PREFACE

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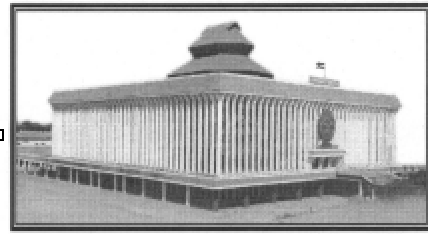


Rethinking Water Management issues

Chetan Pandit & Asit K. Biswas

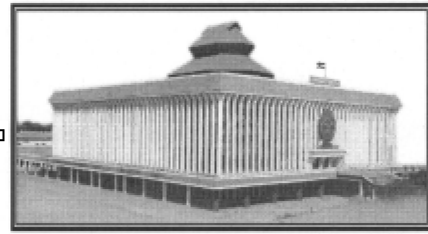
In December 2018, NITI Aayog released its 'Strategy for New India @75' which defined clear objectives for 2022-23, with an overview of 41 distinct areas. In this document, however, the strategy for 'water resources' is as insipid and unrealistic as the successive National Water Policies (NWP). Effective strategic planning must satisfy three essential requirements. One, acknowledge and analyse past failures; two, suggest realistic and implementable goals; and three, stipulate who will do what, and within what time frame. The 'strategy' for water fails on all three counts.

No new vision

The document reiterates two failed ideas: adopting an integrated river basin management approach, and setting up of river basin organisations (RBOs) for major basins. The integrated management concept has been around for 70 years, but not even one moderate size basin has been managed thus anywhere in the world. And 32 years after the NWP of 1987 recommended RBOs, not a single one has been established for any major basin.

The water resources regulatory authority is another failed idea. Maharashtra established a water resources regulatory authority in 2005. But far from an improvement in managing resources, water management in Maharashtra has gone from bad to worse. Without analysing why the WRA already established has failed, the recommendation to establish water resources regulatory authorities is inexcusable.

The strategy document notes that there is a huge gap between irrigation potential created and utilised, and recommends that the Water Ministry draw up an action plan to complete command area development (CAD) works to reduce the gap. Again, a recommendation is made without analysing why CAD works 'remain incomplete, that too despite having a CAD authority as an integral component of the ministry.

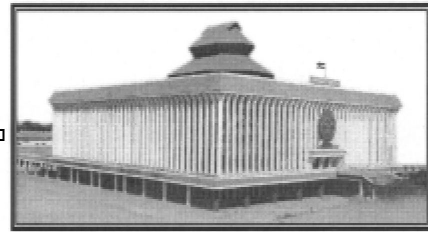


Goals include providing adequate and safe piped water supply to all citizens and livestock; providing irrigation to all farms; providing water to industries; ensuring continuous and clean flow in the "Ganga and other rivers along with their tributaries", i.e. in all Indian rivers; assuring long-term sustainability of groundwater; safeguarding proper operation and maintenance of water infrastructure; utilising surface water resources to the full potential of 690 billion cubic metres; improving on-farm water-use efficiency; and ensuring zero discharge of untreated effluents from industrial units. These goals are not just over ambitious, but absurdly unrealistic, particularly for a five-year window. Not even one of these goals has been achieved in any State in the past 72 years. Some goals, such as 'Har Khet Ko Pani (irrigation to every field), are simply not achievable.

Who is accountable ?

A strategy document must specify who will be responsible and accountable for achieving the specific goals, and in what time-frame. Otherwise, no one will accept the responsibility to carry out various tasks, and nothing will get done. Take one goal: "Encourage industries to utilise recycled/treated water". Merely encouraging someone to do something, is not a "goal". That apart, NITI Aayog does not say who will do this encouraging, and how? Should the State Water Ministries do this by restricting or even withholding recalcitrant industry's access to fresh water? Should the Environment Ministries cancel clearances for industries which do not practise recycling? Or should the Finance Ministries do this through monetary incentives and disincentives? No one knows.

Of the issues listed under constraints' only one, the Easement Act, 1882, which grants groundwater ownership rights to landowners, and has resulted in uncontrolled extractions of groundwater, is actually a constraint. The remaining are not constraints. These are: irrigation potential created but not being used; poor efficiency of irrigation systems; indiscriminate use of water in agriculture; poor implementation and



maintenance of projects; cropping patterns not aligned to agroclimatic zones, subsidised pricing of water; citizens not getting piped water supply; and contamination of groundwater. These are problems, caused by 72 years of mis-governance in the water sector, and remain challenges for the future.

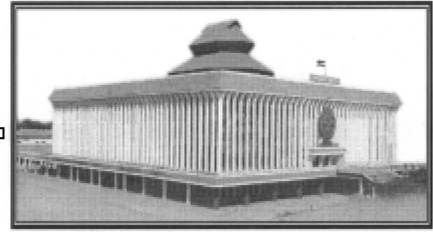
Ideas listed under 'way forward' and 'suggested reforms' do not say how any of these will come about. For example, there is no recommendation to amend the Easement Act, or to stop subsidised/free electricity to farmers. On the contrary, the strategy recommends promoting solar pumps. These are environmentally correct and ease the financial burden on electricity supply agencies. However, the free electricity provided by solar units will further encourage unrestricted pumping of groundwater, and will further aggravate the problem of a steady decline of groundwater levels.

Reforms overlooked

The document fails to identify real constraints. For example, it notes that the Ken-Betwa River interlinking project, the India-Nepal Pancheshwar project, and the Siang project in Northeast India need to be completed. A major roadblock in completion of these projects is public interest litigations filed in the National Green Tribunal, the Supreme Court, or in various High Courts. Unless the government has a plan to arrest the blatant misuse of PIL for environmental posturing, not on these but also other infrastructure projects will remain bogged down in court rooms.

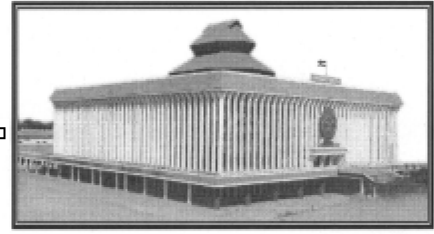
The document takes no cognisance of some real and effective forms that were once put into motion but later got stalled, such as a National Water Framework law, significant amendments to the inter-State River Water Disputes Act, and the Dam Safety Bill.

India's water problems can be solved with existing knowldge technology and available funds But India's water establishment needs to admit that the strategy pursued so far has not worked; Only then can a realistic vision emerge. It is unfortunate that



NITI Aayog has failed to admit this and has prescribed only a continuation of past failed policies. Far from solving our water problems, this helps India to continue walking on the unsustainable path it has pursued for decades.

The Hindu,
9 October 2019.



