

**COMMITTEE ON GOVERNMENT ASSURANCES
(2002-2003)**

THIRTEENTH LOK SABHA

SEVENTH REPORT

(Request for Dropping of Assurances)

(Presented to Lok Sabha on March 22, 2002)



**LOK SABHA SECRETARIAT
NEW DELHI**

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Composition of the committee on Government Assurances* (2002-2003)

Chairman

Dr. S. Venugopal

Members

2. Shri E.Ahamed
3. Shri Priya Ranjan Dasmunsi
4. Adv. Uttamrao Dhikale
5. Dr. S. Jagathrakshakan
6. Shri Brahma Nand Mandal
7. Shri Ramjee Manjhi
8. Shri Sudarsana E.M. Natchiappan
9. Shri Rupchand Pal
10. Shri S.B.P.B.K. Satyanarayana Rao
11. Shri Kishan Singh Sangwan
12. Shri Raghuraj Singh Shakya
13. Shri Bahadur Singh
14. Rajkumari Ratna Singh
15. Shri Tarlochan Singh Tur

Secretariat

- | | | | |
|----|--------------------------|---|----------------------|
| 1. | Shri P.D.T. Achary | - | Additional Secretary |
| 2. | Shri M. Rajagopalan Nair | - | Joint Secretary |
| 2. | Shri A.K. Singh | - | Deputy Secretary |
| 3. | Ms. J.C. Namchyo | - | Assistant Director |

* The Committee was nominated by the Speaker w.e.f. January 16, 2002
vide Para No.2528 of Lok Sabha Bulletin Part-II dated January 16, 2002

INTRODUCTION

I, the Chairman of the Committee on Government Assurances having been authorised by the Committee to submit the Report on their behalf, present this Report of the Committee on Government Assurances.

The Committee (2002-2003) was constituted on January 16, 2002.

The Committee (1999-2000) at their sittings held on September 20, 2000, considered inter-alia Memoranda Nos.38, 39, 41, 43, 44, 45 & 46 containing requests received from the Ministries/Departments of the Government of India for dropping of pending assurances.

At their sitting held on March 19, 2002, Committee(2002-2003) considered and adopted Seventh Report.

The Minutes of the aforesaid sittings of the Committee form part of this Report. (Appendix)

The conclusions/observations of the Committee are contained in this Report.

NEW DELHI;
March 19, 2002

DR. S. VENUGOPAL
Chairman
Committee on Government Assurances

CHAPTER I

CENTRAL TAXATION LAWS IN SIKKIM

1.1 (i) On May 05, 1989, Dr. B.L. Shailesh, MP addressed the following Unstarred Question No.8256 to the Minister of Finance:-

“(a) whether Central Taxation Laws have become effective in Sikkim since April 01, 1989;

if so, whether Union Government have set up an Income-tax Department and other Offices in that State’s headquarters; and

if not, the reasons therefor?”

1.2 The then Minister of State in the Ministry of Finance (Shri Ajit Kumar Panja) gave the following reply:-

“(a): Yes, Sir.

(b): An Assistant Commissioner of Income-Tax has been posted at Gangtok. Efforts are being made to set up an Income-Tax Office at Gangtok.

(c): Does not arise.”

1.3 Reply to part (b) of the question was treated as an assurance and was to be fulfilled by the Ministry within three months of the date of reply i.e. by August 04, 1989.

1.4 (ii) On July 21, 1989, Smt. D.K. Bhandari, MP addressed the following Unstarred Question No.633 to the Minister of Finance:-

“(a) whether it is a fact that the Central Board of Direct Taxes had invited suggestions from people of Sikkim before implementation of the Central Income-Tax Laws to Sikkim;

if so, the details of the suggestions made;

whether the Government have examined the suggestions; and

the reaction of the Government thereto?”

1.5 The then Minister of State in the Department of Revenue in the Ministry of Finance (Shri Ajit Kumar Panja) gave the following reply:-

“(a): The Direct Tax Laws, namely, the Income-Tax Act, 1961, the Wealth-tax Act, 1957 and the Gift Tax Act, 1958 stand extended to the State of Sikkim with effect from April 01, 1990 i.e. in respect of assessment year 1990-91 relevant to the previous year 1989-90 starting from 01.04.1989. The Central Government has constituted a Committee of Officers of the Central Government and the State Government of Sikkim to examine if there are any difficulties in the implementation of the above mentioned Central Direct Tax Laws in Sikkim and to suggest solutions thereof. In this regard, an advertisement was published in newspapers wherein the residents of Sikkim and others were invited to write to the Convenor of the Committee, constituted by the Government, if they envisaged any difficulties in complying with the provisions of the Central Direct Tax laws.

(b), (c) & (d): The Committee is examining the difficulties brought to its notice in complying with the Direct Tax Laws and will offer its comments and solutions in its Report to the Government.”

1.6 Reply to parts (b) to (d) of the Question was treated as an assurance which was to be fulfilled within three months of the date of reply i.e. by October 20, 1989.

1.7 The Ministry of Finance through the Ministry of Parliamentary Affairs vide their U.O. Note Nos.XIV/Fin.(6) USQ No.622-LS/89 dated June 13, 1997 and XIII/Fin.(92) USQ No.8256-LS/89 dated June 13, 1997 respectively requested for dropping of these assurances. This request was followed by a letter dated March 01, 1999 from the then Minister of Parliamentary Affairs for dropping of the aforesaid assurances on the following grounds:-

“that the State Government had requested to defer the extension of Direct Tax Laws in Sikkim. The Committee on Government Assurances last discussed the matter with officials of CBDT and the State Government at a meeting held at Gangtok on January 17, 1996, wherein various issues were explained. In the course of discussion, the Committee also handed over a list of points for clarifications, which have since been furnished. It may be mentioned here that the Assurance was given in Eighth Lok Sabha during its XIV Session in 1989. The Assurance has been pending for a long time and the Department of Revenue has sought repeated extensions. In the circumstances, the seeking of extension of time for fulfilling the assurance is not serving any purpose and it would therefore, be appropriate to drop the assurance.”

