. The Committee noted that the Ministry of Commerce has agreed to issue the necessary corrigenda to rectify the error that had crept into the notification providing for the amendment of the Tea Board Bye-laws. The Committee expected the Ministry to do the needful without further delay. However, the Committee were constrained to note that the instances of omission of the foot-note continue to occur despite their categorical findings to that effect. In this connection, the Committee decided to focus the attention of the Ministry to their earlier observations made in para 87 of Sixth Report (Seventh Lok Sabha). The Committee hoped the Ministry would evolve suitable procedural safeguards to check recurrence of lapses of the like nature.

(v) *The Defence Aeronautical Quality Assurance Service (Amendment) Rules, 1992 (SRO 142 of 1992)*—(Memorandum No. 76)

(A)

8. The Committee noted that the Ministry of Defence had already published another amendment notification *vide* S.R.O. 131 dated 25 September, 1993 to identify the Defence Aeronautical Quality Assurance Service (Amendment) Rules, 1992 (S.R.O. 142 of 1992) as Second Amendment made to the principal recruitment rules during the year 1992. However, the Committee expressed concern over the scant attention paid by the Ministry to the formulation of amendments to the statutory rules and desired them to evolve suitable safeguards to avoid recurrence of such lapses in future.

(B)

9. The Committee noted that the Ministry of Defence had already amended sub-rule (3) of rule 9 of the Defence aeronautical Quality Assurance Service Rules *vide* S.R.O. 131 dated 25 September, 1993 to provide for recording of reasons in writing before discharge or reversion of an officer to his substantive post, as the case might be, if he was not found fit for permanent appointment.

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The Committee then adjourned.

Residence) Regulations, 1964. The Committee desired that the necessary amendment might be carried out at the earliest.

(B)

The Committee noted that the Ministry of Surface Transport had already advised the Kandla Port Trust to delete regulation 17 of the Kandla Port Pilot Service (Training, Grading and Seniority) Regulations, 1992 which sought to confer wide discretion on its Chairman in the matter of relaxation of the regulations. The Committee desired that the necessary amendment for omitting the regulation might be notified without delay.

- (iv) *The Indian Foreign Service, Branch 'B' (Departmental Promotion Committees and Establishment Boards) Amendment Regulations, 1992 (GSR 451 of 1992) (Memorandum No. 81)*

The Committee noted that the Ministry of External Affairs had proposed to issue a corrigendum to insert the requisite foot-note indicating the particulars of publications of the principal regulations and the subsequent amendments made thereto in the notification containing the Indian Foreign Service, Branch 'B' (Departmental Promotion Committees and Establishment Boards) Amendment Regulations, 1992. The Committee expected the Ministry to do the needful without further loss of time. The Committee further decided to focus the attention of the Ministry of their earlier observations made in para 87 of Sixth Report (Sevent Lok Sabha) in that regard.

- (v) *The Ministry of Law, Justice and Company Affairs Vidhi Sahitya Prakashan (Group 'C') Recruitment (Amendment) Rules (GSR 171 of 1993) (Memorandum No. 82)*

The Committee were not satisfied with the reply of the Ministry of Law & Justice. The Committee regretted that despite their categorical findings, the Ministry had not taken any action to rectify the error that had crept into the short title of the statutory rules nor shown any intention to rectify it even when pointed out to them. The Committee felt that the Ministry should take immediate steps to rectify the error and to evolve suitable remedial measures in order that such lapses did not recur in future.

(B)

The Committee took exception to the scant attention with which the important matters like the statutory rules were being dealt with in the Ministry of Law and Justice. The Committee decided to emphasize that the procedural safeguards in the Ministry should be strengthened with a view to check recurrence of such lapses in future.

The Committee then adjourned.

XXXIII

MINUTES OF THE THIRTY-THIRD SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (TENTH LOK SABHA) (1993-94)

The Committee met on Tuesday, 25 January, 1994 from 11.00 hrs. to 12.30 hours.

PRESENT

Shri Amal Datta — *Chairman*

MEMBERS

2. Shri Prithviraj D. Chavan
3. Shri Guman Mal Lodha
4. Dr. A.K. Patel
5. Shri Rajendra Kumar Sharma
6. Shri K.G. Shivappa
7. Shri Mohan Singh (Deoria)
8. Prof. K.V. Thomas
9. Shri Umrao Singh

SECRETARIAT

Shri S.C. Gupta — *Joint Secretary*

Shri R.K. Chatterjee — *Deputy Secretary*

Shri Ram Kumar — *Under Secretary*

2. The Committee considered the draft Eleventh Report and adopted it with minor modifications.

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The Committee then adjourned.

*Omitted portions of the Minutes are not covered in this Report.