

COMMITTEE ON SUBORDINATE LEGISLATION  
(FIFTEENTH LOK SABHA)  
(2010-2011)

NINETEENTH REPORT

(PRESENTED ON 6.9.2011)

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LOK SABHA SECRETARIAT

NEW DELHI

SEPTEMBER, 2011/ BHADRA, 1933 (Saka)

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**COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION**  
**(2010-2011)**

1. **Shri P. Karunakaran** **Chairman**
2. Shri Paban Singh Ghatowar\*
3. Shri Rajen Gohain
4. Shri D.B. Chandre Gowda
5. Shrimati Paramjit Kaur Gulshan
6. Shri Jitender Singh Malik
7. Shri Mangani Lal Mandal
8. Shri Pinaki Misra
9. Dr. Sanjeev Ganesh Naik
10. Shri Rajaram Pal
11. Shri Anantha Venkatarami Reddy
12. Shri Hamdullah Sayeed
13. Shri Adhalrao Patil Shivaji
14. Dr. Rajan Sushant
15. Shri Madhu Goud Yaskhi

**SECRETARIAT**

- |    |                     |   |                   |
|----|---------------------|---|-------------------|
| 1. | Shri Deepak Mahna   | - | Joint Secretary   |
| 2. | Shri J.S. Chauhan   | - | Director          |
| 3. | Shri S.C. Kaliraman | - | Director          |
| 4. | Ms. Miranda Ingudam | - | Committee Officer |

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\*ceased to be a member of the Committee on being appointed as Minister in Union Cabinet on 12 July, 2011

## INTRODUCTION

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

2. The matters covered by this Report were considered by the Committee on Subordinate Legislation at their sitting held on 12.1.2011.

3. The Committee considered and adopted this Report at their sitting held on 29.8.2011.

4. 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.

5. Minutes of the Fourth and Tenth sittings of the Committee (2010-11) held on 12.01.2011 and 29.8.2011 respectively relevant to this Report are included in Appendix-II.

New Delhi;  
SEPTEMBER, 2011/, BHADRA,1933 (Saka)

**P. KARUNAKARAN,**  
**CHAIRMAN,**  
**COMMITTEE ON SUBORDINATE LEGISLATION**

**The Petroleum and Natural Gas Regulatory Board (Determination of Natural Gas Pipeline Tariff) Regulations, 2008 (GSR 807-E of 2008).**

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The Petroleum and Natural Gas Regulatory Board (Determination of Natural Gas Pipeline Tariff) Regulations, 2008 (GSR 807-E of 2008) were published in the Gazette of India, Extraordinary, Part-II Section 3, Sub-section (i) dated 20 November, 2008. On scrutiny of the regulations it was observed that in regard to the second proviso to regulation 5(2) since the difference between the tariff that the entity had so charged and that provisionally fixed by the Board is to be adjusted with a retrospective effect, therefore, the delay in fixing the natural gas pipeline tariff by the Board may lead to additional financial burden on the customers. Thus, it would have been desirable if some reasonable time limit for fixation of said tariff by the Board is prescribed. The Ministry were requested to furnish their comments.

1.2 The Ministry of Petroleum and Natural Gas vide their OM dated 3.11.2009 furnished the following reply:-

“For the purpose of “provisional” tariff fixation, the date submitted by the entities to the Board has to be examined and verified in detail so as to ensure accuracy and conformity with the various provisions of the regulations. During the process of verification and examination, various issues arise which could require either obtaining clarifications or in some cases, re-submission of the tariff date from the concerned entities. However, the Board is of that view that fixing of time limit for tariff fixation may not be inappropriate. It is accordingly proposed to carry out an amendment in the regulation stating that the *“Board will fix the provisional tariff within six months of receipt of the relevant tariff date from the entity except in the case of circumstances beyond the control of the Board.”* This change would however be prospective.”

