

**GOVERNMENT OF INDIA
HOME AFFAIRS
LOK SABHA**

UNSTARRED QUESTION NO:239

ANSWERED ON:27.07.2010

NARCO TEST

Mahato Shri Narahari; Roy Shri Nripendra Nath; Tirkey Shri Manohar

Will the Minister of HOME AFFAIRS be pleased to state:

- (a) whether the Hon'ble Court has recently given any judgement on the use of narco-analysis, brain-mapping and polygraph tests on suspects;
- (b) if so, the details thereof; and
- (c) the reaction of the Government in this regard?

Answer

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

(a) to (c): Supreme Court has passed a judgment dated 5.5.2010 in Criminal Appeal No. 1267 of 2004– Smt.Selvi & Others (Appellants) Versus State of Karnataka. The Hon'ble Court has directed the strictly adherence to the guidelines formulated by the National Human Rights Commission in 2000 on Polygraph Test (Lie Detector Test) on an accused which are also to be followed for conducting the 'Narco analysis technique' and the 'Brain Electrical Activation Profile'.

Brief highlights of the judgment are:-

- i. No Lie Detector Tests should be administered except on the basis of consent of the accused. An option should be given to the accused whether he wishes to avail such test.
- ii. If the accused volunteers for a Lie Detector Test, he should be given access to a lawyer and the physical, emotional and legal implication of such a test should be explained to him by the police and his lawyer.
- iii. The consent should be recorded before a Judicial Magistrate.
- iv. During the hearing before the Magistrate, the person alleged to have agreed should be duly represented by a lawyer.
- v. At the hearing, the person in question should also be told in clear terms that the statement that is made shall not be a 'confessional' statement to the magistrate but will have the status of a statement made to the police.
- vi. The Magistrate shall consider all factors relating to the detention including the length of detention and the nature of the interrogation.
- vii. The actual recording of the Lie Detector Test shall be done by an independent agency (such as a hospital) and conducted in the presence of a lawyer.
- viii. A full medical and factual narration of the manner of the information received must be taken on record.

As the technique in question is voluntary administration in the context of investigation in criminal cases or otherwise to be conducted under the guidelines formulated by the National Human Right Commission, there is no proposal before the Government to approach Supreme Court against its decision.