

**COMMITTEE ON SUBORDINATE LEGISLATION  
(FOURTEENTH LOK SABHA)  
(2006-2007)**

**THIRTEENTH REPORT**

**(PRESENTED ON 13 .12. 2006)**

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**LOK SABHA SECRETARIAT  
NEW DELHI**

**October, 2006/Asvina, 1928 (Saka)**

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**COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION**  
**(2006-2007)**

1. Shri N. N. Krishnadas - Chairman
2. Shri Anandrao Vithoba Adsul
3. Shri Giridhar Gamang
4. Shri Loganathan Ganesan
5. Shri N. Y. Hanumanthappa
6. Shri Ram Singh Kaswan
7. Shri Faggan Singh Kulaste
8. Shri Dalpat Singh Paraste
9. Shri Jaysingrao Gaikwad Patil
10. Shri Lalmani Prasad
11. Shri Anantha Venkata Rami Reddy
12. Shri Bhupendrasinh Solanki
13. Shri Ramjilal Suman
14. Shri A.K.S. Vijayan
15. Shri Madhu Goud Yaskhi

**SECRETARIAT**

1. Shri J. P.Sharma - Joint Secretary
2. Shri A. Louis Martin - Director
3. Shri R.K. Bajaj - Deputy Secretary
4. Shri K. Jena - Under Secretary

(iii)

## **INTRODUCTION**

I, the Chairman, Committee on Subordinate Legislation having been authorised by the Committee to submit the report on their behalf, present this Thirteenth Report.

2. The matters covered by this Report were considered by the Committee on Subordinate Legislation (2005-2006) at their sittings held on 27. 1. 2006.

3. The Committee also wish to place on record their appreciation of the valuable work done by the predecessor Committee (2005-2006).

4 The Committee considered and adopted this Report at their sitting held on 18 October, 2006.

5. 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 Appendix - I of the Report.

6. Extracts from the Minutes of the Sixth (2005-2006) and Second (2006-2007) sittings relevant to this Report are included in Appendix-II.

**NEW DELHI;**  
**October, 2006**  
**Asvina, 1928 (SAKA)**

**N.N. KRISHNADAS,**  
**CHAIRMAN,**  
**COMMITTEE ON SUBORDINATE LEGISLATION**

## **REPORT**

### **I**

#### **The Department of Science & Technology Group 'A' Gazetted Posts (Non-Ministerial, Scientific and Technical) Rules, 2004 (GSR 382 of 2004) - Provision for safeguard against misuse of rules.**

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The Department of Science & Technology Group 'A' Gazetted Posts (non-ministerial, Scientific and Technical) Rules, 2004 (GSR 382 of 2004) were published in the Gazette of India, Part-II Section 3 (i) dated 6 November, 2004. According to Rule 4 (ii) of these Rules, the selected candidates under direct recruitment shall be on probation for a period of one year extendable twice by a period of 6 months maximum on each occasion. It was observed that the rule providing for extension of probation period did not have any safeguard against its misuse.

1.2 On the matter having been referred to the Ministry of Science & Technology, the Department of Science & Technology vide their communication dated 16 March, 2005 stated that they have no objection to rectify the error and to provide for a safeguard to the effect that the probation is extendable for reasons to be recorded in writing. The Ministry further assured that action would be taken in due course with the concurrence of Department of Personnel and Training and the Ministry of Law.

**1.3 The Committee note that Rule 4 (ii) of the Department of Science & Technology Group 'A' Gazetted Posts (Non-ministerial, Scientific and Technical) Rules, 2004 prescribed that selected candidates under direct recruitment would be on probation for a period of one year extendable twice by a period of 6 months**

maximum on each occasion. In this regard, the Committee observed that the Rule, however, did not provide for any safeguard against the misuse of this provision. When the lacuna was pointed out, the Department of Science & Technology agreed to rectify the error by providing a safeguard to the effect that probation would be extendable for reasons to be recorded in writing. The Ministry of Science & Technology communicated that action in this regard would be taken in due course with the concurrence of the Department of Personnel & Training and the Ministry of Law. The Committee, therefore, recommend that the Ministry may take necessary action in this regard expeditiously and also ensure that in future the rules made by the Ministry do not provide unbridled powers to the executive.