Making Political Parties accountable

Anmolam & Shivam

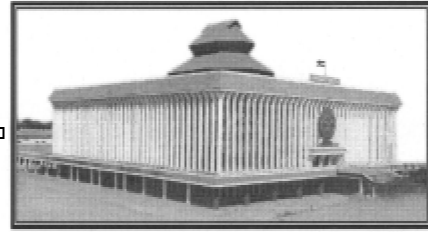
Recently, the Supreme Court in *D.A.V. College Trust and Management Society Vs. Director of Public Instructions* held, that non-governmental organisations which were substantially financed by the appropriate government fall within the ambit of 'public authority' under Section 2(h) of the Right to Information Act, 2005. Under this section of the RTI Act, 'public authority' means "any authority or body or institution of self-government established or constituted by or under the Constitution and included any non-government organisation substantially financed directly or indirectly by funds provided by the appropriate government".

Wide ramifications

Owing to the reasoning given by the court, the judgment can potentially have wide ramifications in the discourse pertaining to the ambit of the RTI regime on national political parties.

In D.A.V., the top court held that substantial' means a large portion which can be both, direct or indirect. It need not be a major portion or more than 50% as no strait jacket formula can be resorted to in this regard. For instance, if land in a city is given free of cost or at a heavily subsidised rate to hospitals, educational institutions or other bodies, it can qualify as substantial financing. The court resorted to 'purposive' interpretation of the provisions by underscoring the need to focus on the larger objective of percolation of benefits of the statue to the masses.

In 2010, the Association for Democratic Reforms (ADR) filed an application under the RTI to all national parties, seeking information about the " 10 maximum voluntary contributions" received by them in the past five years. None of the national political parties volunteered to disclose the information. Consequently, ADR and RTI activist Subhash Agarwal filed a petition with the Central Information Commission (CIC).



In 2013, a full bench of the CIC delivered a historic judgment by declaring that all national parties came under 'public authorities' and were within the purview of the RTI Act. Accordingly, they were directed to designate central public information officers (CPIOs) and the appellate authorities at their headquarters within six weeks.

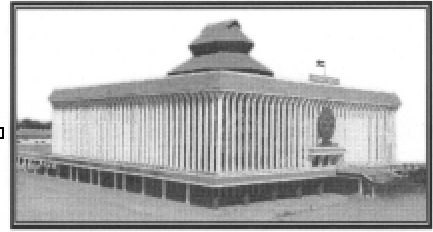
In 2013, The Right to Information (Amendment) Bill was introduced in Parliament to keep political parties explicitly outside the purview of RTI that lapsed after the dissolution of the 15th Lok Sabha. Notwithstanding the binding value of the CIC's order under section 19(7) of the Act, none of the six political parties complied with it. Quite interestingly, all the parties were absent from the hearing when the commission issued show-cause notices for non-compliance at the hearing.

Finally, in 2019, a PIL was filed in the Supreme Court seeking a declaration of political parties as 'public authority' and the matter is sub judice. Irrespective of the ideological differences among these political parties on almost all the issues under the sun, non-compliance of the RTI mandate has been a great unifier.

Drawing an analogy between the Supreme Court's judgment on *D.A.V.* and the political parties' issue which is sub judice, it can be argued that national parties are 'substantially' financed by' the Central government. The various concessions, such as allocation of land, accommodation, bungalows in the national and State capitals, tax exemption against income under Section 13A of the Income Tax Act, free air time on television and radio etc. can easily satisfy the prerequisite of Section 2(h) of the RTI. If an entity gets substantial finance from the government, there is no reason why any citizen cannot ask for information to find out whether his/her money which has been given to the entity is being used for the requisite purpose or not.

On accountability

Applying the purposive rule of interpretation which is discernible from the preamble of the RTI Act, the ultimate aim is the creation of an 'informed' citizenry, containment of corruption and holding of government and its instrumentalities

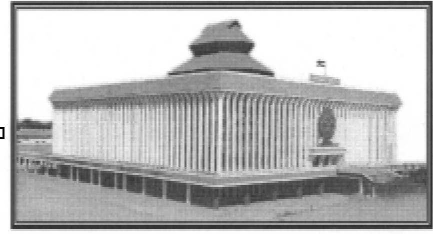


accountable to the governed. Under the anti-defection law, political parties can recommend disqualification of Members of the House in certain eventualities under the Tenth Schedule of the Constitution.

The Law Commission opines that political parties are the lifeblood of our entire constitutional system. Political parties act as a conduit through which interests and issues of the people get represented in Parliament. Since elections are predominantly contested on party lines in our parliamentary democratic polity, the agenda of the potential government is set by them.

As noted by Dr. B.R. Ambedkar in his famous Constituent Assembly speech, "The working of a Constitution does not depend wholly upon the nature of the Constitution. The Constitution can provide only the organs of State ... The factors on which the working of those organs of the State depend are the people and the political parties they will set up as their instruments to carry out their wishes and their politics." It is hoped that the top court will further the positive advances made in this direction. Since sunlight acts as the best disinfectant and our political parties tirelessly claim themselves to be apostles of honesty and integrity, it is expected that they would walk the talk.

The Hindu,
4 October 2019.



A test for judicial review in India

Manuraj Shunmugasundaram

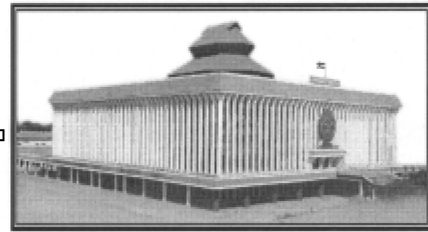
The highest court in the U.K., earlier this month, found that the actions of Prime Minister Boris Johnson to prorogue Parliament were unlawful. The matter had come to be heard before a panel of 11 Justices, the permitted maximum quota of serving Justices, of the Supreme Court. The verdict had the effect of quashing the Queen's order to prorogue Parliament on the advice of the Prime Minister. By doing so, the U.K. Supreme Court asserted its majesty in the constitutional framework and functioned as the true sentinel on the qui vive.

As legal ramifications of this decision ripple through common law countries and constitutional democracies, what is equally startling is the time taken by the country's apex court to hold and conclude these proceedings.

Prorogation in U.K.

It was known that the Boris Johnson-led government had promised to make Britain leave the European Union by October 31, even if that meant an exit without a deal. The suspicion around actions of the government grew when Mr. Johnson advised the Queen to prorogue Parliament for it to reconvene on October 14. The process was widely perceived to be a sharp and calculated move by the government to conclude the Bexit process with minimal parliamentary scrutiny.

This triggered a legal challenge culminating with the Scottish Court of Session finding that the Prime Minister had misled the Queen with regard to the prorogation of Parliament. Simultaneously, the matter was heard by the High Court of England and Wales, which ruled that the prerogative powers of the government were non-justiciable. These conflicting decisions were handed down on September 11. The appeals emanating

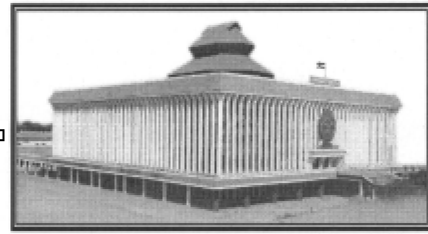


from these two courts were heard by the Supreme Court between September 17 and September 19 and the judgment was delivered on September 24. The entire judicial approach, in dealing with a matter concerning the "fundamentals of democracy", underlines the effectiveness of the judicial review process when conducted in a timely manner.

