

**GOVERNMENT OF INDIA
MINORITY AFFAIRS
LOK SABHA**

UNSTARRED QUESTION NO:2177

ANSWERED ON:22.08.2013

SHORTAGE OF FUNDS AND EMPLOYEES IN NCM

Abdulrahman Shri ;Chavan Shri Harischandra Deoram;Shetkar Shri Suresh Kumar

Will the Minister of MINORITY AFFAIRS be pleased to state:

- (a) the funds allocated/granted/released to National Commission for Minorities (NCM) during each of the last three years and the current year;
- (b) whether the NCM is facing with funds crunch and shortage of staff, which have hampered its welfare projects for various communities;
- (c) if so, the details thereof and the reasons therefor including the steps taken/being taken by the Government in this regard;
- (d) whether a Bill seeking constitutional status for the said Commission has been lying pending for several years; and
- (e) if so, the details thereof and the efforts being made by the Government in this regard?

Answer

MINISTER OF THE STATE IN THE MINISTRY OF MINORITY AFFAIRS (SHRI NINO GERING)

(a) The details of the outlay of funds to NCM and actual expenditure made by NCM for the last three years and current year are as under:

(Rs in crore)

Sl No.	Year	Outlay	Expenditure
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1	2010-11	5.26	4.50
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2	2011-12	5.65	4.67
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3	2012-13	6.36	3.32 (upto 31.12.2012)
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4	2013-14	5.63	
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(b)& (c) As far as allocation of funds is concerned, NCM is unable to spend the funds allocated to it during the last three years. Being a budgeted organization NCM is directly incurring expenditure through the IFD of the administrative ministry.

However, due to retirement of staffs/officers in the recent past certain posts are vacant in the NCM. The filling up of these posts are under process. NCM is not running any welfare projects.

(d) & (e) The Constitution (One hundred and third amendment) Bill, 2004, to confer constitutional status on the National Commission

for Minorities was introduced in the Lok Sabha on December, 2004. The above mentioned Bill was referred to the Standing Committee on Social Justice and Empowerment for examination and report. The Standing Committee presented its Report to the Lok Sabha on 21st February, 2006.

2. The Standing Committee on Social Justice & Empowerment while examining the Bill had recommended that the observations made by the Hon'ble Supreme Court in its judgement dated 08th August, 2005 in the case of Shri Bal Patil & Another Vrs UOI be kept in view in its entirety, while finalizing the Bill.

3. One of the recommendations of the Standing Committee was to give powers to the Commission "To inquire into specific complaints with respect to deprivation of right and safeguards of Minorities and to investigate and monitor all matters regarding safeguards provided for the Minorities under this constitution or under any law".

4. The above recommendation was examined in detail, while preparing the Draft Note for Cabinet to move the official Amendment in the Constitution (One Hundred and Third Amendment) Bill, 2004. This Draft Note was circulated on 05th January, 2007 for inter-ministerial consultation to the following Ministries / Departments:

- (i) Ministry of Law & Justice,
- (ii) Ministry of Home Affairs,
- (iii) Ministry of Social Justice & Empowerment,
- (iv) Ministry of Human Resource and Development,
- (v) Planning Commission.

5. The Ministry of Home Affairs to whom the above recommendation of the Standing Committee had been referred, in its comments, observed that the NHRC is not an outfit that investigates on lines of investigation done by the police leading to launching of prosecution. They have further stated that the National Commission for Minorities can seek redressal of grievances of minority community by taking recourse to NHRC powers since the Chairperson of the National Commission for Minorities is a deemed member of the NHRC for discharging functions specified in clause [b] to [j] of Section 12 of the Protection of Human Rights Act, 1993.

6. After Cabinet approval, official amendments to the Bill were prepared and the Cabinet approval was obtained. Notice for moving official amendments, and for consideration and passing of these Bills, was initially given to the Lok Sabha on 11.05.2007. In the mean time representations were received on the proposed official amendments to the Constitution (One Hundred and Third Amendment) Bill, 2004 and it was decided with the approval of the competent authority that the amendments should not be moved till the issues raised in these representations were resolved.

7. Some of these representations received expressing concern on proposed official amendments to the Constitution (One Hundred and Third Amendment) Bill, 2004, particularly with regard to definition / identification of minorities. These representations were examined in consultation with the Ministry of Law and Justice.

8. After consideration of representations expressing concern on the proposed amendment, particularly with regard to definition of minorities, official amendments and for consideration and passing of these Bills, was once again given to the Lok Sabha on 05.02.2009. However, with the dissolution of the 14th Lok Sabha, this notice could not be taken up and both these Bills together with the official amendments lapsed.

9. During further examination of the matter in the Ministry, it was felt that, while proceeding to grant Constitutional status to the National Commission for Minorities, which is of doubtful utility for imparting effectiveness to this body, the Government might end up with several other problems and possibly litigation. Accordingly, advice of the PMO was sought vide this Ministry's ID Note No. 1-27/2009-NCM dated 20.08.2009, on the following three options:-

(i) Not to proceed further with the exercise of providing constitutional status to the National Commission for Minorities. There are many other ways that may enhance the effectiveness of National Commission for Minorities in the short run. In any case, in the long run, with the proposed Equal Opportunity Commission taking shape, many of the functions, if not the structures, of existing Commissions (including NCM) may have to be unified or reorganized in future.

(ii) To get the details of the court cases pertaining to Section 2(c) of the NCM Act from Ministry of Law and ascertain their current status, and also to request Ministry of Law to advise on the feasibility of taking legal measures that may nullify the Supreme Court judgement in TMA Pai Foundation and Bal Patil judgements regarding identification of minorities on a state basis.

(iii) To move a Cabinet Note on the same lines as during the previous Government and obtain Cabinet approval to reintroduce in the 15th Lok Sabha the Constitutional Amendment Bill and the National Commission for Minorities (Repeal) Bill, which have lapsed with the dissolution of 14th Lok Sabha.

10. The matter for incorporation of Chapter III and IV of National Human Rights Commission (NHRC) Act 1993, was raised by the Chairman, National Commission for Minorities (NCM) regarding the decision of the Commission to recommend to the Government amendment to the NCM Act 1992 to incorporate Chapters III and IV of the National Human Rights Commission (NHRC) Act 1993 to replace Chapter III of NCM Act 1992, to make NCM more effective. It may be stated that the recommendations of the Standing Committee referred to Ministry of Home Affairs, has observed in its comments that the NHRC is not an outfit that investigates on lines of investigation done by the police leading to launching of prosecution. They have further stated that the National Commission for

Minorities can seek redressal of grievances of minority community by taking recourse to NHRC powers since the Chairperson of the NCM is a deemed member of the NHRC for discharging functions specified in clause [b] to [j] of Section 12 of the Protection of Human Rights Act, 1993.

11. In view of the upcoming Equal Opportunity Commission taking shape, some of the functions under the existing National Commission for Minorities may have to be unified or re-organized in future.

12. There are several Commissions for specific social groups, such as National Commission for Scheduled Castes and National Commission for Scheduled Tribes that have the Constitutional status. However, it is arguable if they are more effective than those other Commissions that do not have Constitutional status. On the other hand there are Commissions like the Human Rights Commission or the Central Information Commission, which are very effective notwithstanding the fact that these are only statutory in nature. Therefore, it is debatable if grant of Constitutional Status alone will make the National Commission more effective.