## II

### **THE CENTRAL SHEEP BREEDING FARM, HISSAR (GROUP C AND D) POSTS RECRUITMENT RULES, 2005 (GSR 19 OF 2005).**

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The Central Sheep Breeding Farm, Hissar (Group C and D) Posts Recruitment Rules, 2005 (GSR 19 of 2005) were published in the Gazette of India, Part-II Section 3 (i) dated 15 January 2005. One of the qualifications prescribed in the Rules for the post of Machineman was 'about two years experience in reputed firm/workshop on Machines'. The expression 'reputed firm/workshop' is relative in nature and is vague. Similarly, for the post of Electrician one of the qualifications prescribed as desirable was 'experience of working in the field of generators, air-conditioners, etc.'. The rules did not prescribe the duration of experience nor specified the type of organization, experience in which would be recognized for the purpose.

2.2 When the above infirmities were brought to the notice of the Ministry of Agriculture (Department of Animal Husbandry, Dairying & Fisheries), the Ministry *vide* their communication dated 25 May 2005 stated that for the post of Machineman and Electrician, the intention of the Department was to recognize experience either in a public sector firm or in a private firm. The Ministry also stated that it was proposed to lay down in the rules that experience in private firm which is registered under the Factories' Act, shall be recognized for the purpose. The clauses relating to experience in respect of the two posts were proposed to be amended as follows:

- (a) *For the post of Machine man - About two years experience in a firm or workshop on machines registered under the Factories' Act.*



*(b) For the post of Electrician - One year experience of working in an organization engaged in the maintenance of air conditioners, generators, etc. and registered under the Factories' Act.*

**2.3 The Committee note that one of the qualifications prescribed for the post of Machineman in the Central Sheep Breeding Farm, Hissar (Group C and D) Posts Recruitment Rules, 2005 was “about two years experience in reputed firm or workshop on machines”. The Committee feel that the expression ‘reputed firm/workshop’ is relative in nature and is vague. The rules, also, did not prescribe the minimum duration of experience in the maintenance of air conditioners, generators, etc. that is necessary/desirable for consideration for the post of Electrician. The Committee are happy to note that on their pursuation, the Ministry of Agriculture (Department of Animal Husbandry, Dairying and Fisheries) have proposed to amend the rules. The proposed rule has now the provision that experience in private firm which is registered under the Factories’ Act will be taken into consideration for the posts of Machineman and Electrician. It has also been proposed to prescribe the duration of experience as one year for the post of Electrician in an organization engaged in the maintenance of air conditioners, generators, etc. and registered under the Factories Act. The Committee would like to impress upon the Ministry to be vigilant and to ensure that errors of this nature do not recur in future.**

### III

#### **The Makhana Grading and Marking Rules, 2004 (GSR 244 of 2004)**

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The Makhana Grading and Marking Rules, 2004 (GSR 244 of 2004) were published in the Gazette of India, Part-II, Section 3 (i) dated 24 July, 2004. It was observed therefrom that the draft of the above rules were made available to the public on 19 September, 2003 for obtaining comments/suggestions. The final rules were published on 24 July, 2004 i.e. after a gap of nearly 10 months.

3.2 In terms of the recommendations made by the Committee on Subordinate Legislation, the final rules should be notified within 3 months after notification of draft rules and in cases where a large number of objections/suggestions have been received with reference to draft rules, this period should not exceed six months.

3.3 The Ministry of Agriculture were, therefore, asked to indicate the reasons for delay in notification of final rules and also the number and nature of objections/suggestions received with respect to the draft rules. The Ministry in their reply dated 25 July, 2005 explained as under:-

“The publication of final notification of Makhana Grading & Marking Rules, 2004 took 10 months because of number of steps involved in publication of final notification after publication of preliminary draft notification. The steps required for final notification are as follows :-

- Preparation of 200 copies of extract containing the preliminary draft notification of Makhana Grading & Marking Rules at Government of India Printing Press.

- Circulation of copies of preliminary draft notification to all concerned for inviting comments and suggestions within 45 days.
- Examination and compilation of comments and suggestions received from trade and other organisations
- Submission of fair copies to the Ministry of Agriculture after incorporating the suggestions.
- Legal vetting of final notification by the Law Ministry.
- Submission of fair copies of duly vetted final notification to the Ministry.
- Hindi translation of duly vetted final notification by Official Language Bureau.
- Ensuring the correctness/proper translation and preparation of fair copies.
- Submission of fair copies (Hindi and English) of final notification to the Ministry.
- Approval of Minister on the final notification
- Publication of final notification by the Government of India Printing Press, Mayapuri as per job assigned to the final notification.

