

**GOVERNMENT OF INDIA
HOME AFFAIRS
LOK SABHA**

UNSTARRED QUESTION NO:2420
ANSWERED ON:04.08.2015
Model Police Act
Mani Shri Jose K.

Will the Minister of HOME AFFAIRS be pleased to state:

- (a) whether the Supreme Court has directed the Union and the State Governments in 2006 to prepare a new Model Police Act;
- (b) if so, the details thereof and the reaction of the Union and the State Governments thereto;
- (c) whether the above directions covered in its ambit setting up of three institutions like State Security Commissions to insulate the State Police from extraneous pressures, Police Establishment Board and Police Complaint Redressal Wings and if so, the details thereof;
- (d) whether the deadline for compliance with these directions originally set for 31 December 2006 was later extended to March 31, 2007; and
- (e) if so, the status of the above directives?

Answer

MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS
(SHRI HARIBHAI PARATHIBHAI CHAUDHARY)

- (a) to (e): No, Madam. The Hon'ble Supreme Court of India passed a judgement on 22nd September, 2006 in writ petition (Civil) No. 310 of 1996-Prakash Singh & Others on several issues concerning Police Reforms and functioning of Police in the States. The directions are as follows:-
- (i) Constitute a State Security Commission on any of the models recommended by the National Human Right Commission, the Reberio Committee or the Sorabjee Committee.

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- (ii) Selection of the Director General of Police of the State from amongst three senior-most officers of the Department empaneled for promotion to that rank by the Union Public Service Commission and once selected, provide a minimum tenure of at least two years irrespective of date of superannuation.
- (iii) Prescribe minimum tenure of two years to the police officers on operational duties.
- (iv) Separate investigating police from 'law and order' police, starting with towns/urban areas having population of ten lakhs or more, and gradually extend to smaller towns/urban areas also.
- (v) Set up Police Establishment Board at State level for inter alia deciding all transfers postings, promotions and other service related matters of officers of and below the rank of Deputy Superintendent of Police.
- (vi) Constitute Police Complaints Authorities at the State and District level for looking into complaints against police officers.
- (vii) Set up a National Security Commission at the Union level to prepare a panel for being placed before the appropriate Appointing Authority, for selection and placement of chiefs of the Central Police Organisations (CPO) who should also be given a minimum tenure of two years.

"Public Order" and "Police" are "State subjects" falling in Entry 1 & 2 of List-II of the Seventh Schedule of the Constitution of India and therefore, the responsibility for implementation of the directions of the Hon'ble Supreme Court falls within the domain of the State Governments/Union Territories (UTs) Administrations. The directives of the Hon'ble Supreme Court had been forwarded to the State Governments/UT Administrations for implementation.

Out of the above seven directives, the first six were meant for the State Governments and UTs while the seventh directive related solely to the Central Government. So far as Central Government and UTs are concerned, there has been a significant and substantial compliance of the directions of Hon'ble Supreme Court. The details of the implementation of the first six directives in respect of UTs

and Seventh directive in respect of Union Government are at Annexure-I.

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Annexure-ItoLok Sabha Unstarred Question No. 2420 for 4.8.2015.

(A) Compliance of Supreme Court directions in respect of the Union Territories (UTs).

In so far as implementation of first six directives in respect of UTs is concerned, the position varies widely in respect of UTs due to their unique characteristics in terms of legal, administrative and demographic profiles. The Ministry of Home Affairs filed an application dated 12.2.2007 in respect of UTs in the Hon'ble Court stating the difficulties in the implementation of its directions and sought modification of orders dated 22.9.2006 and 11.1.2007. The latest status of action taken to implement the directions of the Hon'ble Supreme Court in respect of UTs, pending disposal of said application is as under :-

(a) Security Commission

(i) Ministry of Home Affairs vide its O.M. dated 01.01.2011 constituted one security commission for N.C.T. of Delhi and another for remaining six Union Territories. Five meetings of the Security Commission of NCT of Delhi have been held so far.

(ii) The first meeting of the Security Commission for all the UTs except GNCT of Delhi was held under the chairmanship of Home Secretary on 18.01.2013 at Port Blair, Andaman and Nicobar Island. It was, inter alia, decided in the aforesaid meeting that instead of having a single Security Commission, separate Security Commission for each UT should be constituted.

(iii) Accordingly, MHA vide its O.M. No. 14040/127/2010-UTP dated 07.02.2013 has constituted separate Security Commission for each of the following UTs:-

(a) Andaman & Nicobar (b) Lakshadweep (c) Daman & Diu (d) Dadra & Nagar Haveli (e) Chandigarh (f) Puducherry

(iv) The composition of the Security Commission is as under:-

i) Union Home Secretary- Chairman

ii) Chief Secretary/Administrator of the respective UT - Member

iii) Independent Member for the respective Union Territory- Member

iv) Joint Secretary (UT)- Convener.