1.8 The Committee have been apprised that a Committee comprising Central and State Government representatives was constituted on May 16, 1989, as suggested by the then Chief Minister of Sikkim. The Committee’s deliberations were of no avail since it had to face almost a total lack of response from the State Government’s representatives. The Committee had to finalize the Report on November 09, 1989 without the requisite information having been received from the State Government. The representatives of the Central Government were of the unanimous view that there were no real difficulties in implementation of the DTLs in Sikkim. The actual implementation of the Direct Tax Laws in Sikkim, however, has not taken place mainly due to continuous opposition, resistance and non-cooperation from the successive Chief Ministers of Sikkim and the Government of Sikkim.

1.9 In the clarification furnished by the Ministry of Finance, it had been mentioned that writ petitions challenging the constitutional validity of extension of the direct tax laws to the State of Sikkim and their implementation in that State were filed in the High Courts of Calcutta and Sikkim. It had also been stated that the Calcutta High Court upheld the constitutional validity of the extension of direct tax laws to the State of Sikkim in writ petition filed by Shri Anjan Banerjee (CO No.8509(w) of 1992). The Calcutta High Court also refused to stay the operation of its order. The matter was, however, pending in appeal before a Division Bench of Calcutta High Court. In regard to two writ petitions pending in Sikkim High Court, it was stated that the decisions on these writ petitions were likely to be received in March, 1996. When the Ministry of Finance was requested in November, 1999 to apprise the outcome of the pending writ petitions, the Ministry of Finance informed vide their OM F.No.155/66/89-TPL dated September 27, 2000 that all the writ petitions in the Division Bench of Calcutta High Court and the Sikkim High Court challenging the Constitutional validity of extension of direct tax laws to Sikkim are pending. The original suit filed by the State of Sikkim in the Supreme Court for the same is also pending. No court of law has granted stay against the extension of the Income Tax Act over the State of Sikkim. The Committee were further informed that a suit challenging the Constitutional validity of the extension of the Direct Tax Laws to Sikkim has been filed by the State of Sikkim in the Hon’ble Supreme Court which is still pending.

1.10 The Ministry of Finance, Department of Revenue vide their OM F.No.155/66/1989-TPL dated March 08, 2002 have informed that the Chief Minister of Sikkim had personally handed over a memorandum to the Finance Minister on November 23, 2001 with regard to review/withdrawal of Direct Tax Laws (DTLs) in Sikkim in which he has reiterated that the extension of DTLs over the State of Sikkim may be kept in abeyance. Similar representations by the Chief Minister has also been submitted to the Prime Minister on November 16, 2001 when a 15 Member all Party Delegation from Sikkim met him. It was stated by the Chief Minister that the delegation was unanimous in its views that the Government of India should review/withdraw the Direct Tax Laws in Sikkim, particularly in view of a resolution passed by the Sikkim Legislative Assembly on November 06, 2001.

1.11 The Ministry of Finance have again requested to drop the assurances as according to them that the assurances were given in the 8th Lok Sabha in 1989 and the same have been pending for a long time and the Department of Revenue has sought repeated extension. According to the Ministry of Finance seeking of extension of time for fulfilling the assurances is not serving any purpose and it would therefore be appropriate to drop the assurance. They have asked the Committee to reconsider their request and if not dropped to grant extension for fulfillment upto March 31, 2003.

1.12 The Committee considered the earlier request of the Ministry of Finance at their sitting held on September 29, 2000 and did not agree to drop the assurances.

1.13 An assurance was given as early as in May, 1989 that Income Tax Office would be set-up in Sikkim as Central Tax Laws had been extended to the State w.e.f. April, 1, 1989. Another assurance on the same subject was given in July, 1989, when the then Minister assured that “the Committee is examining the difficulties brought to its notice in complying with the Direct Tax Laws and will offer its comments and solutions in its report to the Government.” In the said reply the then Minister had informed that in July, 1989, the Government had constituted a Committee comprising Central and State Government representatives to examine and give a report on the difficulties in implementing Direct Tax Laws in Sikkim. The Committee are surprised to note that the said Committee finalized its report in November, 1989 without the requisite information having been received from the State Government. The Committee further note that writ petitions in Calcutta High Court, Sikkim High Court and original suit filed by State Government of Sikkim in Supreme Court challenging the constitutional validity of extension of Central Tax Laws to Sikkim were pending. However, no court of Law has granted Stay in the matter.

1.14 The Committee are, therefore, surprised that the Union Government have not been able to extend Central Tax Laws in Sikkim till now although these laws were to take effect from the assessment year 1990-91 and consequently these assurances have remain pending since 1989.

1.15 The Committee feel that Ministry of Finance is solely responsible for such an impasse as no serious efforts seem to have been made to convince the Government of Sikkim and remove their apprehensions and misunderstanding about the Central Tax Laws and the benefits which accrue to the people of Sikkim as a result of increase in share of tax revenue or employment to local people.

1.16 The Committee feel that the plea of the Ministry of Finance “that the assurance was given in 1989 and seeking of extension of time for fulfilling the assurance is not serving any purpose” is not enough ground for dropping the assurance. The Ministry of Finance in their subsequent note dated 8th March, 2002 has again appeared ambivalent in their approach by requesting for either dropping of the assurance or extension of the time for fulfillment of the same till March 31st 2003. The Committee are fully convinced that the Ministry of Finance had not taken the matter with due seriousness it deserved. Instead of initiating action either to seek early decisions in the writs filed in different courts or to resolve the issue out of court the Ministry of Finance in their wisdom seem to be content to wait for the court verdict. The Committee strongly recommend that the Union Government should make every efforts for early decision in the matter of writ petitions and should not waver in executing the power conferred on them by the Parliament. The Committee would like to be apprised about the progress made with regard to writ petitions pending in different courts.