The last parliamentary session in the United Kingdom, which began in June 2017 and lasted more than 340 days, was one of the longest in recent history. The government justified that the prorogation was necessary under such circumstances and also for the preparation of the Queen's Speech.

Accepting these arguments, the Scottish Court of Outer House, in the first instance, dismissed the legal challenge on the grounds that this was a matter of "high policy and political judgment" and as such was non-justiciable. Allowing the appeal, the Inner House found that the advice given by Mr. Johnson, which formed the basis for the Queen's order, was justiciable and further, declared it to be unlawful. Upholding this judgment, the Supreme Court confirmed that the prorogation was "unlawful because it had the effect of frustrating or preventing the ability of Parliament to carry out its constitutional functions without reasonable justification." In other countries following the Westminster system of government, this decision should naturally lead to increased introspection of executive actions and provide a boost to due parliamentary processes.

Closer home, there have been at least two key executive actions this year that have undermined parliamentary processes: Reservation for Economically Weaker Sections and the Bills passed around Jammu and Kashmir (J&K). The Constitutional (One Hundred and Third) Amendment Act 2019 providing reservation for Economically Weaker Sections was brought for consideration of Parliament in less than 48 hours from the time the decision was taken by the Centre. By doing so, the government



ensured that there was insufficient time for Parliament scrutiny. The Bills around J&K also suffered from a similar defect.

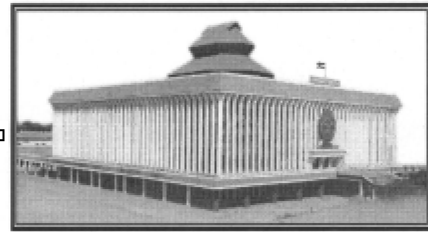
Violation of rules

The Monsoon Session of Parliament was originally scheduled to end on July 26 but was extended to August 7 by the government. On August 5, the Jammu and Kashmir Reservation (Second Amendment) Bill, 2019 was suddenly introduced to the 'Parliamentary List of Business'. When the Rajya Sabha convened, Home Minister Amit Shah, at 11.15 a.m., moved the Statutory Resolution proposing to nullify all clauses in **Article 370** apart from Clause (1). Copies of the Bill and the Resolution were not provided to MPs till 11.30 a.m.

The conventional practice is that legislative documents are provided at least a few days before they are tabled. This is done for the MPs understand the contents of the legislation, seek views and formulate their positions better.

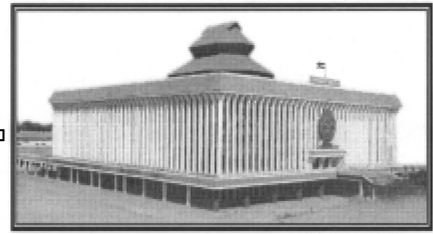
The manner in which both these Bills were introduced in Parliament was also in direct violation of the Rules of Procedure and Conduct of Business. In Rajya Sabha, specifically, Rule 69 talks about 'Motions after Introduction of Bills' and 'Scope of Debate'. According to the proviso of Rule 69, there is discretion given to the Chairman in exceptional situations. But, every discretionary power does require that the Chairman must exercise it judiciously and with proper application of mind. There has been no cogent or detailed explanation given by those presiding our Houses of Parliament as to why the government has been allowed to flout parliamentary rules and convention on more than one occasion.

Such actions of governments of Mr. Johnson and Prime Minister Narendra Modi have revealed a complete disregard for established parliamentary processes. This has



placed democratic institutions in the peril of being weakened. While the courts in the United Kingdom have made their determinations on these issues, there is sufficient material for Indian courts to assess whether executive actions have indeed undermined parliamentary processes. How the court responds to this challenge will determine the majesty of the judicial review process in India.

The Hindu,
1 October 2019.



പാർലമെന്ററി അവലോകനം

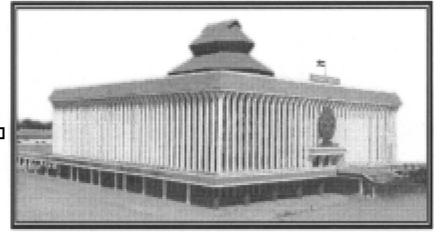
സാക്ഷിസുരക്ഷ നീളുന്ന നിയമനിർമ്മാണം

അഡ്വ. ടി. ആസഫ് അലി

വിചാരണവേളയിലെ അതിഥിയാണ് സാക്ഷി. നീതിനിർവ്വഹണ പ്രക്രിയയിലെ കാതും കണ്ണും സാക്ഷിയാണ്. പ്രത്യേകിച്ച്, ക്രിമിനൽ കേസുകളിൽ കുറ്റവിചാരണയുടെ നട്ടെല്ലെന്ന് വിശേഷിപ്പിക്കപ്പെടുന്നത് സാക്ഷി മൊഴിയെയാണ്. സമർഥരായ അന്വേഷണോദ്യോഗസ്ഥർ തങ്ങളുടെ സർവകഴിവും ഉപയോഗപ്പെടുത്തി കോടതി മുമ്പാകെ അണിനിരത്തുന്ന മുഴുവൻ വസ്തുതകളും തെളിവായി രൂപപ്പെടുന്നത് സാക്ഷിമൊഴികളിൽക്കൂടിയാണ്. എന്നാൽ, അർഹിക്കുന്ന ഒരു ശ്രദ്ധയുംപതിഞ്ഞിട്ടില്ലാത്ത വിഷയമാണ് സാക്ഷിസുരക്ഷ. ക്രിമിനൽ നീതി നിർവ്വഹണപ്രക്രിയയിൽ സുപ്രധാന പങ്കുവഹിക്കാനുള്ള സാക്ഷികൾക്ക് സുരക്ഷ ഉറപ്പുവരുത്തേണ്ടത് രാജ്യത്തിന്റെ ഭരണഘടനാപരമായ ഉത്തരവാദിത്വമാണ്.

സാക്ഷികൾക്കും ഇരകൾക്കും ഭീതിയോ പ്രലോഭനങ്ങളോ ഭീഷണിയോ കൂടാതെ മൊഴിനൽകാൻ സാധിക്കാത്ത സാഹചര്യമാണ് സ്തോഭജനകമായ പല കേസിലും അടുത്തിടെ ഉണ്ടായത്. വിചാരണയ്ക്കു മുമ്പായി സാക്ഷികൾ കൊല്ലപ്പെടുകയോ ദുരൂഹസാഹചര്യത്തിൽ ആത്മഹത്യചെയ്യുകയോ കൂറുമാറുകയോ ചെയ്തതിനെത്തുടർന്ന് പ്രതികളെ വെറുതേ വിടാൻ കോടതികൾ നിർബന്ധിതമാകുന്ന സാഹചര്യം നീതിനിർവ്വഹണ വ്യവസ്ഥയ്ക്കു നേരെ ഉയർന്നുവരുന്ന വൻവെല്ലു വിളിയായിട്ടേ കാണാൻ കഴിയൂ.

