

**COMMITTEE ON SUBORDINATE LEGISLATION**  
**(FIFTEENTH LOK SABHA)**  
**(2009-2010)**

**SECOND REPORT**

**(PRESENTED ON \_\_\_\_\_)**

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**LOK SABHA SECRETARIAT**

**NEW DELHI**

**March, 2010/Phalguna, 1931**

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**COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION**  
**(2009-2010)**

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 P.K. Misra - Joint Secretary
2. Shri Raju Srivastava - Deputy Secretary

## INTRODUCTION

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

2. The matters covered by this Report were considered by the Committee on Subordinate Legislation at their sittings held on 9.11.2009 and 7.1.2010.

3. The Committee considered and adopted this Report at their sitting held on 3.2.2010.

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 second sitting of the Committee (2009-10) held on 9.11.2009 and the Extracts from Minutes of the third and fourth sittings of the Committee (2009-10) held on 7.1.2010 and 3.2.2010 respectively relevant to this Report are included in Appendix-II.

**New Delhi;  
March, 2010/Phalguna, 1931**

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

**USE OF VAGUE EXPRESSIONS IN THE DEPARTMENT OF SCIENCE AND TECHNOLOGY, JUNIOR ANALYST (TECHNICAL) GROUP 'B' POST, RECRUITMENT RULES, 2008 (GSR 184 OF 2008)**

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The Department of Science and Technology, Junior Analyst (Technical) Group 'B' Post, Recruitment Rules, 2008 (GSR 184 of 2008) were published in Gazette of India, Part-II, Section 3(i) dated 4<sup>th</sup> October, 2008. On scrutiny of the rules, it was observed that in Column 8(ii) of the Schedule, two years experience of scrutiny and analysis of proposals or programmes related to development of Science and Technology and monitoring their implementation has been prescribed. However, the provision is silent to the type of organization from where such experience is to be considered. As a result of said ambiguity in the Rules, the experience gained by the candidates from sundry organizations will also have to be reckoned for filling up the post. The Ministry of Science and Technology (Department of Science and Technology) were requested to furnish their comments on the above infirmity.

1.2 The Ministry vide their OM dated 16 June, 2009 furnished the following reply:

*“the Recruitment Rules for the post of Junior Analyst (Technical) have been framed in consultation and with the approval of Department of Personnel & Training, UPSC and Ministry of Law & Justice. It is our considered view that the experience gained by the candidates at sundry organizations shall not be reckoned for filling up the posts. Moreover, sundry organizations may also not be having the infrastructure and facilities to run programmes related to development of Science & Technology and their monitoring and implementation”.*

1.3 The Committee considered the matter at their sitting held on 9 November, 2009. During the discussion, the Committee desired that the Department of Science and Technology be asked to

furnish copies of communication exchanged by them with the Department of Personnel & Training, UPSC and the Ministry of Law & Justice. The matter was accordingly referred to the Department of Science and Technology.

1.4 In reply, the Ministry of Science & Technology vide their OM dated 18 November, 2009 forwarded the copies of communication exchanged by them with the Department of Personnel and Training, UPSC and the Ministry of Law & Justice. The Ministry of Science & Technology vide their further communication dated 5 January, 2010 informed that since the recruitment rules have been framed with the prior approval of DOPT, UPSC and the Ministry of Law & Justice and no further changes were being proposed by the Ministry of Science & Technology, it was not considered necessary to consult them again.

1.5 The Committee have recommended time and again that vague expressions should not be used in the rules and the terms and expressions should be clearly specified to avoid any scope for ambiguity and obviate the possibility of being interpreted differently by different persons. Stipulations regarding requisite experience in the relevant Column of the Schedule pertaining to Educational Qualifications for Direct Recruits in the Recruitment Rules, being important provision, have a significant bearing on the fate of the candidates seeking appointment to the post. Such provisions should, therefore, be precise, self-contained and devoid of any ambiguity.

