

COMMITTEE ON SUBORDINATE LEGISLATION
(2017-2018)

(SIXTEENTH LOK SABHA)

TWENTY SEVENTH REPORT

**[Action Taken by Government on the Observations/Recommendations contained in the
Twenty-second Report of the Committee on Subordinate Legislation (Sixteenth Lok Sabha)**

(PRESENTED TO LOK SABHA ON 7.2.2018)



LOK SABHA SECRETARIAT

NEW DELHI

February, 2018/Magha, 1939 (Saka)

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**COMPOSITION OF THE COMMITTEE ON SUBORDINATE LEGISLATION
(16th LOK SABHA)
(2017-2018)**

1. Shri Dilipkumar Mansukhlal Gandhi Chairperson

MEMBERS

2. Shri Idris Ali
3. Shri Birendra Kumar Choudhary
4. Shri S. P. Muddahanumegowda
5. Shri Shyama Charan Gupta
6. Shri Jhina Hikaka
7. Shri Janardan Mishra
8. Shri Prem Das Rai
9. Shri Chandul Lal Sahu
10. Shri Alok Sanjar
11. Shri Ram Prasad Sarmah
12. Adv. Narendra Keshav Sawaikar
13. Shri V. Panneer Selvam
14. Shri Ram Kumar Sharma
15. Shri Nandi Yellaiah

SECRETARIAT

1. Smt. Sudesh Luthra - Additional Secretary
2. Shri Ajay Kumar Garg - Director
3. Smt. Jagriti Tewatia - Deputy Secretary

INTRODUCTION

I, the Chairperson, Committee on Subordinate Legislation having been authorised by the Committee to submit the report on their behalf, present this Twenty-seventh Report.

2. This Report relates to the action taken on the Observations/Recommendations contained in the Twenty-second Report (2016-2017) (Sixteenth Lok Sabha) which was presented to Lok Sabha on 10.08.2017.

3. The Committee considered and adopted this Report at their sitting held on 30.1.2018.

4. The summary of recommendations contained in the Twenty-second Report and action taken reply of the Government thereon have been reproduced in Appendix I of the Report.

5. The Extracts of the Minutes of the sitting of the Committee relevant to this report are brought out in Appendix II.

6. An analysis of action taken by the Government on the recommendations contained in the Twenty-second Report of Committee on Subordinate Legislation (Sixteenth Lok Sabha) is given in Appendix III.

New Delhi;
30 January, 2018
10 Magha, 1939 (Saka)

DILIPKUMAR MANSUKHLAL GANDHI
Chairperson,
Committee on Subordinate Legislation

REPORT

This Report of the Committee on Subordinate Legislation (2017-18) deals with the action taken by the Government on the observations/recommendations contained in Twenty-second Report (Sixteenth Lok Sabha) of the Committee which was presented to Lok Sabha on 10.08.2017. The Twenty-second Report dealt with the following subjects :-

- I. The Cardamom (Licensing and Marketing) (Amendment) Rules, 2014 (GSR 816-E).
 - II. The National Legal Services Authorities (Amendment) Rules, 2015 (GSR 75-E).
2. The shortcomings observed in the above rules are contained in paras 1.3 and 1.4 of chapter I and paras 2.4 and 2.5 of chapter II of the 22nd Report which after presentation was forwarded to the concerned Ministries for implementation of the recommendations contained therein. The Ministries viz. Ministries of Commerce and Industry (Department of Commerce) and Law and Justice (Department of Justice) furnished their action taken replies in respect of all the four observations/recommendations contained in the Twenty-second Report on 14.11.2017 and 23.8.2017 respectively.
3. The aforesaid Ministries/Departments have accepted all the observations/recommendations made in the Report. A statement showing the Action Taken by the Government on the recommendations contained in the Twenty-second Report is given in Appendix-I.
4. The Committee will now deal with the action taken by the Government on recommendations contained in Paras 1.3 and 1.4 of the Report which have been accepted but whose implementation has not been completed by the Ministry of Commerce and Industry (Department of Commerce).
5. The Committee had given following recommendations in Paras 1.3 and 1.4 of the Report relating to the Cardamom (Licensing and Marketing) (Amendment) Rules, 2014 (GSR 816-E) :-