അടുത്തകാലത്ത് രാജ്യവ്യാപകമായി ചർച്ചചെയ്യപ്പെട്ട പെഹ്ലൂഖാൻ കൊലപാതകക്കേസിൽ സാക്ഷികൾ കൂട്ടത്തോടെ കൂറുമാറിയതിനെത്തുടർന്ന് രാജസ്ഥാനിലെ സെഷൻസ് കോടതി മുഴുവൻ പ്രതികളെയും വെറുതേ വിടുകയുണ്ടായി. ബി.ജെ.പി. എം.എൽ.എ. പ്രതിയായ ഉന്നാവ് ബലാത്സംഗ ക്കേസിലെ ഇരയുടെ പിതാവിനെ കള്ളക്കേസിൽക്കുടുക്കി ജയിലിലടച്ചതിന് പിന്നാലെയാണ് പെൺകുട്ടി യു.പി. മുഖ്യമന്ത്രി ആദിത്യനാഥിന്റെ വസതിക്കു മുമ്പിൽ ആത്മഹത്യയ്ക്ക് ശ്രമിച്ചത്. പിന്നീട് ജയിലിൽ കഴിയുകയായിരുന്ന പെൺകുട്ടിയുടെ പിതാവ് ദുരൂഹസാഹചര്യത്തിലും രണ്ട് അമ്മായിമാർ

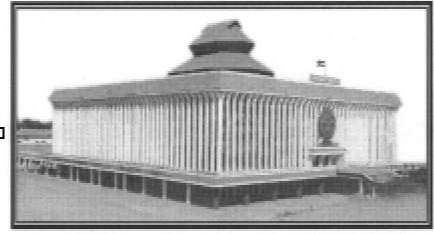


വാഹനാപകടത്തിലും കൊല്ലപ്പെട്ടു. ട്രക്കും കാറും കൂട്ടിയിടിച്ചുണ്ടായ അപകടത്തിൽ പെൺകുട്ടിക്കും അവരുടെ അഭിഭാഷകനും ഗുരുതരമായി പരിക്കേൽക്കുകയും ചെയ്തതും കേസ് അട്ടിമറിക്കാനുള്ള ശ്രമത്തിന്റെ ഭാഗമായിരുന്നു.

ഇത്തരം സംഭവങ്ങൾ കേരളത്തിലുമുണ്ടായി എന്നതും ദൗർഭാഗ്യകരമാണ്. മലബാർ സിമന്റ്സിലെ കമ്പനി സെക്രട്ടറിയും ഇന്റേണൽ ഓഡിറ്ററുമായിരുന്ന വി. ശശീന്ദ്രനും രണ്ടുമക്കളുമാണ് ദുരൂഹസാഹചര്യത്തിൽ മരിച്ചത്. മലബാർ സിമന്റ്സ് അഴിമതിക്കേസിലെ സുപ്രധാന സാക്ഷിയായിരുന്നു ശശീന്ദ്രൻ. ഏറെ കോളിളക്കം സൃഷ്ടിച്ച അഭയാകേസിലും വിചാരണ ആരംഭിച്ചപ്പോൾ സാക്ഷികൾ കൂട്ടത്തോടെ കൂറുമാറുകയാണ്.

നിയമത്തിന്റെ അപര്യാപ്തത

സാക്ഷികൾക്ക് സുരക്ഷ ഉറപ്പുവരുത്തുന്നതിലോ സാക്ഷികളെ ഭയപ്പെടുത്തിയും പ്രലോഭിപ്പിച്ചും കൂറുമാറ്റി ക്രിമിനൽ നീതിനിർവ്വഹണവ്യവസ്ഥയെത്തന്നെ അട്ടിമറിക്കുന്നതിനെയോ നേരിടാൻ രാജ്യത്ത് ഫലപ്രദമായ നിയമമില്ലെന്നതാണ് അതിഗുരുതരമായ പ്രശ്നം. കോടതി സമുച്ചയത്തിൽവെച്ച് ഒരു സാക്ഷിയെ വെടിവച്ചുകൊന്ന കേസിൽ ശിക്ഷിക്കപ്പെട്ടയാൾ ശിക്ഷാവിധിക്കെതിരെ നൽകിയ അപ്പീലിൽ വാദംകേട്ട സുപ്രീംകോടതി, രാജ്യത്ത് നീതിനിർവ്വഹണസ്ഥാനത്ത് ഉണ്ടായിക്കൊണ്ടിരിക്കുന്ന സുരക്ഷാ ഭീഷണിയെക്കുറിച്ച് പരാമർശിച്ചിരുന്നു. കോടതികളുടെ സുരക്ഷ ഉറപ്പുവരുത്താൻ ബന്ധപ്പെട്ട സർക്കാരുകൾ ശക്തവും ഫലപ്രദവുമായ നടപടികൾ സ്വീകരിക്കണമെന്നും രാജ്യത്ത് ഫലപ്രദമായ സാക്ഷി സുരക്ഷാപദ്ധതി തയ്യാറാക്കാൻ കേന്ദ്ര ആഭ്യന്തരമന്ത്രാലയത്തോടും നാഷണൽ ലീഗൽ സർവ്വീസ് അതോറിറ്റിയോടും നിർദ്ദേശിക്കുകയും ചെയ്തു. ഇതിന്റെ അടിസ്ഥാനത്തിൽ തയ്യാറാക്കിയ 2018-ലെ സാക്ഷിസുരക്ഷാപദ്ധതി കോടതി ശരിവെക്കുകയും ചെയ്തു. നിർദ്ദിഷ്ട പദ്ധതിയനുസരിച്ച് കേസന്വേഷണ വേളയിൽ സാക്ഷിയും പ്രതിയും മുഖാമുഖം കാണുന്നില്ലെന്ന് ഉറപ്പുവരുത്തുക, സാക്ഷിയുടെ ഫോൺ, ഇ-മെയിൽ എന്നിവ നിരീക്ഷണത്തിൽ വെക്കുക, സാക്ഷിക്ക് വിചാരണ പൂർത്തിയാകുന്നതുവരെ സ്വകാര്യ ഫോൺനമ്പറുകൾ നൽകുക, തിരിച്ചറിയാൻ പറ്റാത്തവിധം മാറിയ പേരും ഇനിഷ്യലും നൽകുക,