**1.6 The Committee note that the entry under essential qualification for direct recruitment to the post of Junior Analyst (Technical) includes 'two years experience of scrutiny and**

analysis of proposals or programmes related to development of Science and Technology and monitoring their implementation'. In the absence of type of organisation from where such experience is to be considered, the entry appeared to be susceptible to the risk of being interpreted variedly by different persons and therefore the experience gained by the candidates from sundry organizations will also have to be reckoned for filling up the post. On being pointed out, the Ministry of Science and Technology (Department of Science and Technology) had simply stated that experience gained by the candidates from sundry organizations shall not be reckoned for filling up the post. Thus, the ambiguity in the rules leaves scope for misuse of subordinate legislation as the relevant vagueness in the rules is liable to be interpreted differently by different persons. The Committee desire the Ministry to incorporate an in-built provision in the rules for filtering the component of experience gained by candidates from sundry organisations. The Committee also desire the Ministry to amend the rules to make the entry more precise, self-contained and devoid of ambiguity.

(Recommendation No. 1)



**THE PET FOOD PRODUCTS OF ANIMAL ORIGIN (IMPORT INTO INDIA) ORDER, 2008 (SO 1086-E OF 2008) – NON LAYING OF ORDER ON THE TABLE OF THE HOUSE**

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The Pet Food Products of Animal Origin (Import into India) Order, 2008 (SO 1086-E of 2008) was published in the Gazette of India, Extraordinary, Part-II, Section 3(i) dated 5 May, 2008. On scrutiny, it was observed that the above mentioned order was not laid on the Table of the House. In terms of the recommendations made by the Committee on Subordinate Legislation in Para 66 of their 4<sup>th</sup> Report (3<sup>rd</sup> LS), all Rules or Orders required to be laid before the House should be so laid within a period of 15 days after their publication in the Gazette if the House is in Session, and if the House is not in Session, the 'Order' should be laid on the Table of the House as soon as possible (but in any case within 15 days) after the commencement of the following Session.

2.2 The Ministry of Agriculture (Department of Animal Husbandry, Dairying and Fisheries) were, therefore, asked to indicate the reasons for not laying the order on the Table of the House in terms of the recommendations made by the Committee. The Ministry vide their reply dated 18 February, 2009 advanced the following reasons:-

*“Under the Livestock Importation Act, 1898 (9 of 1898) (as amended in 2001), the Central Government is empowered to prohibit, restrict or regulate the import of livestock products into the country. In exercise of the power conferred by Sub-section (1) of Section 3 and Section 3A of the said Act, the Central Government prepares veterinary health protocol and lays down various sanitary conditions in respect of livestock commodities so as to ensure that the import does not pose any risk of infection etc. Accordingly, to regulate the import of pet food products of animal origin from sanitary angle, the Central Government formulated a health protocol, first in December, 2005 and published the same in the*

*Gazette of India, Extraordinary vide SO 1842(E) dated 29.12.2005 as 'Pet Food Products of Animal Origin (Import into India) Order, 2005'. Thereafter the said notification has been amended and a revised notification published in the Gazette of India, Extraordinary vide SO 1086 dated 5.5.2008 as Pet Food Products of Animal Origin (Import into Order) Order, 2008.*

*There is no provision in the said Livestock Importation Act, 1898 (as amended in 2001) for laying of such veterinary health protocol notification before the Parliament. However, a copy of the Pet Food Products of Animal Origin (Import into India) Order,2008 in each Hindi and English is enclosed.”*

2.3 The Committee note that the Pet Food Products of Animal Origin (Import into India) Order, 2008 (SO 1086-E of 2008) was published in the Gazette of India, Extraordinary, Part-II, Section 3(i) dated 5 May, 2008. The Order was not laid on the Table of the House. On being pointed out, the Ministry of Agriculture (Department of Animal Husbandry, Dairying and Fisheries) stated that the above mentioned order was made in pursuant to Section 3(i) and 3A of the Livestock Importation Act, 1898 (as amended in 2001) and the same was published in the Gazette of India Extraordinary vide SO 1842(E) dated 29.12.2005 which was further superceded vide SO 1086(E) dated 5.5.2008. The Ministry further stated that the Act also does not contain any provision for laying of such veterinary health protocol notification before the Parliament.

