

**GOVERNMENT OF INDIA
HOME AFFAIRS
LOK SABHA**

UNSTARRED QUESTION NO:457
ANSWERED ON:06.08.2013
SEPARATION OF FUNCTIONS
Jeyadural Shri S. R.

Will the Minister of HOME AFFAIRS be pleased to state:

- (a) whether the Supreme Court had issued directions to the Union Government for separation of investigation and law and order functions of the police;
- (b) if so, the detailed directions issued by the Supreme Court;
- (c) whether the Union Government has taken any action on these directions in consultation with the State Governments; and
- (d) if so, the details thereof and if not, the reasons therefor?

Answer

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

(a) & (b): Yes, Madam. In Writ Petition (Civil) No. 310 of 1996 - Prakash Singh and Others Vs Union of India and Others, the Hon'ble Supreme Court passed judgement dated 22.9.2006 on various aspects of Police Reforms, including separation of investigation police from law and order police and directed the Union Government and State Governments for compliance. The directions were:-

- (i) Constitute a State Security Commission on any of the models recommended by the National Human Right Commission, the Reberio Committee or the Sorabjee Committee.
- (ii) Select the Director General of Police of the State from amongst the three senior-most officers of the Department empanelled for promotion to that rank by the Union Public Service Commission and once selected, provide him a minimum tenure of at least two years irrespective of his date of superannuation.
- (iii) Prescribe a minimum tenure of two years to the police officers on operational duties.
- (iv) Separate investigating police from law & order police, starting with towns/ urban areas having population of ten lakhs or more, and gradually extend to smaller towns/urban areas also.
- (v) Set up a Police Establishment Board at the state level for, inter alia, deciding all transfers, postings, promotions and other service related matters of officers of and below the rank of Deputy Superintendent of Police,
- (vi) Constitute Police Complaints Authorities at the State and District level for looking into complaints against police officers, and
- (vii) Set up a National Security Commission at the Union level to prepare a panel for being placed before the appropriate Appointing Authority, for selection and placement of Chiefs of the Central Police Organisations (CPO) who should have also be given a minimum tenure of two years.

Out of the above seven directives, the first six were meant for the State Governments and Union Territories while the seventh directive related solely to the Central Government.

(c) & (d): 'Police' being a State subject in the Seventh Schedule to the Constitution of India, it is the State Governments/UT Administrations, which have to implement various police reforms measures.

As far as UTs is concerned, there has been a significant and substantial compliance by the Government of India on the directions of the Supreme Court.

The Writ Petition (Civil) No. 310 of 1996 was heard successively on different dates. On 16.05.2008, the Hon'ble Supreme Court, as regards the implementation of the various directions made earlier in its judgement dated 22.09.2006, directed to set up a Committee under the Chairmanship of Justice K.T. Thomas, former retired Judge of the Supreme Court and two other Members. The Committee submitted its report to the Supreme Court and the said report has already been circulated to States/ Union Territories by the Registry of Supreme Court on 04.10.2010.

The matter last came for hearing on 16.10.2012. All the States, Union Territories and the Union of India were directed to submit status reports as to how far they have acted in terms of the directions which had been given by the Supreme Court on 22.09.2006. The Ministry of Home Affairs has filed a Status Report by way of Affidavit dated 02.01.2013 in the Hon'ble Supreme Court on 26.2.2013. The matter is under active consideration of the Hon'ble Supreme Court.