സാക്ഷിക്ക് അടിയന്തരഘട്ടങ്ങളിൽ സഹായമഭ്യർത്ഥിച്ച് ബന്ധപ്പെടാൻ യുക്തമായ വ്യക്തികളെ തരപ്പെടുത്തിക്കൊടുക്കുക, താമസസ്ഥലത്ത് പോലീസ് പട്രോളിങ് ഏർപ്പെടുത്തുക, വിചാരണവേളയിൽ കോടതിയിൽ എത്താനും തിരിച്ചുപോകാനും സർക്കാർ വാഹനം ഏർപ്പെടുത്തുക, വിചാരണ തീരുംവരെ ബന്ധുക്കളുടെ വീടുകളിൽ മാറ്റിത്താമസിപ്പിക്കുക, വിചാരണ രഹസ്യമായി നടത്തുക, സാക്ഷി മൊഴി രേഖപ്പെടുത്തുന്ന വേളയിൽ സഹായിയെ ഏർപ്പെടുത്തുക, പ്രത്യേകം സജ്ജമാക്കിയ കോടതിമുറികൾ, ഏകജാലകകണ്ണാടി, സാക്ഷിയെ തിരിച്ചറിയാൻ സാധിക്കാത്ത രീതിയിൽ സ്ക്രീൻ ഏർപ്പെടുത്തുക. ശബ്ദം തിരിച്ചറിയാത്ത രീതിയിൽ മൊഴിനൽകാൻ സാധിക്കുന്ന സ്ക്രീൻ വെച്ച സാക്ഷിക്കൂട് ഏർപ്പെടുത്തുക, വേഗത്തിൽ വിചാരണ പൂർത്തിയാക്കാൻ സാധിക്കുന്നതരത്തിൽ ദൈനംദിന വിചാരണ നടത്തുക, കൂടാതെ സാക്ഷി നിർദ്ദേശിക്കുന്ന മറ്റ് സുരക്ഷാസൗകര്യങ്ങൾ ഒരുക്കുക തുടങ്ങിയവയായിരുന്നു സുപ്രീംകോടതി അംഗീകരിച്ച 2018-ലെ സാക്ഷി സുരക്ഷാ പദ്ധതിയിലെ നിർദ്ദേശങ്ങൾ. ഭരണഘടനാ അനുച്ഛേദം 141, 142 അനുസരിച്ച് കേന്ദ്ര-സംസ്ഥാന സർക്കാരുകൾ നിയമനിർമ്മാണം നടത്തുന്നതുവരെ സുപ്രീം കോടതിയുടെ, മേൽവിവരിച്ച സാക്ഷിസുരക്ഷാ പദ്ധതി അംഗീകരിച്ചു കൊണ്ടുള്ള വിധി സാധാരണനിയമം പോലെ ഫലത്തിലും ബലത്തിലും നടപ്പാക്കാൻ സർക്കാരുകളും അനുസരിക്കാൻ പൗരന്മാരും ബാധ്യസ്ഥരാണ്.

2017-ൽ മഹാരാഷ്ട്രാ സർക്കാർ പാസാക്കി 2018 ജനുവരി മുതൽ നടപ്പാക്കിയ 'മഹാരാഷ്ട്ര വിറ്റനസ് പ്രൊട്ടക്ഷൻ ആൻഡ് സെക്യൂരിറ്റി ആക്ട് 2018' എന്നതൊഴികെ കേന്ദ്രസർക്കാരോ മറ്റ് സംസ്ഥാന സർക്കാരുകളോ അതു സംബന്ധിച്ച് നിയമനിർമ്മാണം നടത്തിയിട്ടില്ല.

സുപ്രീംകോടതി അംഗീകരിച്ച 2018-ലെ സാക്ഷിസുരക്ഷാപദ്ധതിയിലെ പല വ്യവസ്ഥകളും പ്രായോഗികമല്ല. ഉദാഹരണമായി സാക്ഷിയെ തിരിച്ചറിയുന്നത് പ്രതിയിൽ നിന്ന് മറച്ചുവെക്കാനാകില്ല. ക്രിമിനൽനടപടി സംഹിത അനുസരിച്ച് വിചാരണയ്ക്കുമുമ്പ് സാക്ഷിമൊഴികളുടെ ശരിപ്പകർപ്പ് പ്രതികൾക്ക് നൽകിയിരിക്കണമെന്നത് നിർബന്ധമാണ്. കാരണം സാക്ഷിയെ എതിർവിസ്താരം ചെയ്യാൻ സാക്ഷി മൊഴിയുടെ പൂർണ്ണമായ വിലാസവും ലഭിച്ചിരിക്കേണ്ടത് പ്രതിയുടെ അവകാശമാണ്.

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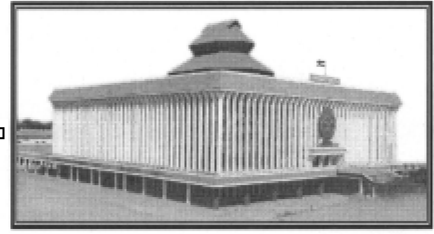

അനന്തമായി നീളുന്ന നിയമനിർമ്മാണം

2000 നവംബർ 15-ാം തീയതി ഇന്ത്യ ഒപ്പുവെച്ച ഐക്യരാഷ്ട്രസഭയുടെ അന്താരാഷ്ട്ര സംഘടിത കുറ്റകൃത്യത്തിനെതിരെയുള്ള ഉടമ്പടിയിലെ അനുച്ഛേദം 24, 25 അനുസരിച്ച് കക്ഷിരാഷ്ട്രങ്ങൾ സാക്ഷിസുരക്ഷയും ഇരകളുടെ സുരക്ഷയും സംരക്ഷണവും ഉറപ്പുവരുത്തണമെന്ന വ്യവസ്ഥകൾ ഉൾക്കൊള്ളിച്ച് നമ്മുടെ രാജ്യത്ത് നിയമനിർമ്മാണമുണ്ടായില്ല. സാക്ഷിയും ഇരയും ആവശ്യപ്പെട്ടാൽ ക്രിമിനൽകേസുകളിലെ സാക്ഷിവിസ്താരം വീഡിയോ കോൺഫറൻസ് മുഖാന്തരം നടത്താവുന്നവിധം ക്രിമിനൽ നടപടി നിയമസംഹിതയിൽ ഭേദഗതി ഉണ്ടാവേണ്ടതുണ്ട്. സുപ്രീംകോടതി അംഗീകരിച്ച 2018-ലെ സാക്ഷിസുരക്ഷാ പദ്ധതിയിലെ വ്യവസ്ഥകൾ സാധാരണനിയമങ്ങളെപ്പോലെ നടപ്പാക്കാൻ കേന്ദ്ര-സംസ്ഥാന സർക്കാരുകൾ മുന്നോട്ടുവരണം. കുറ്റകൃത്യങ്ങളില്ലാത്ത ഒരു സമൂഹമെന്നത് ഏതൊരു പൗരന്റെയും ഭരണഘടനാപരമായ അവകാശമാണ്. ഇത് സാധ്യമാവാൻ ശക്തവും നിഷ്പക്ഷവുമായ പോലീസും ക്രിമിനൽ നീതിനിർവ്വഹണവിഭാഗവും ഫലപ്രദമായി പ്രവർത്തിക്കണം. ഇത്തരം ഒരു സാമൂഹികാന്തരീക്ഷം സൃഷ്ടിക്കാൻ സാക്ഷികളുടെയും ഇരകളുടെയും സുരക്ഷ ഉറപ്പുവരുത്തിക്കൊണ്ടുള്ള നിയമ നിർമ്മാണമുണ്ടാവണം. അല്ലാത്തപക്ഷം ക്രിമിനൽ നീതിനിർവ്വഹണ പ്രക്രിയ വെറും പ്രഹസനമായിത്തീരും.