**2.4 The Ministry's reply was not convincing. The Committee on Subordinate Legislation have time and again stressed that the large number of Acts which do not provide for laying of Rules on the Table of the House, need to be examined and a provision for laying of Rules before Parliament incorporated thereunder. It appeared that the Ministry have not recognized the relevance and significance of laying of the Rules on the Table of the House.**

**The Committee call upon the Ministry to undertake the examination of the Act for incorporating the provision for laying of orders before Parliament in the Act at the earliest.**

**(Recommendation No. 2)**

### III

#### **THE PREVENTION OF FOOD ADULTERATION (2<sup>ND</sup> AMENDMENT) RULES, 2006 (GSR 207-E OF 2006)**

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The Prevention of Food Adulteration (2<sup>nd</sup> Amendment) Rules, 2006 (GSR 207-E of 2006) were published in the Gazette of India, Extraordinary, Part-II, Section 3(i) dated 4.4.2006. It was observed therefrom that the amendment seeks to include in the definition of 'Packaged Drinking Water' as water derived from any source of potable water or sea water or underground water or surface water which may be subjected to various treatments. The usage of the words 'may be' in the rules appears to convey the meaning that the various treatments that ought to be carried out to such water before being declared as 'Packaged Drinking Water' is not mandatory. Drinking water being one of the most essential items for mass consumption, the rules need to specifically provide for mandatory treatments of such water before they are being marketed. The matter was, therefore, referred to the Ministry of Health and Family Welfare for soliciting clarifications thereon.

3.2 The Ministry of Health & Family Welfare in their communication dated 2.2.2007 stated as under:-

*“definition of packaged drinking water lists the treatments which the water derived from any source of sea water, potable water, underground water or surface water may be required to undergo to conform to the standards of packaged drinking water depending on the quality of the source of water. It is not necessary to carry out all the treatment processes, hence the words used in the definitions are 'may be'. It is only to be ensured that after the treatment process, the water conforms to the standards of packaged drinking water as laid down under PFA Rules, 1955.” ....“the words 'may be' are used in the same manner in the original PFA Rules, 1955 and that the amendment under GSR 207-E dated 4.4.2006 only added details of potential sources of water and provided for additional mandatory desalination and related process for sea water. The GSR 207-E notification dated 4.4.2006*

*is to be read and applied along with the mandatory standard of 51 characteristics of the water as specified in the rest of Rule 2.A.33”.*

3.3 Since the reply of the Ministry was not satisfactory, the matter was again referred to the Ministry *inter-alia* stating that provision for mandatory treatment process for water instead of leaving it optional, would not only strengthen the provisions but would also doubly ensure that after the treatment process, the water conforms to the mandatory standard of 51 characteristics prescribed in the rule. Moreover, the Ministry's reply was silent as to whether a full proof system was in existence for checking compliance of the marketed products to the mandatory standard of 51 characteristics as laid down. Considering that drinking water is an important essential item for mass consumption and that non-compliance to strict quality norms could have telling effects on the health of individuals, the provision of mandatory treatment processes would only be strengthening the rules for the benefit of the public at large. This becomes all the more necessary since the extant amendment seeks to include various sources of water such as sea water, underground water and surface water which are not only potential source of water, but also potential sources of contaminants. Hitherto, the rules had provided for only 'potable water', which was already in a drinkable form and hence the usage of the words 'may be' for prescribing treatment processes may have been acceptable. However, with the inclusion of more dangerous and contaminated forms of water, the Ministry's plea that the words 'may be' have been used in the same manner as in the original Rules does not appear to be tenable. The Ministry of Health & Family Welfare (Deptt. of Health) were, therefore, requested to furnish further comments and also state whether they have any objection to amend the rules to provide for mandatory treatment processes.

3.4 The Ministry vide their further communication have amended the Prevention of Food Adulteration Rules, 1955 in Appendix B, in item A-33 relating to Packaged Drinking Water by removing the word 'may be' and published in the Gazette of India notification No. GSR 500-E dated 4.7.2008

3.5 The Committee considered the above matter at their sitting held on 9.11.09 and desired to know the penal provisions in the relevant Act/Rules for not adhering to the prescribed standards of packaged drinking water. In this connection, it may be stated that Section 2 (v) of the 'Prevention of Food Adulteration Act, 1954' defines 'food' as any article used as food or drink for human consumption other than drugs and water. However, the Ministry *vide* Notification of 2001 declared 'Packaged Drinking Water' as 'Food' for the purpose of said Act. Section 16 of the Act elaborately deals with penalties. Further, Section 16A of the Act deals with the power of court to try cases summarily. There are strict penal provisions for adulteration of food articles.