CHAPTER II

(i) ALL INDIA JUDICIAL SERVICE

2.1 (i) On December 13, 1991, S/Shri P.C. Thomas and P.M. Sayeed, MPs addressed the following Unstarred Question No.3652 to the Minister of Law, Justice & Company Affairs:-

“(a) whether the Supreme Court has asked the Union Government to constitute an All India Judicial Service;

if so, the action taken by the Government in this regard; and

the time by which it is likely to be constituted?”

2.2 The Then Minister of State in the Ministry of Law, Justice & Company Affairs (Shri P.R. Kumaramanglam) sated as follows:-

“(a) to (c): Through a judgement delivered on 13.11.1991 in response to Writ Petition No.1022 of 1989 filed by All India Judges’ Association, the Supreme Court has desired that the Government of India should examine the feasibility of implementing the recommendations of the Law Commission for the setting up of an All India Judicial Service. In the portion relating to the summing up of this judgement, the Supreme Court has given a direction that an All India Judicial Service should be set up and the Union of India should take appropriate steps in this regard. The matter is being examined.”

2.3 Reply to the Question was treated as an assurance and was required to be implemented by the Ministry within three months of the date of reply i.e. by March 12, 1992.

2.4 On August 06, 1997 a statement was laid in the House in fulfillment of assurance vide SS XXI/2(Annexure-I). That statement was, however, treated as part implementation report as according to information furnished comments from the Governments of Meghalaya and Bihar were awaited as also views of Calcutta High Court and J&K High Court.

2.5 (ii) On September 06, 1996, Shri R. Sambasiva Rao, MP addressed the following Unstarred Question No.4544 to the Minister of Law and Justice:-

“(a) whether the Law Commission in its 116th Report has recommended for formation of All India Judicial Services;

if so, whether the Supreme Court in its judgement dated April 10, 1995 has directed the Union Government to take remedial steps for implementation of the directions to achieve the objective of setting up an All India Judicial Services; and

if so, the steps taken so far by the Government in this regard?”

2.6 In reply, the then Minister of State in the Ministry of Law and Justice (Shri Ramakant D. Khalap) stated as follows:-

“(a): The Law Commission in its 116th Report submitted in September, 1985 recommended the Constitution of an All India Judicial Service.

(b): Yes, Sir.

(c): Under Article 312 of the Constitution, an All India Judicial Service can be created/constituted only if the Council of States declares by a Resolution supported by not less than 2/3rd of the Members present and voting that it is necessary or expedient in the national interest so to do. Before such a Resolution is moved, the views of the State Governments and High Courts have been sought with regard to the constitution of an All India Judicial Service. Comments/views from the High Courts of Calcutta, Madras and Jammu & Kashmir and the State Governments of Bihar, Meghalaya, Jammu & Kashmir and Rajasthan are still awaited.”

2.7 Part (c) of the reply to the above question was treated as an assurance and was required to be implemented by the Ministry of Law and Justice within three months of the date of reply i.e. December 05, 1996.

2.8 On August 06, 1997, a statement was laid in fulfillment of assurance vide SS IV/50 that Implementation Report (Annexure-II) was treated as part fulfillment as according to the statement the information was awaited from the Governments of Meghalaya and Bihar as also views from Calcutta High Court and J&K High Court.

2.9 (iii) On November 21, 1997, Shri R. Sambasiva Rao, MP addressed the following Unstarred Question No.662 to the Minister of Law & Justice:-

“(a) whether the Andhra Pradesh Government has strongly opposed the proposal of the Union Government for the constitution of an All India Judicial Service;

if so, the reasons therefor;

the other States so far opposed this move and the States which have approved the proposal; and

the steps taken/proposed to be taken by the Government in this regard?”

2.10 In reply, the then Minister of State of the Department of Legal Affairs, Legislative Department and Department of Justice (Shri Ramakant D. Khalap) stated as follows:-

“(a): Yes, Sir.

(b): The Government of Andhra Pradesh has opposed the creation of an All India Judicial Service which may not serve interests of an efficient administration of justice due to regional and language variations in the State of Andhra Pradesh.

(c): The State Governments of Arunachal Pradesh, Gujarat, J&K, Karnataka, Manipur and Nagaland have also not favoured the setting up of an All India Judicial Service. The State Governments of Goa, Uttar Pradesh, Mizoram, Punjab, Kerala, Tripura, Sikkim, Madhya Pradesh and Orissa have concurred to the setting up of an AIJS. The Governments of Himachal Pradesh, Haryana, Tamil Nadu, Maharashtra, West Bengal, Assam and Rajasthan have given conditional endorsement to the proposal.

(d): In pursuance of a direction of Supreme Court of India in the All India Judges Association Case (Writ Petition No.1022/89), the Government is already seized of the matter relating to creation of an All India Judicial Service. Secondly, comments from two States are awaited.”

2.11 Reply to part (d) of the above question was treated as an assurance and was required to be implemented by the Ministry of Law and Justice within three months of the date of reply i.e. February 20, 1998.

2.12 The then Minister of State for Railways, Parliamentary Affairs and Planning and Programme Implementation vide his DO No.4(1)/99-Imp. Dated March 01, 1999 addressed a letter to the Chairman, Committee on Government Assurances for dropping of all three assurances on the following grounds:-

“that it is a policy matter on which no decision could be taken as the comments from the Government of Bihar and Meghalaya as also views of Calcutta High Court and J&K High Court are still awaited. ”

2.13 The Committee were also informed that the reminder from the Minister of Law, Justice & Company Affairs had also been sent to The Chief Ministers in July and November, 1998.

