

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

UNSTARRED QUESTION NO:6605
ANSWERED ON:16.05.2012
ADHERENCE OF TIME LIMIT FOR PROSECUTION
Rama Devi Smt. ,Sinh Dr. Sanjay

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

- (a) the details of guidelines issued by the Department of Personnel and Training (DoPT) in pursuance of the directions given by the Hon'ble Supreme Court regarding compliance of adherence to the time limit of three months for grant of sanction for prosecution by the Government;
- (b) the details of violation of the above guidelines by the Ministries/Departments during each of the last three years and the current year, Department-wise; and
- (c) the details of officers identified for above violation and the action taken against them during the above period?

Answer

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

(SHRI V. 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. In the same judgment, 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.

In order to check delays in grant of sanction for prosecution, the Department of Personnel & Training has 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.

(b): During last three years, the CBI has sought sanction for prosecution of Government Servants/Public Servants for offences under various acts including PC Act, 1988 from various Ministries/ Departments and State Governments in 1459 cases, involving 2583 Government Officials. The year-wise details are as follows:-

YearNo. of cases in which sanction sought No. of requests made in these cases
2009531876201049896620113766472012 (upto 31.3.2012) 54 94Total14592583

The CBI has informed that there are 82 requests in 39 cases pending for sanction for prosecution over 3 months as on 31.03.2012 under the Prevention of Corruption Act, 1988 in various Ministries, Departments and State Governments. The details of such pending cases are given in Annexure-A and the details of pending requests in these cases are given in Annexure-B.

(c): Even though a time limit of three months has been prescribed for deciding cases of sanction for prosecution, it is sometimes not possible for the concerned Ministries/ Departments to adhere to this time limit. The delay is often caused due to detailed analysis of the available evidence, consultation with CVC, State Governments and other agencies, and sometimes non-availability of relevant documentary evidence.

Data of officers found responsible for deliberate delay in processing of cases of sanction for prosecution and action taken against them is not centrally maintained.

Annexure 'A' Ministrywise PC-Act Cases Over 3 months Pending for Prosecution Sanction as on Saturday, March, 31, 2012.

Ministry/Cases between 3 to 6 Months	Cases between 6 Months to 1 year	Cases more than 1 year	Total Cases
CABINET SECRETARIAT	100	1	101
MINISTRY OF AGRO & RURAL INDUSTRIES	100	1	101
MINISTRY OF COAL & MINES	300	3	303
MINISTRY OF COMMUNICATION	0	10	10
MINISTRY OF DEFENCE	0	10	10
MINISTRY OF FINANCE (CUSTOM & CENTRAL EXCISE)	213	6	219
MINISTRY OF FINANCE (INCOME TAX)	122	5	127
MINISTRY OF HOME AFFAIRS	10	2	12
MINISTRY OF PERSONNEL PUBLIC GR. & PENSIONS	100	1	101
MINISTRY OF RAILWAYS	130	4	134
MINISTRY OF SHIPPING	0	11	11
UNION TERRITORIES	100	1	101
GOVT. OF ASSAM	0	22	22
GOVT. OF DELHI	0	11	11
GOVT. OF RAJASTHAN	0	33	33
TOTAL	1512	144	1656

However, a total of only 39 cases are Pending for Prosecution Sanction, as 2 cases are common to more than one Ministry/State Govt. , etc.

Annexure 'B' Ministrywise PC-Act Requests Over 3 months Pending for Prosecution Sanction as on Saturday, March, 31, 2012.

Ministry/Requests between 3 to 6 Months	Requests between 6 Months to 1 year	Requests more than 1 year	Total Requests
CABINET SECRETARIAT	1	0	1
MINISTRY OF AGRO & RURAL INDUSTRIES	3	0	3
MINISTRY OF COAL & MINES	8	0	8
MINISTRY OF COMMUNICATION	0	1	1
MINISTRY OF DEFENCE	0	1	1
MINISTRY OF FINANCE (CUSTOM & CENTRAL EXCISE)	3	12	15
MINISTRY OF FINANCE (INCOME TAX)	1	3	4
MINISTRY OF HOME AFFAIRS	2	0	2
MINISTRY OF PERSONNEL PUBLIC GR. & PENSIONS	1	0	1
MINISTRY OF RAILWAYS	1	3	4
MINISTRY OF SHIPPING	0	0	0
UNION TERRITORIES	1	0	1
GOVT. OF ASSAM	0	0	0
GOVT. OF DELHI	0	0	0
GOVT. OF RAJASTHAN	0	0	0
TOTAL	25	24	49

In the 39 cases pending with Central/State Government, Departments/Authorities, 82 separate requests have been made for Prosecution Sanction as some of the cases involve more than one accused.