**3.6 It may be observed that in the above amendment, the use of words 'may be' in the definition of packaged drinking water conveyed the meaning that various treatments that ought to be carried out to the water before being declared as 'Packaged Drinking Water' were not mandatory. The rules need to specifically provide for mandatory treatment of drinking water before they are marketed since drinking water is one of the most essential items of mass consumption and non-compliance of strict quality norms could have a telling effect on the health of individuals. Notwithstanding the fact that the Ministry of Health & Family Welfare (Department of Health) have since amended the Prevention of Food**

**Adulteration Rules, 1955 by substituting the first paragraph of item A.33 in Appendix B, the Committee express their dissatisfaction over the fact that the relevant amendment has been carried out only after protracted correspondence for about 25 months. It appeared that the entire matter, which has a direct bearing on the health of consumers, has been treated with an amount of laxity and avoidable delay. The Committee, therefore, urge the Ministry to take specific steps to streamline their procedure and evolve appropriate mechanism for obviating inordinate delays in carrying out justified amendments in the Rules involving larger public interests.**

**(Recommendation No. 3)**

**New Delhi;  
March, 2010/Phalguna, 1931**

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

APPENDIX –I

(Vide Para 4 of the Introduction of the Report)

SUMMARY OF RECOMMENDATIONS MADE IN THE SECOND 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.	1.6	<p><u>Use of vague expressions in the Department of Science and Technology, Junior Analyst (Technical) Group 'B' Post, Recruitment Rules, 2008 (GSR 184 of 2008)</u></p> <p>The Committee note that the entry under essential qualification for direct recruitment to the post of Junior Analyst (Technical) includes 'two years experience of scrutiny and analysis of proposals or programmes related to development of Science and Technology and monitoring their implementation'. In the absence of type of organisation from where such experience is to be considered, the entry appeared to be susceptible to the risk of being interpreted variedly by different persons and therefore the experience gained by the candidates from sundry organizations will also have to be reckoned for filling up the post. On being pointed out, the Ministry of Science and Technology (Department of Science and Technology) had simply stated that experience gained by the candidates from sundry organizations shall not be reckoned for filling up the post. Thus, the ambiguity in the rules leaves scope for misuse of subordinate legislation as the relevant vagueness in the rules is liable to be interpreted differently by different persons. The Committee desire the Ministry to incorporate an in-built provision in the rules for filtering the component of experience gained by candidates from sundry organisations. The Committee also desire the Ministry to amend the rules to make the entry more precise, self-contained and devoid of ambiguity.</p>



2.	2.4	<p><u>The Pet food Products of Animal Origin (Import into India) Order, 2008 (SO 1089-E of 2008)- Non laying of Order on the Table of the House</u></p> <p>The Ministry's reply was not convincing. The Committee on Subordinate Legislation have time and again stressed that the large number of Acts which do not provide for laying of Rules on the Table of the House, need to be examined and a provision for laying of Rules before Parliament incorporated thereunder. It appeared that the Ministry have not recognized the relevance and significance of laying of the Rules on the Table of the House. The Committee call upon the Ministry to undertake the examination of the Act for incorporating the provision for laying of orders before Parliament in the Act at the earliest.</p>
3.	3.6	<p><u>The Prevention of Food Adulteration (2<sup>nd</sup> Amendment) Rules, 2006 (GSR 207-E of 2006)</u></p> <p>It may be observed that in the above amendment, the use of words 'may be' in the definition of packaged drinking water conveyed the meaning that various treatments that ought to be carried out to the water before being declared as 'Packaged Drinking Water' were not mandatory. The rules need to specifically provide for mandatory treatment of drinking water before they are marketed since drinking water is one of the most essential items of mass consumption and non-compliance of strict quality norms could have a telling effect on the health of individuals. Notwithstanding the fact that the Ministry of Health &amp; Family Welfare (Department of Health) have since amended the Prevention of Food Adulteration Rules, 1955 by substituting the first paragraph of item A.33 in Appendix B, the Committee express their dissatisfaction over the fact that the relevant amendment has been carried out only after protracted correspondence for about 25 months. It appeared that the entire matter, which has a direct bearing on the health of consumers, has been treated with an amount of laxity and avoidable delay. The Committee, therefore, urge the Ministry to take specific steps to streamline their procedure and evolve appropriate mechanism for obviating inordinate delays in carrying out justified amendments in the Rules involving larger public interests.</p>

## APPENDIX –II

(Vide Para 5 of the Introduction of the Report)

### MINUTES OF THE SECOND SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (2009-2010)

The Committee sat on Monday, 9<sup>th</sup> November from 1130 to 1215 hours in Chairman's Room No.143, Parliament House , New Delhi.