2.14 The Committee note that an assurance was given in December, 1991 that the matter for constituting an All India Judicial Service was being examined by the Government. That assurance had not been implemented till September, 1996 when another assurance was given on the same subject as the Ministry had not received information from some States and High Courts. The Ministry of Law, Justice & Company

Affairs had not received full comments from some States and High Courts when a statement in part fulfillment of assurance was laid in the House in August, 1997. The Committee again treated the reply given in November, 1997 on the subject as an assurance as it was stated that the Government was already seized of the matter for creation of All India Judicial Service and that the comments from two States are awaited.

2.15 The Committee note that the Union Government have not been able to persuade the State Governments of Bihar and Meghalaya and High Courts of Calcutta and Jammu & Kashmir to furnish their comments/views in regard to All India Judicial Service, even though the Supreme Court had desired the Union Government to examine the feasibility of setting up of an All India Judicial Service.

2.16 The Committee at their sitting held on September 29, 2000, took into consideration the above fact while acceding to the request for dropping the assurances. The Committee hope that the Ministry of Law, Justice & Company Affairs would continue to make efforts for an early decision in matter by generating consensus on the issue as to set up the All India Judicial Service in pursuance to the direction of the Hon'ble Supreme Court.

(ii) HOUSING AND URBAN DEVELOPMENT CORPORATION LIMITED

2.17 On August 06, 1997, Lt. General (Retd.) Prakash Mani Tripathi and Shri Bhimrao Vishnuji Badade, MPs addressed the following Starred Question No.201 to the Minister of Urban Affairs and Employment:-

“(a) whether the Housing and Urban Development Corporation Limited allot commercial space to builders in Delhi;

if so, the details of such allotments made during 1995;

whether the builders are violating the norms of agreement laid down by HUDCO;

if so, the details thereof along with the reasons thereof; and

the steps taken by the Government to remedy the situation?”

2.18 In reply to the above question, the then Minister of State in the Ministry of Law and Justice (Shri Ramakant D. Khalap) stated as follows:-

“(a) & (b): No, Sir. However, in Community Centre Complex, Andrews Ganj, New Delhi, being developed by HUDCO on behalf of Government, M/s. Ansal Properties and Industries Limited (APIL) has been auctioned space on 10.03.1995 for building Shopping Arcade over the car parking basement constructed HUDCO.

(c) to (e): According to HUDCO, norms as laid down in the agreement of sub-lease, have not been violated.

As per the term of allotment, possession of the space for construction of Shopping Arcade was to be handed over by HUDCO to M/s. APIL after payment of first instalment, on completion of the legal formalities and execution agreement.

M/s. APIL was given possession after complying with all requisite formalities. However, the payment of second & third instalments were held up due to delay in sanction/regularisations of plans of car parking basement constructed by HUDCO. As a result of this, plans for Shopping Arcade to be built by M/s. APIL were not entertained by Municipal Corporation of Delhi for processing and approval.

Consequently, M/s. APIL approached HUDCO for grant of extension of time (interest free) for a period of 13 months each for the payment of second and third instalments, which were due on 09.03.1996 and 09.09.1996 respectively.

Considering relevant factors, HUDCO allowed extension of time for payment of second instalment upto 17.01.1997 (interest free) i.e. 10 months 8 days and with interest upto 17.04.1997. APIL has paid the second instalments with interest on 17.04.1997.

In respect of third instalment, HUDCO allowed extension of time i.e. 8 months 4 days for making payment (interest free) upto 13.05.1997 (and with interest upto 13.08.1997). APIL has requested for corresponding extension for payment of third instalment (interest free) upto 17.07.1997 and with interest upto 16.10.1997, so that the original time gap of 6 months between the dates of payment of second and third instalments is maintained.”

2.19 While framing supplementary to the main question, Shri Jagmohan, MP mentioned that HUDCO which was given land for development and for raising resources had further leased out the same to a private party. In this context, he pointed out that HUDCO had not made any payment for extra load generated in case of peripheral services like water, electricity, sewer and road and that the Government are giving water to the newly constructed area from Sadiq Nagar, which was already facing shortage of water. The Hon’ble Member, therefore, asked from the Hon’ble Prime Minister as under:-

“The Hon’ble Prime Minister is aware of this background of Delhi’s development. I would request him to kindly give us an assurance that whatever omission has taken place in not paying for the community services on the extra load that will be generated in the services will be made good by the HUDCO by whatever means it has.”

The then Prime Minister (Shri I.K. Gujral) inter-alia stated:-

“I am quite willing to sit with him, the Delhi Administration and others to look into the problems.”

2.21 The above statement given by the then Prime Minister was treated as an assurance and was required to be implemented by the Ministry of Urban Affairs and Employment by November 05, 1997 i.e. within three months of the date of assurance given by the then Prime Minister.

2.22 The Ministry of Parliamentary Affairs vide their U.O. No.V/U.A.&E(15)SQ.201-LS/97 dated February 23, 1998 forwarded a request of the Ministry of Urban Affairs and Employment for dropping of the aforesaid assurance on the following grounds:-

“We have requested Shri Jagmohan to indicate the issues which he would like to discuss either with Hon’ble Minister of State for Urban Affairs and Employment or with the Hon’ble Prime Minister vide DO letter dated October 31, 1997. Shri Jagmohan was again requested vide DO letter dated December 24, 1997 but there is no response from him so far. In view of his not showing any inclination to discuss the matter, no further action may be possible. It is requested that this assurance may be dropped.”

2.23 This request was followed by a letter from the then Minister of State for Railways, Parliamentary Affairs and Planning & Programme Implementation vide his DO 4(1)/99-Imp-I dated March 01, 1999 addressed to the Chairman, Committee on Government Assurances for dropping of the assurance on the same ground as mentioned above.