1.3 The Clause (2) of Regulation 5 *inter alia* stipulated that the entity shall carry out adjustments, with a retrospective effect with the customers for the difference between the initial unit natural gas pipeline tariff that the entity had so charged and that provisionally fixed by the Board. As the difference between the tariff that the entity had so charged and that provisionally fixed by the Board is to be adjusted with a retrospective effect, therefore, the

delay in fixing the natural gas pipeline tariff by the Board may lead to additional financial burden on the customers. Thus, it would have been desirable if some reasonable time limit for fixation of said tariff by the Board is prescribed. The Ministry have agreed to amend the Regulations by prescribing a time limit of six months for fixing the provisional tariff on receipt of relevant tariff data from the entity.

**1.4 The Committee note that in accordance with the second proviso to Regulation 5(2), the difference between the tariff that the entity had so charged and that provisionally fixed by the Board is to be adjusted with retrospective effect, as a result of which the delay in fixing the natural gas pipeline tariff by the board will put additional financial burden on the customers and therefore it is desirable that some reasonable time limit should be fixed for fixation of the said tariff by the Board. The Committee note with satisfaction that on being pointed out, the Ministry have agreed to amend the rules accordingly to provide for the Board to fix the provisional tariff within six months of receipt of the relevant tariff date. The Committee recommend that the Ministry should bring out the necessary amendment, as proposed, at the earliest. Further, the Committee desire that the Ministry should be more careful in framing the regulations so as to avoid any additional financial burden on the customers.**

**(Recommendation No.1)**

**Infirmities in the Coir Industry (Registration) Rules, 2008 (SO 2061-E of 2008).**

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The Coir Industry (Registration) Rules, 2008 (SO 2061-E of 2008) were published in the Gazette of India, Extraordinary, Part – II, Section 3(i) dated 18.8.2008. On scrutiny of the aforesaid rules, the following infirmities were detected:-

- (i) No Time limit has been prescribed for disposal of appeal against order of cancellation of registration in Rule 14 and Rule 22.
- (ii) Reasons for grant of relaxation were not recorded in writing in Rule 4 and Rule 7.
- (iii) Rule 14 and Rule 22 state that “whose decision thereon shall be final”. This gives an impression that the jurisdiction of Law Courts has been ousted.

The Ministry of Micro, Small and Medium Enterprises were requested to furnish their comments in the matter and to state whether they have any objection to amend the Rules.

2.2 The Ministry of Micro, Small and Medium Enterprises vide their OM dated 20 July, 2009 stated as under:-

“This Ministry has no objection to amend the rules as suggested by the Lok Sabha Secretariat. Action to amend the Coir Industry (Registration) Rules, 2008 will be completed within three months as it also requires issue of a public notice to be published in the official gazette, seeking objections or suggestions, as required under sub-section (1) of section 26 of the Coir Industry Act, 1953.

2.3 The Ministry of Micro, Small and Medium Enterprises vide their OM dated 17 December, 2009 further stated as under :-

“the Coir Industry (Registration) Rules, 2008 have been amended vide Notification No.6(25)/2000- Coir dated 26<sup>th</sup> November, 2009 and published in the Gazette of India, Part-II, Section 3, Sub-section (ii) vide S.O. 3016(E) dated 26 November, 2009. A copy of said notification has been laid on table of the Lok Sabha on 15 December, 2009”.



2.4 The Ministry of Micro, Small and Medium Enterprises vide their O.Ms. dated 20.7.09 & 17.12.09 informed that they have issued an amendment vide S.O. 3016(E) dated 26 November, 2009, as pointed out by this Secretariat.

2.5 The Committee observe that in Rule 4 and Rule 7 of the Coir Industry (Registration) Rules, 2008, the wordings 'sufficient cause' appearing therein are likely to give discretionary powers to the Secretary. The Committee therefore, desire that there should be a provision to the effect that reasons for grant of relaxation should be recorded in writing. These safeguards are necessary to meet the requirement of natural justice and to prevent arbitrary exercise of powers. The Committee also observe that the Coir Industry (Registration) Rules, 2008 provide that any aggrieved person can make appeal within 30 days from the date of receipt of a copy of the order. However, no time limit has been prescribed for disposal of such appeal by the authority. The Committee note that on being pointed out, the Ministry have amended the relevant rule to provide for these safeguards. The Committee expect the Ministry to take due care while formulating such rules in future.