"The Committee note that the Cardamom (Licensing and Marketing) (Amendment) Rules, 2014 (GSR 816-E of 2014) prescribe for a licence fee of Rs 5000 for manual auction and of Rs 50,000 for e-auction by an auctioneer. On being asked about the precise statutory authority under the Spices Board Act, 1986 for prescribing such licence fee, the Ministry have stated that the said rules have been framed under section 38 of the Spices Board Act to control the trade of Cardamom and authorising Spices Board to issue licence to the Cardamom auctioneers and Cardamom dealers as per the terms and conditions

prescribed in the said Rules. The Ministry have justified the licence fee on the ground that infrastructure for conducting e-auctions which include establishment of auction centres, installation of computer server/terminals etc. is established and maintained by the Board. Moreover, the auctioneers are paid 1% of the total sale value of the cardamom.

(Para 1.3)

The Committee appreciate the efforts made by the Spices Board for introduction of the e-auction system for ensuring more transparency and competitiveness in the auction system. While finding it indisputable that the licence fee has been prescribed to meet the expenditure incurred on maintenance of infrastructure for conducting e-auction, the Committee are of the considered opinion that for imposition of licence fee etc., there has to be an express authorization in the parent Act. The Committee have time and again emphasised that the substantive matters like imposition of fee, levy of taxes, penalties, etc, should have been provided for in the parent Act itself. The Committee, therefore, recommend that the Ministry in consultation with the Ministry of Law and Justice may bring out suitable amendment in the Spices Board Act, 1986 to incorporate the provision for prescribing licence fee under the Act.

(Para 1.4)

6. The Ministry of Commerce and Industry (Department of Commerce) in their reply dated 14.11.2017 have stated as follows :-

"The matter has been examined in the Department in consultation with Spices Board. It has been observed that as pointed out by the Committee, there is no express authorization in the Spices Board Act, 1986 (parent Act) for imposition of licence fee on auctioneers for manual auction and e-auction of cardamom and has been decided to bring out suitable amendment in the Spices Board Act, 1986 to incorporate the provision for prescribing licence fee for conducting cardamom auctions.

Bringing out amendment in the Act is likely to take some time and it may not be possible for this Department to implement the recommendation of the Committee within the prescribed time time i.e by 10.2.2018.

In view of the above, Lok Sabha Secretariat is requested to grant six months extension of time beyond 10.2.2018 for implementing the recommendation of the Committee".

7. The Committee note with satisfaction that the Ministry of Commerce and Industry (Department of Commerce) have accepted the recommendation made by the Committee and decided to bring out suitable amendment in the Spices Board Act, 1986 to incorporate the provision for prescribing licence fee for conducting cardamom auctions. In this regard, the Committee note that the Ministry have sought six month extension of time beyond 10.2.2018 for bringing out the requisite amendment in the Act. The Committee, therefore, desire that the Ministry should ensure bringing out the necessary amendment in the Act and notify the same by August, 2018 positively. The Committee would like to be apprised of the final action taken in the matter.

New Delhi;
30 January, 2018
10 Magha, 1939 (Saka)

DILIPKUMAR MANSUKHLAL GANDHI
Chairperson,
Committee on Subordinate Legislation

APPENDIX I

(vide Para 4 of Introduction of the Report)

STATEMENT SHOWING THE ACTION TAKEN BY THE GOVERNMENT ON THE OBSERVATION/RECOMMENDATION CONTAINED IN THE TWENTY SECOND REPORT

- I. **The Cardamom (Licensing and Marketing) (Amendment) Rules, 2014 (GSR 816-E).**

(Please see Para 5 to 7 of the Report)

- II. **The National Legal Services Authorities (Amendment) Rules, 2015 (GSR 75-E of 2015)**