2.24 The Committee note that the Member while asking a supplementary question to which the Hon’ble Prime Minister had promised to look into the problem, had specifically mentioned about non-payment for extra load in case of peripheral services like water, electricity, sewer, road etc. by HUDCO while it leased a land for development of Community Centre at Andrewganj, New Delhi. The Committee further note that the discussion which the Hon’ble Prime Minister had promised to have with the Member and Delhi Government to look into the problem never took place in the first instance, as according to the communication received from the Ministry of Urban Affairs & Employment, the Member did not respond to the letter sent by the Ministry. The Committee appreciate the efforts made by the Ministry to contact the Member to know the issues which he would have liked to raise during discussion with Hon’ble Prime Minister. The Committee agreed to drop the assurance at their sitting held on September 29, 2000 when a request from the Ministry of Urban Affairs & Employment was considered. Although the Member had no inclination for such discussion, the Committee would like to be informed whether the Ministry of Urban Development & Poverty Alleviation have thoroughly examined the issue of non-payment of community services charges by HUDCO as pointed out by the Member.

(iii) COMPANY SECRETARIES ACT

2.25 On December 20, 1995, Shri Sarat Pattanayak, MP addressed the following Unstarred Question No.3608 to the Prime Minister:-

“(a) whether the Government are considering to amend Company Secretaries Act, 1980;

if so, the details thereof; and if not, the reasons therefor?”

2.26 In reply, the then Minister of State in the Ministry of Law, Justice & Company Affairs (Shri H.R. Bhardwaj) stated as follows:-

“(a) & (b): Yes, Sir. A comprehensive proposal to amend the Company Secretaries Act, 1980 is under consideration of the Government. The proposal, among other things, includes amendments to the provisions relating to determination of fee for various purposes, amplifying the definition of Company Secretaries in Practice, eligibility for issuance of ‘Certificate of Practice’, some changes in handling disciplinary proceedings powers to make bye-laws etc., etc. No final decision has been taken so far in this regard.

(c): Does not arise in view of the position explained above.”

2.27 Parts (a) & (b) of the reply to the above question were treated as an assurance which was required to be implemented by the Ministry of Law, Justice & Company Affairs within three months of the date of reply i.e. by March 19, 1996.

2.28 The then Minister of State for Railways, Parliamentary Affairs and Planning and Programme Implementation vide his DO No.4(1)/99-Imp.I dated March 01, 1999 addressed a letter to the Chairman, Committee on Government Assurances for dropping of the assurance on the grounds mentioned by the Minister of Law, Justice & Company Affairs:-

“The proposal to amend the said Act involves indepth deliberations with the Institute of Company Secretaries of India and also with Institute of Chartered Accountants of India and also Institute of the Cost and Works Accountants of India. The proposals also require to be examined in consultation with the Legislative Department before the Cabinet approval is obtained.

In view of the position explained above, the Ministry of Parliamentary Affairs is requested to move the Committee on Parliamentary Assurances and request them to drop the assurance.”

2.29 The Committee note that the assurance was given in December, 1995 that a comprehensive proposal to amend the Company Secretaries Act, 1980 was under consideration of the Government. The Committee, however, were never apprised what action the Government really took to amend the said Act during the four intervening years before a request was made to the Committee to drop the assurance in 1999. The Committee considered the request of the Ministry of Law, Justice & Company Affairs at their sitting held on September 29, 2000. The Committee agreed to drop the assurance but that does not mean that the issue of amending the Company Secretaries Act, 1980 should be shelved. The Committee, therefore, like the Government to hasten the process of deliberations and consultations to bring the desired amendment in the Act at an early date.

(iii) DELHI ZOO

2.30 On March 01, 1999, Shri Mohan Rawale, MP addressed the following Unstarred Question No.841 to the Minister of Environment & Forests:-

“(a) whether the Government have taken any decision in regard to making Delhi Zoo an autonomous body; and

if so, the time by which this decision is likely to be implemented?"

2.31 In reply, the then Minister of State in the Ministry of Environment & Forests (Shri Babu Lal Marandi) stated as follows:-

“(a): The Central Zoo Authority under the Chairmanship of Minister of Environment & Forests has recommended that the management of Delhi Zoo should be handed over to an autonomous organisation, especially created for the purpose.

(b): The modalities are being examined. The time frame has not yet been fixed.”

2.32 Part (b) of the above reply was treated as an assurance and was required to be implemented by the Ministry of Forests & Environment within three months of the date of reply i.e. May 31, 1999.

2.33 The Ministry of Parliamentary Affairs vide their U.O. No. IV/Environment and Forests(1)USQ-841-LS/99 dated November 22, 1999 forwarded a request of the Ministry of Environment & Forests for dropping of the aforesaid assurance on the following grounds:-

“that the reply of the Lok Sabha Unstarred Question No.841 is a mere statement of fact and the Central Government has not even taken a final view on granting autonomy to Delhi Zoo.

The Ministry of Parliamentary Affairs is accordingly, requested to kindly drop this assurance.”

2.34. The Committee have been apprised that the Ministry of Environment & Forests have not accepted the recommendation of Central Zoo Authority to transfer the management of National Zoological Park to a trust or a corporate body.

2.35 The Committee note that in reply to Unstarred Question No. 841 dated March, 1, 1999 the then Minister of Environment and Forests had informed that the Central Zoo Authority had recommended that the management of Delhi Zoo should be handed over to an autonomous organization. The then Minister had also informed that the modalities were being examined and the time frame was not fixed. In a subsequent request for dropping of aforesaid assurance, the Ministry stated that the reply of the Lok Sabha Unstarred Question No. 841 was a mere statement of fact and the Central Government had not taken the final view on granting autonomy to Delhi Zoo. The Ministry has now informed that for administrative reason they have not accepted the recommendation of the Central Zoo Authority to transfer the management of National Zoological Park to a trust or a corporate body.