(Recommendation No.2)

2.6 The Committee also feel that the words 'whose decision thereon shall be final' occurring in the Coir Industry (Registration) Rules, 2008 give an impression of ousting the jurisdiction of the Courts of Law. The Committee, therefore, reiterate their oft-repeated recommendation that the rules should not be so worded as to give an impression of ousting the jurisdiction of Courts. The Committee express their satisfaction that on being pointed out, the Ministry have rectified the errors by suitably amending the rule vide S.O. 3016(E) dated 26 November, 2009. The Committee, therefore, urge the Ministry to be more vigilant and adhere to their recommendation to prevent recurrence of such errors in future.

(Recommendation No.3)

### III

#### **Delay in Publishing the Final Rules- The Drugs and Cosmetics (Second Amendment) Rules, 2009 (GSR 116-E of 2009).**

The above rules were published in the Gazette of India, Extraordinary, Part-II Section 3, Sub-section (i) dated 24 February, 2009. On scrutiny of the above rules, it had been observed that the final rules were published after a delay of 10 months excluding the period of six months recommended by the Committee. The Ministry of Health and Family Welfare (Department of Health) were requested to state the reasons for the delay in publishing the rules in final form.

3.2 The Ministry vide their OM dated 10 November, 2009 have given the following reply:

*“The draft rules vide Draft Notification GSR No. 556-E dated 17.8.2007 were made available to the public for inviting objections/suggestions on 24<sup>th</sup> August, 2007. The comments on the draft rules were received from the Assistant Drugs Controllers & Licensing Authority, Dadra & Nagar Haveli, Silvassa. Regarding delay in publishing of final notification, it is stated that the proposal for finalization of draft Final Notification (final rules) was received in the Ministry from the Drug Controller General (India) [DCG(I)] on 30.11.2007, which was put up on 11.01.08 seeking approval of the then Minister of Health & Family Welfare (HFM) in regard to finalization of draft rules. However HFM directed on 2.04.2008 to seek the comments of the Ministry of External Affairs (MEA) on the draft final notification. Accordingly, the MEA was written in this regard vide Ministry’s O.M. dated 23.04.08. That Ministry conveyed its NO OBJECTION to the said proposal vide letter dated 5.5.2008. However, the then Special Secretary raised few queries on the draft final rules, which were replied to by the DCG(I) and the file was again put up for approval of HFM on 3.6.2008. The HFM approved the draft final Notification on 24.9.2008.*

*The draft final notification approved by HFM was referred to Legislative Department on 29.9.2008 for vetting and the approval by that Department was obtained on 7.11.2008. Since the matter relating to publishing of final notification was getting delayed, a request was made to Committee on Subordinate Legislation vide this Ministry’s OM of even number dated 17.11.2008 for granting extension of time up to 31.3.2009. The vetted notification was then sent to Official Language Wing for its Hindi translation on 30.12.2008 and the Hindi translation was received back on 9.1.2009. Finally the notification bearing GSR 116-E was published on 24.2.2009.*

*In view of the above, it is stated that there has been delay in publishing of the final Notification GSR 116-E dated 24.2.2009. However, it must be appreciated that the delay occurred because of inter and intra-Ministerial consultations & in depth examination of final rules. It may be mentioned here that this Ministry has been continuously monitoring the process of finalizing of final rules/notification so as to reduce the delays and adhere to the time-lines prescribed by the Committee on Subordinate Legislation. It is therefore, requested that the Committee on Subordinate Legislation may be apprised of this Ministry's apology for the delay in publishing of final notification and also of its sincere assurance that such delay will not be allowed to recur."*

3.3 The draft rules of Drugs and Cosmetics (Second Amendment) Rules, 2009 were published in the Gazette of India vide GSR No. 556 (E) dated 24 August, 2007 for inviting objections/suggestions. The delay was primarily due to the inter and intra-ministerial consultations. The Committee has time and again recommended that when the objections/suggestions received in relation to the draft rules are in large number, the rules should be published in final form within six months. The Committee had precisely given six months for publishing the rules in final form to accommodate consultation and examination of the rules at various levels. Despite the said recommendation, the Ministry have caused a delay of 10 months in publishing the rules in final form over and above the six months recommended by the Committee.