#### PRESENT

Shri P. Karunakaran Chairman

#### MEMBERS

##### LOK SABHA

2. Shri Paban Singh Ghatowar
3. Smt. Paramjit Kaur Gulshan
4. Shri Mangani Lal Mandal
5. Dr. Sanjeev Ganesh Naik
6. Shri Rajaram Pal
7. Shri Anantha Venkata Rami Reddy
8. Shri Adhalrao Shivaji Patil
9. Shri Madhu Goud Yaskhi

#### SECRETARIAT

1. Shri P.K. Misra - Joint Secretary
2. Shri Gopal Singh - Director
3. Shri Raju Srivastava - Deputy Secretary

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. 1** – Use of vague expressions in the Department of Science and Technology, Junior Analyst (Technical) Group 'B' Post, Recruitment Rules, 2008 (GSR 184 of 2008).

(ii) **Memorandum No. 2** – The Pet Food Products of Animal Origin (Import into India) Order, 2008 (SO 1086-E of 2008).

(iii) **Memorandum No. 3** - The Prevention of Food Adulteration (2nd Amendment) Rules, 2006 (GSR 207-E of 2006).

4. As regards memorandum at Sl. No. 1, the Committee decided that further clarification may be sought from the Ministry. As regards memorandum at Sl. No. 2 above, the Committee decided to suitably incorporate the points raised therein in the Report to be presented to the House. Regarding memorandum at Sl. No. 3, the Committee desired to know the penal provisions in the Act/Rules concerned for not adhering to the prescribed standards of packaged drinking water before they are being marketed.

The Committee then adjourned.

## EXTRACTS FROM THE MINUTES OF THE THIRD SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (2009-2010)

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The Committee sat on Thursday, 7<sup>th</sup> January from 1400 to 1445 hours in Chairman's Room No.143, Parliament House , New Delhi.

### PRESENT

1. Shri P. Karunakaran Chairman

### MEMBERS

#### LOK SABHA

2. Shri Rajen Gohain
3. Shri D. B. Chandre Gowda
4. Smt. Paramjit Kaur Gulshan
5. Shri Mangani Lal Mandal
6. Shri Pinaki Misra
7. Shri Sanjeev Ganesh Naik
8. Shri Adhalrao Shivaji Patil
9. Shri Rajan Sushant

### SECRETARIAT

1. Shri P.K. Misra - Joint Secretary
2. Shri Gopal Singh - Director
3. Shri Raju Srivastava - Deputy Secretary

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

3. XX XX XX

4. Thereafter, the Committee took up for consideration the following memoranda:-

(i) **Memorandum No. 1** – Use of vague expressions in the Department of Science and Technology, Junior Analyst (Technical) Group 'B' Post, Recruitment Rules, 2008 (GSR 184 of 2008).

(ii) **Memorandum No. 3** - The Prevention of Food Adulteration (2nd Amendment) Rules, 2006 (GSR 207-E of 2006).

5. After deliberations, the Committee decided to incorporate the points raised in Memoranda Nos. 1 & 3 in their Report to be presented to the House.

The Committee then adjourned.

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XX Omitted portion of the Minutes are not relevant to this Report.

## EXTRACTS FROM THE MINUTES OF THE FOURTH SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (2009-2010)

The Committee sat on Wednesday, 3<sup>rd</sup> February from 1400 to 1445 hours in Chairman's Room No.143, Parliament House , New Delhi.

### PRESENT

1. Shri P. Karunakaran Chairman

### MEMBERS

#### LOK SABHA

2. Shri Mangani Lal Mandal
3. Shri Pinaki Misra
4. Shri Sanjeev Ganesh Naik
5. Shri Anantha Venkata Rami Reddy
6. Shri Madhu Goud Yaskhi

### SECRETARIAT

1. Shri P.K. Misra - Joint Secretary
2. Shri Raju Srivastava - Deputy Secretary

2. At the outset, the Chairman welcomed the members to the sitting of the Committee.
3. The Committee, then, took up for consideration the draft 'Second Report' and adopted the same without any modifications. The Committee also authorized the Chairman to present the same to the House

4. XX XX XX
5. XX XX XX
6. XX XX XX

The Committee then adjourned.

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XX Omitted portion of the Minutes are not relevant to this Report.