2.36 The Committee are surprised to find that whereas, in the first instance, the then Minister gave a clear cut assurance to the extent of informing that modalities were being examined, subsequent note from the Ministry requesting for dropping of the aforesaid assurance termed it a mere statement of fact though admitting that the Central Government had not taken final view in this regard. The Ministry has now finally informed that they have decided not to transfer the management as recommended by Central Zoo Authority. The Committee are not happy at this approach of the Ministry to give assurance in the first instance and thereafter try to wriggle out of the situation by terming it as mere statement and finally submitting a completely different statement. The request was, however, acceded to by the Committee at their Sitting held on September 29, 2000. The committee would nevertheless like to be apprised of the reasons for not accepting the recommendation of the Central Zoo Authority.

NEW DELHI;
March 19, 2002
Committee on Government Assurances

DR. S. VENUGOPAL
Chairman

**MINUTES
ELEVENTH SITTING**

MINUTES OF THE ELEVENTH SITTING OF THE COMMITTEE ON GOVERNMENT ASSURANCES HELD ON SEPTEMBER 29, 2000 AT 1500 HOURS IN COMMITTEE ROOM 'B', GROUND FLOOR, PARLIAMENT HOUSE ANNEXE, NEW DELHI.

The Committee met on Friday, September 29, 2000, 2000 from 1500 hours to 1620 hours.

PRESENT

Dr. S. Venugopal - Chairman

MEMBERS

Shri Padam Sen Choudhry
Shri Priya Ranjan Dasuni
Shri Brahma Nand Mandal
Shri Sudarsana E.M. Natchiappan
Shri Rupchand Pal
Shri Sukhdeo Paswan
Dr. Prasanna Kumar Patasani
Shri Jitendra Prasad
Shri Manoj Sinha

SECRETARIAT

1. Shri P.D.T. Achary - Joint Secretary
2. Shri K. Chakraborty - Deputy Secretary
3. Ms. J.C. Namchy - Assistant Director

2. The Committee considered the following memoranda regarding dropping of assurances:-
Memorandum NO.37 Request for dropping of assurance given on 18.05.1995 in reply to USQ No.6284 regarding Contract for Offshore Platform Project of ONGC.

The Committee took up for consideration the aforesaid request for dropping of the assurance in pursuance of the communication received from the Ministry of Parliamentary Affairs vide their UO Note No.Xiii/ST(7)USQ-6284-LS/95 dated 09.07.1999 forwarding therewith a copy of the request of the Ministry of Surface Transport to drop the assurance. The plea for dropping of the assurance was that the information which the Ministry of Surface Transport had furnished to the House (vide SS No.XVI/II on 07.12.1998) was complete and full, and final implementation report in respect of the assurance in question had been sent to the Committee. As regards parts (e) and (f) of the question, the Ministry had decided to entrust it on January 12, 1998 to CVC for further necessary action.

The Committee did not accede to the request for dropping of the assurance and desired to know about the outcome of the enquiry being conducted by Central Vigilance Commission. The Committee also desired that time limit should be fixed for implementation of all assurances and MPA be informed accordingly.

Memorandum No.38 Request for dropping of assurance given on 06.08.1997 in reply to SQ No.201 regarding HUDCO.

The above request was for dropping of the assurance given by the then Prime Minister to a supplementary raised by Shri Jag Mohan, MP with regard to non-payment by HUDCO for extra load

generated in case of peripheral services like water, electricity, sewer and road while developing community centre complex at the cost of Sadiq Nagar. The request of the Ministry of Parliamentary Affairs vide their UO No. V/U.A.&E.(15)SQ.201-LS/97 dated February 23, 1998 is as under:-

“We have requested Shri Jagmohan to indicate the issues which he would like to discuss either with Hon’ble Minister of State for Urban Affairs and Employment or with the Hon’ble Prime Minister vide DO letter dated October 31, 1997. Shri Jagmohan was again requested vide DO letter dated December 24, 1997 but there is no response from him so far. In view of his not showing any inclination to discuss the matter, no further action may be possible. It was requested that this assurance may be dropped.”

The above request was followed by a letter from the then Minister of State for Railways, Parliamentary Affairs and Planning & Programme Implementation vide his DO 4(1)/99-Imp-I dated March 01, 1999 addressed to the Chairman, Committee on Government Assurances for dropping of the assurance on the same ground as mentioned above.

The Committee acceded to the request of the Minister for dropping of the assurance. Memorandum No.39 Request for dropping of assurance given on 20.12.1995 to USQ No.3608 regarding Company Secretaries Act.

The Company took up for consideration the aforesaid request for dropping of the assurance in pursuance of the DO No.4(1)/99-Imp.I dated March 01, 1999 from the then Minister of Railways, Parliamentary Affairs and Planning and Programme Implementation to the Chairman, CGA on the following grounds mentioned by the Ministry of Law, Justice & Company Affairs:-

“The proposal to amend the said Act involves in depth deliberations with the Institute of Company Secretaries of India and also with Institute of Chartered Accountants of Indian and also Institute of the Cost and Works Accountants of India. The proposal also require to be examined in consultation with the Legislative Department before the Cabinet approval is obtained.

In view of the position explained above, the Ministry of Parliamentary Affairs is requested to move the Committee on Parliamentary Assurances and request them to drop the assurance.”

The Committee agreed with the views expressed by the Ministry and acceded to the request of the Ministry for dropping of the assurance.

Memorandum No.40 Request for dropping of assurance given on December 12, 1996 in reply to USQ No.2920 regarding Facilities to Class III and IV Employees.

The Committee considered the above memorandum in pursuance of the Ministry of Parliamentary Affairs UO Note No.III/Communication(37) USQ-2920-LS/96 dated 24.03.1999 forwarding therewith a request of the Ministry of Communications for dropping of the assurance on the following grounds:-

“that the matter is still pending with the Hon’ble CAT, New Delhi vide OA No.754/96 and it is difficult to predict the time-frame as to when the judgement would be received and assurance fulfilled. It is, therefore, proposed to request to drop this matter.”