**3.4 The Committee note that the delay in publishing of the rules in final form was due to inter and intra-ministerial consultations. The Committee have time and again emphasised that the rules in final form should be published within three months of publishing the draft rules when no objections/suggestions are received. Further, when large number of objections/suggestions are received, the rules in final form should be published within six months of publishing the draft rules. The Committee note with satisfaction that the Ministry have rendered apology for delay in publishing the rules in final form and have given assurance that such delay will not be allowed to recur. The Committee urge upon the Ministry to devise effective mechanism in order to speed up the inter and intra-ministerial consultations. The Committee, therefore, desire that the**

**Ministry should plan the process of inviting the suggestions/objections in such a way that the entire process is completed in a time-bound manner and final rules are published within the prescribed time-frame .**

**(Recommendation No. 4)**

**New Delhi;  
SEPTEMBER,2011/BHADRA, 1933**

**P. KARUNAKARAN,  
CHAIRMAN,  
COMMITTEE ON SUBORDINATE LEGISLATION**

APPENDIX –I

(Vide Para 4 of the Introduction of the Report)

**SUMMARY OF RECOMMENDATIONS MADE IN THE NINETEENTH REPORT OF THE  
COMMITTEE ON SUBORDINATE LEGISLATION**

(FIFTEENTH LOK SABHA)

Sl. No.	Reference to Para No. in the Report	<u>Summary of Recommendations</u>
1	2	3
1.	1.4	<p><u>The Petroleum and Natural Gas Regulatory Board (Determination of Natural Gas Pipeline Tariff) Regulations, 2008 (GSR 807-E of 2008)</u></p> <p>The Committee note that in accordance with the second proviso to Regulation 5(2), the difference between the tariff that the entity had so charged and that provisionally fixed by the Board is to be adjusted with retrospective effect, as a result of which the delay in fixing the natural gas pipeline tariff by the board will put additional financial burden on the customers and therefore it is desirable that some reasonable time limit should be fixed for fixation of the said tariff by the Board. The Committee note with satisfaction that on being pointed out, the Ministry have agreed to amend the rules accordingly to provide for the Board to fix the provisional tariff within six months of receipt of the relevant tariff date. The Committee recommend that the Ministry should bring out the necessary amendment, as proposed, at the earliest. Further, the Committee desire that the Ministry should be more careful in framing the regulations so as to avoid any additional financial burden on the customers.</p>
2.	2.5	<p><u>Infirmities in the Coir Industry (Registration) Rules, 2008 (SO 2061-E of 2008).</u></p> <p>The Committee observe that in Rule 4 and Rule 7 of the Coir Industry (Registration) Rules, 2008, the wordings 'sufficient cause' appearing therein are likely to give discretionary powers to the Secretary. The Committee therefore, desire that there should be a provision to the effect that reasons for grant of</p>