In view of the lengthy process involved, the work of final publication has taken more time. The actual work done in this regard is detailed below :-

- (a) The preliminary draft notification of Makhana Grading & Marking Rules, 2003 was published on 16.8.2003 *vide* GSR 294 dated 29.7.2003.
- (b) Government of India Printing Press was requested by Directorate of Marketing and Inspection, Faridabad, to expedite publication of 200 copies of the extracts of the Gazette of India containing the Preliminary draft notification of Makhana Grading & Marking Rules, 2003.
- (c) 200 copies of preliminary draft notification were collected by the Directorate of Marketing and Inspection on 10.10.2003. The Copies were circulated to Regional offices/Sub offices of Directorate of Marketing and Inspection located in most of the States, Government organization, and Trade associations on 22.10.2003 for inviting comments and suggestions.
- (d) The draft final notification of Makhana Grading and Marking Rules, 2004 was received back from Directorate of Marketing and Inspection, Faridabad on 7.1.2004 after examining the comments and suggestions received by the Directorate of Marketing and Inspection, Faridabad. Obtaining the feed back from various agencies almost took about 3 months.

- (e) The Ministry sent the draft final notification to Legislative Department, for vetting of English version on 29.1.2004. The vetted version was received back from Legislative Department on 19.2.2004.
- (f) On 24.2.2004, Ministry asked Directorate of Marketing and Inspection, Faridabad to supply fair copies of duly vetted final notification of Makhana Grading and Marking Rules, 2004, DMI submitted fair copies of duly vetted final notification to the Ministry on 18.3.2004.
- (g) The Ministry sent the vetted notification to Official Language Wing for providing Hindi version of the notification. Official Wing supplied the Hindi version on 25.3.2004.
- (h) On 20.4.2004, Ministry asked Directorate of Marketing and Inspection, Faridabad to furnish fair copies of Hindi translation of duly vetted final notification after ensuring the correctness of the final notification.
- (i) Fair copies of Hindi translation of duly vetted final notification were received in the Ministry from Directorate of Marketing and Inspection, Faridabad after ensuring the correctness and proper translation on 15.6.2004.
- (j) The Ministry submitted the file to Hon'ble AM on 17.6.2004 seeking his approval for publishing the final notification. The file received back after approval on 28.6.2004.
- (k) On 12<sup>th</sup> July, 2004, Ministry sent an indent to the General Manager, Government of India Printing Press, Mayapuri for publication of final notification of the Makhana Grading and Marking Rules, 2004
- (l) The final notification was published in the Gazette on 24.7.2004 *vide* GSR 244 dated 24<sup>th</sup> July, 2004.

Publication of preliminary draft notification, preparation of 200 copies of extract from the Gazette of India, Part-II, Section 3, Sub section (i) containing preliminary draft notification of the Makhana Grading and Marking Rules, 2003, its binding took approximate two months time at the level of Government of India Printing Press, Mayapuri. The time frame of 45 days is a mandatory requirement for inviting comments and suggestions on preliminary draft notification from all organisations.

The legal vetting (English version), preparation of fair copies (English version) of duly vetted final notification, Hindi translation of duly vetted final notification, preparation of fair copies of notification also consumed time.”

3.4 About the number and nature of objections/suggestions received the Ministry explained as under: -

“...Three objections and suggestions were received on preliminary draft notification of Makhana Grading & Marking Rules, 2004.

The nature of suggestions and comments received on preliminary draft notification related to:-

- food safety requirement;
- enhance quality;
- change crude protein content;
- change moisture content;
- use italic words for family of Makhana;
- change in rule regarding permission of pack sizes as per instruction of Agricultural Marketing Adviser to make certain provisions prescribed in Prevention & Food Adulteration Rules, 1954;
- Specify type and nature of pesticide residue and their limits.

It may please be seen from above that the time taken in notifying the final notification was due to lengthy work process and many field level agencies involved all over the country and preparation of sets by Government of India Press. All efforts have been made to expedite the final notification. The delay beyond the stipulated period is regretted. It is assured that all efforts will be made hereafter to complete the work within the stipulated period”.

3.5 The Committee have considered the above rules at their sitting held on 27.01.2006.

**3.6 The Committee observe that the Ministry have taken about 10 months to notify the Makhana Grading and Marking Rules, 2004 in the final form as against a maximum period of 6 months prescribed by the Committee on Subordinate Legislation in this regard. The Ministry have attributed the delay to the work**

involved at various stages in publication of the final rules; about 2 months time was taken in preparation and supply of 200 copies of extract from the Gazette by the Government Press; about 3 months time was taken in obtaining the feedback from agencies examining the comments/suggestions received and preparing the draft final notification and another two months in Hindi translation and checking correctness thereof.