In their latest communication dated 05.09.2000 addressed to the Ministry of Parliamentary Affairs, the Ministry of Communications have forwarded an advance copy of Implementation Report wherein it has been stated that group ‘C’ and ‘D’ employees earlier on deemed deputation from DOT have since been absorbed in MTNL as per the option exercised with effect from 01.11.1998.

The Committee were of the view that the Ministry of Communications be asked to furnish the latest position with regard to facilities provided to those absorbed Class C and D employees in MTNL in Bombay and Delhi, the case of which was pending before CAT vide OA No.754/96. The request for dropping of the assurance could be considered after hearing from the Ministry.

Memorandum No.41 Request for dropping of assurance given on May 05, 1989 and July 21, 1989 in reply to USQ No.8256 and 633 respectively regarding Implementation of Central Taxation Laws in Sikkim.

The Committee took up the above Memorandum containing the request of the Ministry of Finance through Ministry of Parliamentary Affairs vide their UO Note Nos.XIV/Fin.(6) USQ No.633-LS/89 dated 13.06.97 and XIII/Fin(92) USQ No.8256-LS/89 dated 13.06.97 respectively to drop the assurance to drop the assurance on the following grounds:-

“that the State Government had requested to defer the extension of Direct Tax Laws in Sikkim. The Committee on Government Assurances last discussed the matter with officials of CBDT and the State Government at a meeting held at Gangtok on January 17, 1996, wherein various issues were explained. In the course of discussion, the Committee also handed over a list of points for clarifications, the clarifications have since been furnished (Annexure). It may be mentioned here that the Assurance was given in Eighth Lok Sabha during its XIV Session in 1989. The Assurance has been pending for a long time and the Department of Revenue has sought repeated extensions. In the circumstances, the seeking of extension of time for fulfilling the assurance is not serving any purpose and it would therefore, be appropriate to drop the assurance.”

The Committee were apprised through written clarifications that writ petitions challenging the constitutional validity of extension of the direct tax laws in Sikkim were filed in the High Courts of Calcutta and Sikkim and that in the writ petition filed by Anjan Banerjee (CO No.8509(W) of 1992), the Calcutta High Court had upheld the constitutional validity of the extension of the direct tax laws in the State of Sikkim and that High Court also refused to stay the operation of its order. The Committee were also informed that the matter was, however, pending in appeal before a Division Bench of Calcutta High Court. According to communication received from the Ministry of Finance vide their OM No.155/66/89-TPI(PE) dated 27.09.2000, all the Writ Petitions in the Division Bench of Calcutta High Court and the Sikkim High Court are pending. It has also been mentioned that the original suit filed by the State of Sikkim in the Supreme Court for the same is also pending.

The Committee did not agree to drop the assurance. The Committee desired that the necessary steps to have the matter expedited may be taken by the Ministry so that the petitions are settled early in the Courts. They were of the view that a progress report may be obtained with regard to writ petitions pending in High Courts and Supreme Courts.

Memorandum No.42 Request for dropping of assurance given on August 03, 1994 in reply to USQ No.1553 regarding Corruption cases against IAS/IPS Officers.

The Committee considered the above Memorandum containing the request of Ministry of Personnel & Public Grievances vide D.O. No.124/2/94-AVD.I dated January 19, 2000 for dropping of the assurance on the grounds that out of 27 prosecution/departmental cases mentioned in reply to the said Parliament Question, 25 have been disposed of after August 03, 1994 indicating that substantial progress towards implementation of the said Assurance has been made.

The Committee were further informed vide D.O. No.124/2/94-AVD.I dated July 14, 2000 received from the Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions that the relevant file of the case Shri B.M. Vohra has been submitted for obtaining orders/decisions of the Competent Disciplinary Authority so as to enable them to pass final orders in that case. Regarding the case of Shri A.K. Tripathi, it has been stated vide D.O. No.124/2/94-AVD.I dated September 26, 2000 that the views of the State Government as obtained were examined further by the Department and in their reconsidered advice the CVC has advised to initiate departmental action against the Officer, instead of prosecuting him. The Government of Orissa (being the competent authority) is to be advised shortly to initiate departmental action against Shri Tripathi.

The Committee did not accede to the request advanced by the Ministry to drop the assurance and desired to know the latest position as also the action taken in disposing of each case.

Memorandum No.43 Request for dropping of assurance given on March 01, 1999 in reply to USQ No.841 regarding Delhi Zoo.

The Committee took up the above memorandum for dropping of the assurance in pursuance of a request from Ministry of Environment and Forests duly forwarded by Ministry of Parliamentary Affairs vide their U.O. No.IV/Environment and Forests(1)USQ-841-LS/99 dated November 22, 1999 on the following grounds:-

“that the reply of the Lok Sabha Unstarred Question No.841 is a mere statement of fact and the Central Government has not even taken a final view on granting autonomy to Delhi Zoo.

The Ministry of Parliamentary Affairs is accordingly, requested to kindly drop this assurance.”

The Committee acceded to the request of the Ministry to drop the assurance.

Memorandum No.44, 45 & 46 Request for dropping of assurances given on December 13, 1991, September 06, 1996 and November 21, 1997 in reply to USQ Nos.3652, 4544 and 662 respectively regarding All India Judicial Service.

The Committee took up the above mentioned three requests for dropping of the assurances as these pertained to the same subject in pursuance of a request received from the then Minister of State for Railways, Parliamentary Affairs and Planning and Programme Implementation addressed to the Chairman, Committee on Government Assurances on the grounds that the subject matter related to policy matter on which no decision could be taken as complete information was awaited from some State Governments and High Courts.

The Committee agreed to drop all the above mentioned assurances.