മാതൃഭൂമി,

3 ഒക്ടോബർ 2019.

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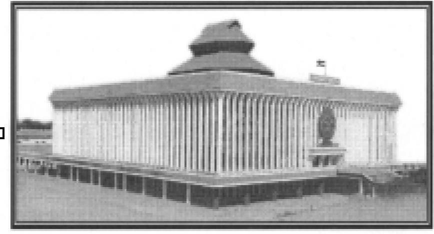


പാർലമെന്ററി അവലോകനം

വിവരാവകാശനിയമത്തിന് ദയാവധമോ?

വി.വി. ഗിരി

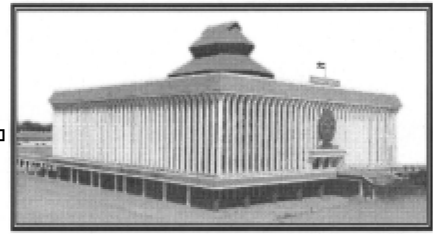
ഇന്ത്യയിൽ വിവരാവകാശനിയമം നടപ്പിൽ വന്നിട്ട് 14 വർഷം തികഞ്ഞിരിക്കുകയാണ്. എല്ലാ രാഷ്ട്രീയപാർട്ടിയുടെയും പിന്തുണയോടെ പാർലമെന്റ് ഐകകണ്ഠേന പാസാക്കിയ ഈ നിയമം, മറ്റു രാജ്യങ്ങളിൽ നിലവിലുള്ള അറിയാനുള്ള അവകാശനിയമങ്ങളെക്കാൾ ശക്തവും ബൃഹത്തുമായ നിയമമായാണ് അറിയപ്പെടുന്നത്.

ഭരണസിരാകേന്ദ്രങ്ങളിൽ അതിരഹസ്യമായി നടന്നിരുന്ന അഴിമതികളും മറ്റ് ക്രമവിരുദ്ധ ഇടപാടുകളും പുറത്തറിഞ്ഞുതുടങ്ങിയത് ഭരണാധികാരികളെ അസ്വസ്ഥരാക്കിയത് സ്വാഭാവികം മാത്രം. ജനങ്ങൾക്കുലഭിച്ച അറിയാനുള്ള അവകാശം ഡമോക്ലസിന്റെ വാളെന്നോണം തങ്ങളുടെ തലയ്ക്കുമുകളിൽ തൂങ്ങിക്കിടക്കുകയാണെന്ന യാഥാർഥ്യം വളരെ പെട്ടെന്നുതന്നെ അവർ മനസ്സിലാക്കി. അവിടെനിന്ന് തുടങ്ങിയതാണ് വിവരാവകാശത്തിന് നിയന്ത്രണങ്ങൾ കൊണ്ടുവരാനുള്ള നീക്കങ്ങൾ.

എതിർപ്പുകൾ കൂടുമ്പോൾ

മന്ത്രിമാരും ഉദ്യോഗസ്ഥരും അവരുടെ അഭിപ്രായങ്ങളും ഉത്തരവുകളും രേഖപ്പെടുത്തുന്ന ഫയൽ നോട്ടുകൾ വിവരാവകാശനിയമ പ്രകാരം വെളിപ്പെടുത്തരുതെന്ന് 2006 ഒടുവിൽ പ്രധാനമന്ത്രിയുടെ ഓഫീസ് പുറപ്പെടുവിച്ച സർക്കുലർ പൊതുസമൂഹത്തിൽ നിന്ന് വലിയ പ്രതിഷേധമാണ് ക്ഷണിച്ചുവരുത്തിയത്. വിവരാവകാശ നിയമത്തിലെ വ്യവസ്ഥകൾക്ക് കടകവിരുദ്ധമായി പുറപ്പെടുവിച്ച ഈ ഉത്തരവ് ആഴ്ചകൾക്കുള്ളിൽത്തന്നെ പിൻവലിക്കാൻ സർക്കാർ നിർബന്ധിതരായി.

അധികാരികൾക്ക് അലോസരമുണ്ടാക്കുന്ന അപേക്ഷകളെ, ബാലിശമായ (Frivolous) അപേക്ഷകൾ, മറ്റുള്ളവരെ ദ്രോഹിക്കുന്ന (Vexatious) അപേക്ഷകൾ, അപ്രസക്തമായ (irrelevant) അപേക്ഷകൾ എന്നിങ്ങനെ വേർതിരിച്ച് നിരസിക്കാൻ യു.പി.എ., എൻ.ഡി.എ. സർക്കാരുകളുടെ കാലത്ത് ചില നീക്കങ്ങൾ നടന്നിരുന്നു. എന്നാൽ, വിവരാവകാശത്തിന് അനാവശ്യനിയന്ത്രണങ്ങൾ കൊണ്ടുവന്നാലുണ്ടാകാവുന്ന ജനരോഷം തിരിച്ചറിഞ്ഞ്, നടപടികൾ പാതിവഴിയിൽ ഉപേക്ഷിക്കുകയായിരുന്നു. രാജ്യ താത്പര്യങ്ങൾക്കും വ്യക്തികളുടെ സ്വകാര്യ താത്പര്യങ്ങൾക്കും ദോഷകരമായ വെളിപ്പെടുത്തലുകൾ ഒഴിവാക്കേണ്ടതാണെന്ന്



വിവരാവകാശ നിയമം 8(1) വകുപ്പിൽ വ്യവസ്ഥ ചെയ്തിട്ടുണ്ട്. ഈ വകുപ്പിനെ ദുർവ്യാഖ്യാനം ചെയ്ത് ജനങ്ങൾക്ക് ലഭിക്കാൻ അവകാശപ്പെട്ട വിവരങ്ങൾ നിരസിക്കുന്ന പ്രവണതയാണ് പിന്നീട് വ്യാപകമായത്.

മന്ത്രിസഭ കൈക്കൊണ്ട ഒരു തീരുമാനത്തിന്റെ പകർപ്പ് ആവശ്യപ്പെട്ട് 2016 ആദ്യം സമർപ്പിച്ച അപേക്ഷ, 'തീരുമാനം അന്തിമമോ പൂർണ്ണമോ ആയില്ല', എന്നുകാണിച്ചാണ് സംസ്ഥാന സർക്കാർ നിരസിച്ചത്. ഈ തീരുമാനം നിയമവിരുദ്ധമാണെന്നും അപേക്ഷകന് വിവരം കൈമാറേണ്ടതാണെന്നുമുള്ള വിവരാവകാശ കമ്മീഷന്റെ ഉത്തരവിനെ സർക്കാർ ഹൈക്കോടതിയിൽ ചോദ്യം ചെയ്തിരിക്കയാണ്. മന്ത്രിസഭാ തീരുമാനങ്ങൾ 48 മണിക്കൂറിനുള്ളിൽ സർക്കാർ ഉത്തരവായി പുറപ്പെടുവിക്കണമെന്ന് ചട്ടമുള്ളപ്പോഴാണ് മൂന്നു വർഷം മുമ്പ് മന്ത്രിസഭ കൈക്കൊണ്ട ഒരു തീരുമാനത്തിന്റെ പകർപ്പിനുവേണ്ടി വിവരാവകാശ കമ്മീഷനിലും ഹൈക്കോടതിയിലും ഹർജികളുമായി അലയേണ്ട ഗതികേട് അപേക്ഷകന് ഉണ്ടായിരിക്കുന്നത്.