3.7 It may be mentioned that the Committee on Subordinate Legislation had laid down a time limit of 6 months to publish the rules in final form after giving due consideration to the quantum of work involved at different stages. In this regard, what is needed is, a time bound schedule and strict monitoring of the same by the Ministry concerned so that the process of finalisation and notification of the rules in final form is completed within the prescribed period.

3.8 While observing that only three objections/suggestions were received with reference to the rules under consideration and that there were avoidable delays at certain stages as mentioned above, the Committee feel that the Ministry of Agriculture have not paid due attention to the timely finalisation and publication of the said rules. The delay in publication of final rules leads to delay in implementation of the beneficial aspects of the new rules. The Committee, therefore, recommend that the Ministry should take due care to prevent recurrence of such delays in publication of final rules in future.

NEW DELHI;  
October, 2006  
Asvina, 1928 (SAKA)

N.N. KRISHNADAS,  
CHAIRMAN,  
COMMITTEE ON SUBORDINATE LEGISLATION

APPENDIX –I

(Vide Para 5 of the Introduction of the Report)

SUMMARY OF RECOMMENDATIONS MADE IN THE THIRTEENTH  
REPORT OF THE COMMITTEE ON SUBORDINATE LEGISLATION

(FOURTEENTH LOK SABHA)

Sl. No.	Reference to Para No. in the Report	<u>Summary of Recommendations</u>
1	2	3
1.	1.3	<p><b><u>The Department of Science &amp; Technology Group ‘A’ Gazetted Posts (non-ministerial, Scientific and Technical) Rules, 2004 – Provision for safeguard against Misuse of Rules (GSR 382 of 2004).</u></b></p> <p>The Committee note that Rule 4 (ii) of the Department of Science &amp; Technology Group ‘A’ Gazetted Posts (non-ministerial, Scientific and Technical) Rules, 2004 prescribed that selected candidates under direct recruitment would be on probation for a period of one year extendable twice by a period of 6 months maximum on each occasion. In this regard, the Committee observed that the Rule, however, did not provide for any safeguard against the misuse of this provision. When the lacuna was pointed out, the Department of Science &amp; Technology agreed to rectify the error by providing a safeguard to the effect that probation would be extendable for reasons to be recorded in writing. The Ministry of Science &amp; Technology communicated that action in this regard would be taken in due course with the concurrence of the Department of Personnel &amp; Training and the Ministry of Law. The Committee, therefore, recommend that the Ministry may take necessary action in this regard expeditiously and also ensure that in future the rules made by the Ministry do not provide unbridled powers to the executive.</p>

<p>2.</p>	<p>2.3</p>	<p><b><u>The Central Sheep Breeding Farm, Hissar (Group C and D) Posts Recruitment Rules, 2005 (GSR 19 of 2005).</u></b></p> <p>The Committee note that one of the qualifications prescribed for the post of Machineman in the Central Sheep Breeding Farm, Hissar (Group C and D) Posts Recruitment Rules, 2005 was “about two years experience in reputed firm or workshop on machines”. The Committee feel that the expression ‘reputed firm/workshop’ is relative in nature and is vague. The rules, also, did not prescribe the minimum duration of experience in the maintenance of air conditioners, generators, etc. that is necessary/desirable for consideration for the post of Electrician. The Committee are happy to note that on their pursuation, the Ministry of Agriculture (Department of Animal Husbandry, Dairying and Fisheries) have proposed to amend the rules. The proposed rules have now the provision that experience in private firm which is registered under the Factories’ Act will be taken into consideration for the posts of Machineman and Electrician. It has also been proposed to prescribe the duration of experience as one year for the post of Electrician in an organization engaged in the maintenance of air conditioners, generators, etc. and registered under the Factories Act. The Committee would like to impress upon the Ministry to be vigilant and to ensure that errors of this nature do not recur in future.</p>
<p>3.</p>	<p>3.6</p>	<p><b><u>The Makhana Grading and Marking Rules, 2004 (GSR 244 of 2004)</u></b></p> <p>The Committee observe that the Ministry have taken about 10 months to notify the Makhana Grading and Marking Rules, 2004 in the final form as against a maximum period of 6 months prescribed by the Committee on Subordinate Legislation in this regard. The Ministry have attributed the delay to the work involved at various stages in publication of the final rules; about 2 months time was taken in preparation and supply of 200 copies of extract from the Gazette by the Government Press; about 3 months time was taken in</p>