Thereafter the Committee considered the Tentative Tour Programme to visit Patna, Lucknow and Bhopal w.e.f. October 19 to 24, 2000. The Committee decided to assemble in Delhi on October 18, 2000 instead of Patna on October 19, 2000.

The Committee then adjourned.

**MINUTES
SECOND SITTING**

Minutes of the Second sitting of the Committee on Government Assurances held on March 19, 2002 in Chairman's Room No.133, First Floor, Parliament House Annexe, New Delhi.

The Committee met from 1300 hours to 1530 hours on Tuesday, March 19, 2002.

PRESENT

Dr. S. Venugopal - Chairman

Members

2. Adv. Uttamrao Dhikale
3. Shri Kishan Singh Sangwan
4. Shri Raghuraj Singh Shakya
5. Shri Bahadur Singh
6. Shri Tarlochan Singh Tur

SECRETARIAT

1. Shri A.K. Singh, Deputy Secretary
2. Ms. J.C. Namchy, Assistant Director

The Committee considered draft Seventh Report and adopted the same.

The Committee authorized the Chairman to present the Report on March 22, 2002.

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The Committee then adjourned.

II SESSION, 1991 OF TENTH LOK SABHA
MINISTRY OF LAW & JUSTICE
(DEPARTMENT OF JUSTICE)

Question No. & Date & Name of M.P.	Subject	Promise made	When & How fulfilled	Reason for delay
USQ No.3652, dated 13.12.91 S/Shri P.C. Thomas & P.M. Sayeed, MP	<p>ALL INDIA JUDICIAL SERVICE</p> <p>Asking:-</p> <p>(a) whether the Supreme Court has asked the Union Government to constitute an All India Judicial Service;</p> <p>(b) if so, the action taken by the Government in this regard; and</p> <p>(c) the time by which it is likely to be constituted?</p> <p>PARTLY IMPLEMENTED ON 06.08.97 VIDE SS XXXI/2</p>	(a) to (c): It was <i>inter-alia</i> stated, “The matter is being examined.”	The Supreme Court of India in W.P. (Civil) No.1022/89 between the All India Judges Association vs. GOI in its judgement dated 13.11.91 has given a direction to take immediate measures for setting up of an All India Judicial Service. Since a Resolution will have to be moved in the Rajya Sabha in this regard, the views of the State Governments/High Courts in the matter have been sought. So far, 23 States have sent their comments. Comments are awaited from the Governments of Meghalaya and Bihar. The State Governments of Goa, UP, Mizoram, Punjab, Kerala, Tripura, Sikkim, MP and Orissa concur to the setting up of an All India Judicial Service. The Governments of HP, Haryana, Tamilnadu, Maharashtra, West Bengal, Assam and Rajasthan have given conditional endorsement to the proposal. The State Governments of Arunachal Pradesh, Nagaland, Karnataka, Gujarat, J&K, Manipur	Comments/views of the State Government High Courts had to be obtained.

			<p>and Andhra Pradesh have not favoured the setting up of an All India Judicial Service. Of the 18 High Courts, this Department has received the views/comments of 18 High Courts. Views of Calcutta and J&K High Courts are awaited. The High Courts of Allahabad, Patna, Gauhati and Rajasthan have favoured the setting up of All India Judicial Service. The High Courts of Orissa, Sikkim, AP and Kerala have given their conditional approval to the proposal. The High Courts of Mumbai, Karnataka, Gujarat, Delhi & MP have no views to offer in this regard in the light of the Supreme Court Judgement. The High Court of HP, Punjab & Haryana and Madras have not been favoured the setting up of All India Judicial Service.</p>	
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MINISTRY OF LAW & JUSTICE
(DEPARTMENT OF JUSTICE)

Question No. & Date & Name of M.P.	Subject	Promise made	When & How fulfilled	Reason for delay
USQ No.4544, dated 06.09.96 Shri R. Sambasiva Rao, MP	<p>ALL INDIA JUDICIAL SERVICE</p> <p>(a) whether the Law Commission in its 116th Report has recommended for formation of All India Judicial Services;</p> <p>(b) if so, whether the Supreme Court in its judgement dated 10.04.95 has directed the Union Government to take remedial steps for implementation of the directions to achieve the objective of setting up of an All India Judicial Service; and</p> <p>(c) if so, the steps taken so far by the Government in this regard?</p>	(c): It was <i>inter-alia</i> stated, “Before such a Resolution is moved, the views of the State Government and High Courts have been sought with regard to the Constitution of an All India Judicial Service. Comments/ views from the High Courts of Calcutta, Madras & J&K and the State Governments of Bihar, Meghalaya, J&K and Rajasthan are still awaited.”	So far 23 States have sent their comments. Comments awaited from the Governments of Meghalaya and Bihar. The State Governments of Goa, UP, Mizoram, Punjab, Kerala, Tripura, Sikkim, MP and Orissa concur to the setting up of an All India Judicial Service. The Governments of HP, Haryana, Tamilnadu, Maharashtra, West Bengal, Assam and Rajasthan have given a conditional endorsement to the proposal. The State Governments of Arunahcal Pradesh, Nagaland, Karnataka, Gujarat, J&K, Manipur and Andhra Pradesh have not favoured the setting up of an All India Judicial Service. Of the 18 High Courts, this Department has received the views/comments of 16 High Courts. Views of Calcutta and	Comments/ views of the State Government High Courts had to be obtained.

			<p>J&K High Courts are awaited. The High Courts of Allahabad, Patna, Guwahati and Rajasthan have favoured the setting up of All India Judicial Service. The High Courts of Orissa, Sikkim, AP and Kerala have given their conditional approval to the proposal. The High Courts of Mumbai, Karnataka, Gujarat, Delhi and MP have no views to offer in this regard in the light of the Supreme Court Judgement. The High Court of HP, Punjab and Haryana and Madras have not favoured the setting up of All India Judicial Service.</p>	
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