വിവരാവകാശ നിയമത്തിലെ വ്യവസ്ഥകൾപ്രകാരം അപേക്ഷകന് കൈമാറേണ്ട വിവരം ദുരുദ്ദേശ്യത്തോടെ നിരസിക്കുക, അറിഞ്ഞുകൊണ്ട് തെറ്റായതും തെറ്റിദ്ധരിപ്പിക്കുന്നതും അപൂർണ്ണവുമായ വിവരം കൈമാറുക തുടങ്ങിയ വീഴ്ചകൾക്ക് ഉദ്യോഗസ്ഥരുടെമേൽ മാതൃകാപരമായി പിഴ ചുമത്താനും അച്ചടക്ക നടപടിക്ക് ശുപാർശ ചെയ്യാനും വിവരാവകാശ കമ്മീഷന് അധികാരമുണ്ട്. ഈ അധികാരം സ്വതന്ത്രവും നിഷ്പക്ഷവുമായി വിനിയോഗിച്ച് കുറ്റക്കാരായ ഉദ്യോഗസ്ഥരുടെ മേൽ നടപടിയെടുത്താൽ മാത്രമേ സാധാരണ പൗരന്റെ അറിയാനുള്ള അവകാശം ശരിയായ നിലയിൽ സംരക്ഷിക്കപ്പെടുകയുള്ളൂ. അപേക്ഷകർക്ക് വിവരം കൈമാറുന്നതിൽ ബോധപൂർവം വീഴ്ച വരുത്തുന്ന ഉദ്യോഗസ്ഥരുടെമേൽ നിയമം അനുശാസിക്കുന്ന പിഴ ചുമത്തുന്നതിൽ നിന്ന് സംസ്ഥാന വിവരാവകാശ കമ്മീഷൻ പലപ്പോഴും ഒഴിഞ്ഞുമാറുന്നു എന്ന ആക്ഷേപം വളരെ ശക്തമാണ്.

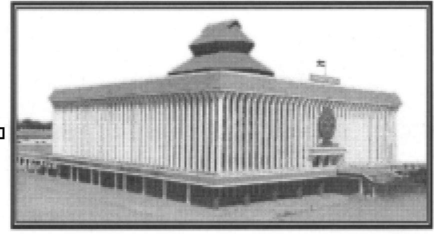
നിയമഭേദഗതിയും യുക്തിസഹമായ ന്യായീകരണവും

2005 ഒക്ടോബർ 12-ന് പ്രാബല്യത്തിൽ വന്ന വിവരാവകാശ നിയമം 13 വർഷങ്ങൾക്കു ശേഷം ആദ്യമായി ഭേദഗതി ചെയ്തിരിക്കുന്നു. വിവരാവകാശ

കമ്മീഷണർമാരുടെ സേവന കാലാവധിയും സേവന-വേതന വ്യവസ്ഥകളും നിശ്ചയിക്കുന്നതിലാണ് ഇപ്പോൾ മാറ്റം വരുത്തിയിട്ടുള്ളത്. പ്രതിപക്ഷ കക്ഷികൾ ഉയർത്തിയ ശക്തമായ പ്രതിഷേധത്തെ മറികടന്നാണ് പാർലമെന്റ് വിവരാവകാശഭേദഗതി നിയമം പാസ്സാക്കിയത്. വിവരാവകാശ കമ്മീഷണർ എന്ന സ്റ്റാറ്റ്യൂട്ടറി പദവി (പാർലമെന്റ് രൂപം നൽകിയ ഒരു നിയമത്താൽ സൃഷ്ടിക്കപ്പെട്ട പദവി) തെരഞ്ഞെടുപ്പ് കമ്മീഷണർ എന്ന ഭരണഘടനാ പദവിയുമായി തുലനം ചെയ്തതിലെ അപാകം നീക്കിക്കിട്ടാനെന്നാണ് വിവരാവകാശ നിയമം ഭേദഗതി ചെയ്തതിനുള്ള ന്യായീകരണമായി സർക്കാർ വിശദീകരിക്കുന്നത്. ഈ വിശദീകരണം വേണ്ടത്ര യുക്തിസഹമോ വിശ്വാസയോഗ്യമോ അല്ല. കേന്ദ്ര വിജിലൻസ് കമ്മീഷൻ, മനുഷ്യാവകാശ കമ്മീഷൻ, ലോകായുക്ത തുടങ്ങിയ സ്റ്റാറ്റ്യൂട്ടറി പദവികളുടെ സേവന-വേതന വ്യവസ്ഥകൾ ഭരണഘടനാ പദവികളായ സുപ്രീം കോടതിയിലെയും ഹൈക്കോടതികളിലെയും ജഡ്ജിമാരുടെ സേവന-വേതന വ്യവസ്ഥകളുമായാണ് തുലനം ചെയ്തിട്ടുള്ളത്. മറ്റു സ്റ്റാറ്റ്യൂട്ടറി പദവികളുടെ കാര്യത്തിൽ കാണാത്ത അപാകം വിവരാവകാശ കമ്മീഷണറുടെ പദവിയിൽ മാത്രം കാണുന്നു എന്ന ആക്ഷേപത്തെ വേണ്ടവിധത്തിൽ പ്രതിരോധിക്കാൻ സർക്കാരിന് കഴിഞ്ഞിട്ടില്ല. മറ്റൊരു പദവിയുമായും തുലനം ചെയ്യാതെ നിയമത്തിൽ വ്യവസ്ഥ ചെയ്തിരുന്ന 5 വർഷത്തെ സേവന കാലാവധി മാറ്റിമറിക്കാനുള്ള കാരണവും സർക്കാർ വിശദീകരിച്ചിട്ടില്ല.