Observation/Recommendations of the Committee

2.4 The Committee note that the National Legal Services Authorities (Amendment) Rules, 2015 were not laid on the Table of the House although the same were mandated to be laid as per the provisions contained in Section 27 of the Legal Services Authorities Act, 1987 which require that every rule made by the Central Government under the Act should be laid before each House of the Parliament 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 Session. However, in complete disregard to this important provision contained in the Act, the Committee take serious note of the casual reply of the Ministry of Law & Justice (Department of Justice) that the Rules could not be laid as the subject 'Legal Aid to Poor' and Matters related to the National Legal Services Authority (NALSA) was transferred from Department of Legal Affairs to Department of Justice in November, 2014 without supporting staff and Department of Justice had no staff to handle the additional work. Moreover, even after being pointed out, the Ministry have not bothered to initiate the procedure for laying the above Rules on the Table of the House. This speaks volumes about the functioning of a Ministry that too, the 'Ministry of Law & Justice' in complying with the statutory requirements which is an important tool in fulfilling the accountability of the Executive to the Legislature thereby defeating the very purpose of incorporation of laying provision in various Acts of the Parliament. The Committee strongly disapprove this complete lack of monitoring at the senior level in the Ministry.

(Para 2.4 of the Report)

2.5 The Committee while deprecating the state of affairs prevailing in the Ministry of Law & Justice (Department of Justice) recommend that urgent action may be taken to lay the National Legal Services Authorities (Amendment) Rules, 2015 in the House at the first available opportunity. Not only that, the entire issue may be looked into and accountability must be fixed on the delinquent officers responsible for the lapse. The Committee further recommend that a fool proof mechanism may be evolved so that such kind of lapses do not recur in the future. The Committee may be apprised of the action taken in this regard.

(Para 2.5 of the Report)

Reply of the Ministry

Vide Bulletin-Part I (Brief Record of Proceedings) dated 19.7.2017 of Lok Sabha , the National Legal Services Authorities (Amendment) Rules, 2015 published in Notification No. G.S.R. 75 (E) in Gazette of India dated 5.2.2015 has already been laid on the Table of Lok Sabha on 19.7.2017.

**[The Ministry of Law & Justice (Department of Justice)
OM No. A-60011/1/2014-LAP(JUS)/826 dated 23.8.2017]**

APPENDIX II
(vide Para 5 of Introduction of the Report)

**MINUTES OF THE EIGHTH SITTING OF THE COMMITTEE ON SUBORDINATE
LEGISLATION (2017-2018)**

—

The Eighth sitting of the Committee (2017-18) was held on Tuesday, the 30th January, 2018 from 1500 hours to 1600 hours in Committee Room 'B', Parliament House Annexe, New Delhi.

PRESENT

Shri Dilipkumar Mansukhlal Gandhi Chairperson

MEMBERS

2. Shri Birendra Kumar Chaudhary
3. Shri Shyama Charan Gupta
4. Shri Janardan Mishra
5. Shri Chandulal Sahu
6. Shri Alok Sanjar
7. Shri Nandi Yellaiah

SECRETARIAT

1. Smt Sudesh Luthra - Additional Secretary
2. Shri Ajay Kumar Garg - Director
3. Shri Nabin Kumar Jha - Additional Director
4. Smt Jagriti Tewatia - Deputy Secretary

2. At the outset, the Chairperson welcomed the Members to the sitting of the Committee. The Committee then considered the following draft Reports:-

- (i) Draft Twenty-sixth Report on the Rules/Regulations framed under All India Institute of Medical Sciences Act, 1956.
- (ii) Draft Twenty-seventh Action Taken Report on the Observations/ Recommendations contained in the 22nd Report of the Committee on Subordinate Legislation (16th Lok Sabha).

3. After deliberations, the Committee adopted the same without any modification. The Committee also authorized the Chairperson to present the same to the House. The Committee then adjourned.

APPENDIX III
(vide Para 5 of Introduction of the Report)

**ANALYSIS OF THE ACTION TAKEN BY THE GOVERNMENT ON THE
OBSERVATIONS/RECOMMENDATIONS CONTAINED IN THE
TWENTY SECOND REPORT OF THE COMMITTEE ON
SUBORDINATE LEGISLATION
(SIXTEENTH LOK SABHA)**

I.	Total No. of observations/recommendations made	4
II.	Recommendations that have been accepted by the Government [<u>vide</u> recommendations at Sl. Nos.1.3, 1.4, 2.4 and 2.5]	4
III.	No. of recommendations which the Committee do not want to pursue in view of Government reply	Nil
IV.	Percentage of recommendations accepted	100%