

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

UNSTARRED QUESTION NO:6662  
ANSWERED ON:16.05.2012  
PROSECUTION OF GOVERNMENT EMPLOYEES  
Alagiri Shri S. ;Sinh Dr. Sanjay

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

(a) whether the Government proposes to delete the provision in respect of obtaining permission for prosecution against the Government employees under section 19 of the Prevention of Corruption Act, 1988 and under section 197 of the Code of Criminal Procedure in the interest of alleviation of corruption;

(b) if so, the details thereof and if not, the reasons therefor; and

(c) the reaction of the Government on not giving permission for prosecution against the Government employees beyond the period of six months?

**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): Government has recently introduced the Lokpal and Lokayuktas Bill, 2011 in Parliament. The said Bill has been passed by the Lok Sabha and is presently pending in the Rajya Sabha. It has been provided, inter alia, in the said Bill that no prior sanction under section 19 of the Prevention of Corruption Act, 1988 or under section 197 of the Code of Criminal Procedure shall be required for launching prosecution in cases enquired by the Lokpal or initiated on the direction and with the approval of Lokpal. However, there is no proposal to delete the provisions of section 19 of the Prevention Of Corruption Act, 1988 or section 197 of the Code of Criminal Procedure.

(b): The requirement of previous sanction is intended to afford a reasonable protection to a public servant from frivolous, malicious or vexatious prosecution and to save him from unnecessary harassment or undue hardship which may result from an inadequate appreciation of the technicalities of the working of a department. The prosecution of a Government servant for an offence challenging his honesty and integrity has also a bearing on morale of the public services. The administrative authority alone is in a position to assess and weigh the accusation against the background of their own intimate knowledge of the work and conduct of the public servant and the overall administrative interest of the State.

The requirement of previous sanction is not aimed at shielding the corrupt but protecting honest public servants.

(c): The delay which occurs in the sanctioning of prosecution is mostly on account of detailed scrutiny and analysis of voluminous case records and evidence, consultation with Central Vigilance Commission (CVC), State Governments and other agencies, and sometimes non-availability of relevant documentary evidence.

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