(v) Separate meetings of the Security Commission in respect of each UT viz. Lakshadweep, Puducherry, Daman & Diu and Dadra & Nagar Haveli and Chandigarh were held on 13th February, 2013, 12th August, 2013, 12th September, 2013 and 11th October, 2013 respectively under the Chairmanship of Home Secretary.

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(b) Police Complaint Authority

All the Union Territories have put in place the appropriate mechanism in relation to Police Complaints Authority. The details are as under

(i) The GNCT of Delhi designated the Public Grievances Commission of Delhi as the Police Complaint Authority on 15.3.2012.

(ii) The Government of Puducherry vide its notification dated 03.01.2011 constituted the Police Complaints Authority.

(iii) The UT administration Daman & Diu and Dadra & Nagar Haveli vide their notification dated 10.8.2011 constituted the Police Complaints Authority.

(iv) The Chandigarh Administration vide its notification dated 08.11.2013 constituted the Police Complaints Authority.

(v) The Lakshadweep Administration vide its order dated 18.3.2007 constituted the Police Complaints Authority.

(vi) The Andaman & Nicobar Administration vide its notification dated 18.10.2011 constituted the Police Complaints Authority.

(c) Selection/tenure of DGP and key functionaries

With regard to direction pertaining to selection methodology, minimum tenure of DGP and minimum tenure of key functionaries such as Zonal IGS, range DIGs, district SPs and SHOs, the status is as under:

(i) The stand taken by the State Governments for selection of DGPs is that being the elected Governments they are responsible to the people for law & order. Therefore, they must have the right to select the DGPs. With the approval of Home Minister, it was decided to take a similar stand in respect of AGMUT cadre Police Officers appointed by the Ministry of Home Affairs.

(ii) the senior level of police functionaries would have minimum tenure of two years in the constituents, as far as possible;

(iii) The UTs have been advised vide this Ministry's letter dated 12.2.2007 to ensure that the tenure of key police functionaries is kept, as far as possible, at a minimum of two years.

(iv) In respect of Delhi, minimum tenure of two years may be proposed, subject to attaining the age of superannuation, for key functionaries, including the Commissioner of Police, Joint Commissioner of Police in charge of a Range, District DCP and SHO at the stage of legislation;

(v) As regards DANIPS officers, the DANIPS Rules have been amended on 29.03.2010 to provide for a minimum tenure of two years for key functionaries;

(vi) As regards Chandigarh, the Punjab Police Act, 2007, as extended to Chandigarh, provides for a minimum tenure of two years for the key functionaries.

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(d) Separation of Investigation:

- (i) As per direction of the Hon'ble Supreme Court, the separation has to start in towns/urban areas having population of 10 lakh or more. In so far as Union territories are concerned, only Delhi qualifies under this criterion. It has been implemented in Delhi and separate IO is appointed;
- (ii) At the stage of legislation, creation of Crime Investigation Units in all police stations for investigations of economic and heinous crimes may be proposed.
- (iii) An enabling provision has already been made in the Punjab Police Act, 2007 as extended to Chandigarh, regarding creation of Crime Investigation Units in police stations in the UT of Chandigarh;
- (iv) In the UT of Puducherry, in major Police Stations, this arrangement is already in place.

(e) Police Establishment Board

The Status of Police Establishment Board in the UTs is as under:

- (i) All the UTs have set up Police Establishment Boards as per availability of officers in a particular UT;
- (ii) The Constitution of Police Establishment Board, Zonal Establishment Committee and District Police Establishment Committee is likely to be proposed at the stage of legislation;
- (iii) The Punjab Police Act, 2007 as extended to Chandigarh, provides for constitution of the Police Establishment Committee in respect of Chandigarh.

Thus in UTs, there has been a significant and substantial compliance by the Government of India except only those issues in which appropriate clarification and modifications have been sought in application dated 12.2.2007 before Supreme Court.

(B) Compliance of seventh directive by Union of India in respect of Supreme Court's Judgment dated 22.9.2006.

Regarding the seventh directive of the Hon'ble Supreme Court regarding setting up of National Security Commission at Union level, the Union Government has constituted a Committee on National Security and Central Police Personnel Welfare on 02.01.2007 under the Chairmanship of the Union Home Minister to prepare panels for the appointment of Chiefs of Central Para Military Forces (CPMFs) and consider other issues pertaining to the service conditions of CPMF personnel. An Interlocutory Application was also filed before the Supreme Court on 12.02.2007, apprising the progress made, and inter alia, seeking directions, if any, from the Hon'ble Supreme Court.
