

**GOVERNMENT OF INDIA  
PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS  
LOK SABHA**

UNSTARRED QUESTION NO:986  
ANSWERED ON:25.11.2009  
PROSECUTION OF PUBLIC SERVANT  
Muttamwar Shri Vilas Baburao

**Will the Minister of PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS be pleased to state:**

- (a) whether the Supreme Court has pronounced any decision on the question of prosecuting a public servant without obtaining the sanction by the Central or State Government;
- (b) if so, the details thereof and the reaction of the Government to the judgement;
- (c) the number of cases pending with the Government seeking permission to prosecute public servants for punishment under various sections of corruption Act;
- (d) whether the Government has examined the implication of the said judgement on cases relating to prosecution of public servant; and
- (e) if so, the outcome thereof and the extent to which the said decision will be applicable to such pending cases?

**Answer**

MINISTER OF THE STATE (Independent Charge) IN THE MINISTRY OF SCIENCE AND TECHNOLOGY; MINISTER OF THE STATE (Independent Charge) IN THE MINISTRY OF EARTH SCIENCE; MINISTER OF THE STATE IN THE PRIME MINISTER'S OFFICE; MINISTER OF THE STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS; AND MINISTER OF THE STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS. (SHRI PRITHVIRAJ CHAVAN)

(a) & (b): Some of the relevant decisions of the Hon'ble Supreme Court on this subject are:

(i) R.S. Nayak V/s A.R. Antulay (ii) Prakash Singh Badal V/s. State of Punjab (iii) K. Karunakaran V/s. State of Punjab and (iv) Lalu Prasad V/s. State of Bihar.

In these Judgements, it has been held that if at the time the offence was alleged to have been committed, the accused was a public servant, but at the time when the Court was called upon to take cognizance of the offence committed by him as public servant, he had ceased to be a public servant, then no sanction would be necessary for taking cognizance of the offence against him. It was further held that Section 19 (1) of the Prevention of Corruption Act is "time and offence" related.

(c): As per information received from the CBI, a total of 162 cases are pending for prosecution sanction as on 31.10.2009; 142 with Central Government and 23 with State Governments. In 3 cases prosecution sanction is required from both the Central and State Governments.

(d) & (e): While the Government is bound to follow the Judgements of the Hon'ble Supreme Court, it is understood that as far as civil servants are concerned, the requirement of seeking sanction of the competent authority under Section 19 of the Prevention of Corruption Act continues to be applicable so long as the officer continues to be a member of the civil service. The protection under Section 19(1) of the Prevention of Corruption Act cannot be said to have been taken away only on the consideration that the officer holds charge of another post on transfer or promotion, then the one alleged to have been abused.