

**GOVERNMENT OF INDIA
PERSONNEL,PUBLIC GRIEVANCES AND PENSIONS
LOK SABHA**

UNSTARRED QUESTION NO:5494
ANSWERED ON:09.05.2012
GRAFT CASES
Ray Shri Rudramadhab

Will the Minister of PERSONNEL,PUBLIC GRIEVANCES AND PENSIONS be pleased to state:

- (a) whether the Supreme Court has set up a dead-line of four months for the Government to decide on prosecuting graft cases against public servants;
- (b) if so, the response of the Government thereto and the details of the guidelines being framed in this regard;
- (c) the time by which these guidelines are likely to be implemented; and
- (d) if not, the other measures being adopted to expedite decision on grant of sanction on completion of legal process in this regard?

Answer

Minister of State in the Ministry of Personnel, Public Grievances and Pensions and Minister of State in the Prime Minister's Office.
(SHRIV. NARAYANASAMY)

(a): The Supreme Court of India, vide its judgment dated 18th December, 1997 in the case of Vineet Narain Vs. Union of India, directed that "time limit of three months for grant of sanction for prosecution must be strictly adhered to. However, additional time of one month may be allowed where consultation is required with the Attorney General (AG) or any Law Officer in the AG's office". The Supreme Court has, in its recent judgment dated 31st January, 2012 in the case of Dr. Subramanian Swami Vs. Dr. Manmohan Singh & Another (Civil Appeal No.1193 of 2012), reiterated the said limit.

(b) & (c): In the Supreme Court's judgment dated 31st January, 2012 in the case of Dr. Subramanian Swami Vs. Dr. Manmohan Singh & Another, one of the Judges (Shri Justice A.K. Ganguly) has made an observation that the Parliament may consider introducing a time limit in section 19 of the Prevention of Corruption Act, 1988 for its working in a reasonable manner and also introducing a provision that if sanction is not accorded within the time limit, sanction will be deemed to have been granted to the proposal for prosecution. The above observations made by the Hon'ble judge in his concurring judgment, are in the nature of obiter dicta.

(d): However, in order to check delays in grant of sanction for prosecution, the Department of Personnel & Training has already issued guidelines vide its OM No.399/33/2006-AVD-III dated 6th November, 2006 followed by another OM dated 20th December, 2006, providing for a definite time frame at each stage for handling of requests from CBI for prosecution of public servants.

Recently, the Group of Ministers on tackling corruption, in its first report, inter alia, recommended that:-

(a) In all cases where the Investigating Agency has requested sanction for prosecution and also submitted a draft charge sheet and related documents along with the request, it will be mandatory for the competent authority to take a decision within a period of 3 months from receipt of request, and pass a Speaking Order, giving reasons for this decision.

(b) In the event that the competent authority refuses permission for sanction to prosecute, it will have to submit its order including reasons for refusal, to the next higher authority for information within 7 days.

Wherever the Minister-in-charge of the Department is the competent authority and he decides to deny the permission, it would be incumbent on the Minister to submit, within 7 days of passing such order denying the permission, to the Prime Minister for information.

(c) It will be the responsibility of the Secretary of each Department/Ministry to monitor all cases where a request has been made for permission to prosecute. Secretaries may also submit a certificate every month to the Cabinet Secretary to the effect that no case is pending for more than 3 months, the reasons for such pendency and the level where it is pending may also be explained. The said recommendation of the GoM has been accepted by Government and instructions have been issued by the Government on 03.05.2012.