3.	2.6	<p>relaxation should be recorded in writing. These safeguards are necessary to meet the requirement of natural justice and to prevent arbitrary exercise of powers. The Committee also observe that the Coir Industry (Registration) Rules, 2008 provide that any aggrieved person can make appeal within 30 days from the date of receipt of a copy of the order. However, no time limit has been prescribed for disposal of such appeal by the authority. The Committee note that on being pointed out, the Ministry have amended the relevant rule to provide for these safeguards. The Committee expect the Ministry to take due care while formulating such rules in future.</p> <p>The Committee also feel that the words ‘whose decision thereon shall be final’ occurring in the Coir Industry (Registration) Rules, 2008 give an impression of ousting the jurisdiction of the Courts of Law. The Committee, therefore, reiterate their oft-repeated recommendation that the rules should not be so worded as to give an impression of ousting the jurisdiction of Courts. The Committee express their satisfaction that on being pointed out, the Ministry have rectified the errors by suitably amending the rule <u>vide</u> S.O. 3016(E) dated 26 November, 2009. The Committee, therefore, urge the Ministry to be more vigilant and adhere to their recommendation to prevent recurrence of such errors in future.</p>
	3.4	<p><u>Delay in Publishing the Final Rules- The Drugs and Cosmetics (Second Amendment) Rules, 2009 (GSR 116-E of 2009).</u></p> <p>The Committee note that the delay in publishing of the rules in final form was due to inter and intra-ministerial consultations. The Committee have time and again emphasised that the rules in final form should be published within three months of publishing the draft rules when no objections/suggestions are received. Further, when large number of objections/suggestions are received, the rules in final form should be published within six months of publishing the draft rules. The Committee note with satisfaction that the Ministry have rendered apology for delay in publishing the rules in final form and have given assurance that such delay will not be allowed to recur. The Committee urge upon the Ministry to devise effective mechanism in order to speed up the inter and</p>

		<p><b>intra-ministerial consultations. The Committee, therefore, desire that the Ministry should plan the process of inviting the suggestions/objections in such a way that the entire process is completed in a time-bound manner and final rules are published within the prescribed time-frame.</b></p>
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## APPENDIX –II

(Vide Para 5 of the Introduction of the Report)

### MINUTES OF THE FOURTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (2010-2011)

The Committee sat on Wednesday, 12<sup>th</sup> January, 2011 from 1400 to 1500 hours in Committee Room No. 53, Parliament House, New Delhi.

#### PRESENT

1. Shri P. Karunakaran Chairman

#### MEMBERS

##### LOK SABHA

2. Shri Paban Singh Ghatowar
3. Dr. Sanjeev Ganesh Naik
4. Shri Rajaram Pal
5. Shri Hamdullah Sayeed
6. Shri Madhu Goud Yaskhi

#### SECRETARIAT

1. Shri P.K. Misra - Joint Secretary
2. Shri J.S. Chauhan - Director
3. Shri S.C. Kaliraman - Additional Director



2. At the outset, the Chairman welcomed the members to the sitting of the Committee.
3. Thereafter, the Committee took up for consideration the following memoranda:
  - (i) **Memorandum No. 21** – The Petroleum and Natural Gas Regulatory Board Regulations, 2008 (GSR 807-E of 2008).
  - (ii) **Memorandum No. 22** – The Coir Industry (Registration) Rules, 2008 (SO 2061 E of 2008).
  - (iii) **Memorandum No. 23** – Delay in Publishing the Final Rules – The Drugs and Cosmetics (Second Amendment) Rules, 2009 (GSR 116-E of 2009).
4. After deliberations, the Committee decided to incorporate the points raised in Memoranda Nos. 21 to 23 in their Report to be presented to the House.

The Committee then adjourned.

## MINUTES OF THE TENTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (2010-2011)

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The Committee sat on Monday, the 29<sup>th</sup> August, 2011 from 1500 to 1600 hours in Chairman's Room No. 143, Parliament House, New Delhi.

### PRESENT

1. Shri P. Karunakaran Chairman

### MEMBERS

2. Shri D.B. Chandre Gowda
3. Smt. Paramjit Kaur Gulshan
4. Shri Sanjeev Ganesh Naik
5. Shri Hamdullah Sayeed
6. Dr. Rajan Sushant
7. Shri Madhu Goud Yaskhi

### SECRETARIAT

1. Shri Deepak Mahna - Joint Secretary
2. Shri S.C. Kaliraman - Director

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

3. The Committee, thereafter, took up for consideration the draft 'Nineteenth Report' & 'Twentieth Action Taken Report' and adopted the same without any modifications.

The Committee also authorized the Chairman to present the same to the House.

The Committee then adjourned.