		<p>obtaining the feedback from agencies examining the comments/suggestions received and preparing the draft final notification and another two months in Hindi translation and checking correctness thereof.</p> <p><b>3.7</b> It may be mentioned that the Committee on Subordinate Legislation had laid down a time limit of 6 months to publish the rules in final form after giving due consideration to the quantum of work involved at different stages. In this regard, what is needed is, a time bound schedule and strict monitoring of the same by the Ministry concerned so that the process of finalisation and notification of the rules in final form is completed within the prescribed period.</p> <p><b>3.8</b> While observing that only three objections/suggestions were received with reference to the rules under consideration and that there were avoidable delays at certain stages as mentioned above, the Committee feel that the Ministry of Agriculture have not paid due attention to the timely finalisation and publication of the said rules. The delay in publication of final rules leads to delay in implementation of the beneficial aspects of the new rules. The Committee, therefore, recommend that the Ministry should take due care to prevent recurrence of such delays in publication of final rules in future.</p>
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**APPENDIX –II**

**(Vide Para 6 of the Introduction of the Report)**

**MINUTES OF THE SIXTH SITTING OF THE COMMITTEE ON  
SUBORDINATE LEGISLATION (2005-2006)**

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The Committee met on Friday, 27 January, 2006 from 1200 to 1300 hours in Chairman's Room (No. 143), Third Floor, Parliament House, New Delhi.

**PRESENT**

Shri Madhu Goud Yaskhi - In the Chair

**MEMBERS**

2. Shri Ajoy Chakraborty
3. Shri Ram Singh Kaswan
4. Shri Chandra Sekhar Sahu
5. Shri Sita Ram Singh
6. Shri Ramjilal Suman

**SECRETARIAT**

Shri Ajay Kumar - Assistant Director

2. In the absence of Chairman, members of the Committee who were present chose amongst themselves Shri Madhu Goud Yaskhi to act as the Chairman for the sitting in terms of Rule 258 (3) of Rules of Procedure and Conduct of Business in Lok Sabha.

3. The Committee then considered Memoranda Nos. 25 – 29 on the following subjects :-

(i) **Memorandum No. 25**—The Department of Science & Technology Group ‘A’ Gazetted Posts (non-ministerial, Scientific and Technical) Rules, 2004 (GSR 382 of 2004) - Provision for safeguard against misuse of rules.

(ii) XX XX XX XX

(iii) XX XX XX XX

(iv) **Memorandum No. 28** -The Central Sheep Breeding Farm, Hissar (Group C and D) Posts Recruitment Rules, 2005 (GSR 19 of 2005).

(v) **Memorandum No. 29** - The Makhana Grading and Marking Rules, 2004 (GSR 244 of 2004)

4. XX XX XX XX

5. XX XX XX XX

6. XX XX XX XX

The Committee then adjourned.

**CONFIDENTIAL**

**MINUTES OF THE SECOND SITTING OF THE COMMITTEE ON  
SUBORDINATE LEGISLATION (FOURTEENTH LOK SABHA)(2006-2007)**

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The Committee met on Wednesday, 18 October, 2006 from 15.00 to 15.45 hours in Committee Room No. 62, First Floor, Parliament House, New Delhi.

**PRESENT**

Shri N.N. Krishnadas - Chairman

**MEMBERS**

2. Shri Anandrao Vithoba Adsul
3. Shri Ram Singh Kaswan
4. Shri Jaisingrao Gaikwad Patil
5. Shri Bhupendrasinh Solanki
6. Shri Ramji Lal Suman
7. Shri Madhu Goud Yaskhi

**SECRETARIAT**

1. Shri J. P. Sharma - Joint Secretary
2. Shri A. Louis Martin - Director
3. Shri R. K. Bajaj - Deputy Secretary
4. Shri K. Jena - Under Secretary

.....contd./-

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2. At the outset, the Chairman, Committee on Subordinate Legislation welcomed the members to the sitting of the Committee.

3. Thereafter, the Committee took up for consideration the draft Thirteenth and Fourteenth (ATR) Reports and adopted the same. The Committee also authorised the Chairman to present the same to the House.

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The Committee then adjourned.