ലക്ഷ്യം സ്വാധീനിക്കൽ

വിവരാവകാശ കമ്മീഷണർമാരുടെ സേവന കാലാവധിയും സേവന-വേതന വ്യവസ്ഥകളും നിശ്ചയിക്കാനുള്ള അധികാരം കൈയ്യടക്കുക വഴി കമ്മീഷന്റെ തീരുമാനങ്ങളെ പരോക്ഷമായി സ്വാധീനിക്കാനാണ് സർക്കാർ ലക്ഷ്യമിടുന്നത്. അതേസമയം നിയമനം ലഭിച്ച ഒരു കമ്മീഷണറുടെ കാലാവധി നീട്ടിനൽകാനോ വെട്ടിച്ചുരുക്കാനോ സേവന-വേതന വ്യവസ്ഥകളിൽ കുറവ് വരുത്താനോ അധികാരമില്ലാത്ത സർക്കാരിന് വിവരാവകാശ കമ്മീഷനെ എങ്ങനെ സ്വാധീനിക്കാൻ കഴിയുമെന്ന ചോദ്യവും നിലനിൽക്കുന്നു. പുതിയ ചട്ടങ്ങൾ രൂപവത്കരിക്കുന്ന കാര്യത്തിൽ സർക്കാർ തികഞ്ഞ ആശയകുഴപ്പത്തിലാണെന്ന വാർത്തകളാണ് ഇപ്പോൾ പുറത്തുവരുന്നത്.



നിയമം ഭേദഗതി ചെയ്ത് രണ്ടു മാസം കഴിഞ്ഞിട്ടും വിവരാവകാശ കമ്മീഷണർമാരുടെ കാലാവധിയും സേവന-വേതന വ്യവസ്ഥകളും നിശ്ചയിച്ച് ചട്ടങ്ങൾ രൂപവത്കരിക്കാൻ സർക്കാരിന് സാധിച്ചിട്ടില്ല. പുതിയ ചട്ടങ്ങളുടെ അഭാവത്തിൽ വിവരാവകാശ കമ്മീഷണർമാരുടെ നിയമനം അനിശ്ചിതത്വത്തിലായിരിക്കയാണ്. കേന്ദ്ര കമ്മീഷനിലെ നാലു ഒഴിവുകൾ ഉൾപ്പെടെ ഇരുപതോളം ഒഴിവിലേക്ക് ഇപ്പോൾ തന്നെ നിയമനം മുടങ്ങിയിരിക്കയാണ്. വിവരാവകാശ കമ്മീഷണറുടെ ഒരൊഴിവുണ്ടാകുന്നതിന് മൂന്നുമാസം മുമ്പെങ്കിലും നിയമന നടപടികൾ ആരംഭിക്കണമെന്ന സുപ്രീംകോടതിയുടെ ഉത്തരവ് നിലനിൽക്കുമ്പോഴാണ് ഇത്രയധികം ഒഴിവുകൾ നികത്താനാകാത്ത സാഹചര്യം സംജാതമായിരിക്കുന്നത്.

മാതൃഭൂമി,

13 ഒക്ടോബർ 2019.

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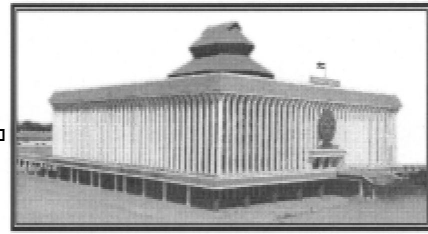


Why Anti-Defection Law Must Not Be Saved

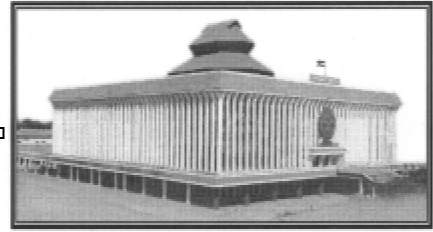
There is a continuous churning in the rank and file of political parties. Very often political leaders and workers switch allegiances before elections take place. The broad reasoning associated with such switching is two-fold. One, improved chances of winning the election from a different party and second, dissatisfaction with their current political party on being denied a ticket to fight the election.

After elections, the changing of political parties by elected representatives is often associated with destabilising a government in power. The recent example being that of Karnataka Vidhan Sabha, where the change in the political allegiance by some MLAs led to the fall of the H D Kumaraswamy government.

The Anti-Defection Law of 1985 was enacted to control the rampant shifting of political parties by its elected members. The idea behind the law is simple. The lawmakers assumed that by controlling the defection by Members of Legislative Assemblies (MLAs) or Members of Parliament (MPs) the law will be able to ensure stability in governments.

Over the last three decades, the law has completely failed at its purpose. The latest proof of its failure being the 14-month Kumaraswamy government, which fell in July this year. However, the law had many unintended outcomes. One of them being that it gave a large enough group of legislators legal protection to break away from their political parties and join another one.

For example, earlier this month all the six MLAs of the Bahujan Samaj Party in Rajasthan joined the Congress. In Sikkim, the Bhartiya Janta Party (BJP) did not win any seats in the legislative assembly election. This state election was held at the same

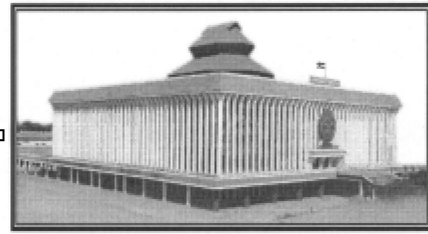


time as the 2019 general elections. The Sikkim Democratic Front party led by former chief minister Pawan Chamling had won 13 out of the 32 seats in the assembly. Barely three months later 10 of those SDF MLAs joined the Bhartiya Janta Party. The party went from having no presence in the Vidhan Sabha to become the principal opposition party in the state.

Goa is a state where the MLAs are known to shift political allegiances quite easily. In July, 10 out of the 15, Congress MLAs in the state legislative assembly shifted to the Bhartiya Janta Party.

While such shifts are not uncommon in state legislators, this year Parliament also saw an en masse switching of political allegiances. The Telugu Desam Party (TDP) had six MPs in the Rajya Sabha representing the state of Andhra Pradesh. The party had not fared well at the ballot box, both at the state and national level. A month after the general election four out of the six Rajya Sabha MPs of the party joined the BJP. The shift added to the numbers of the treasury benches in the Rajya Sabha and gave it the confidence to move ahead with contentious issues such as removing the special status for Jammu and Kashmir, Triple Talaq and the bill to amend the Right to Information Act.

The blame for this large-scale political promiscuity lies with the anti-defection law. It encourages the mass defections of legislators and only penalises individual legislators from deserting their political party for greener pastures. When the law was enacted, it had two provisions which encouraged the mass shifting of legislators. The first one protected one-third of the MPs/MLAs who split from their political party as a group. The second provision protected two-thirds legislators of a political party who shifted from their political party and merged themselves into another political party. The law specified that in both such instances of splits or mergers, the



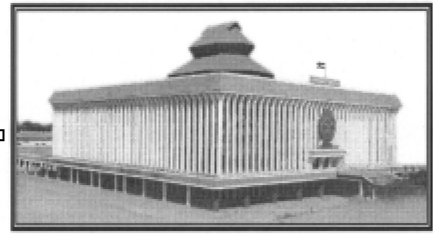
participating legislators would not lose their membership of the legislature, which is the penalty for defection by individual legislators.

The first provision related to splits was defended as a check against the lack of internal democracy in political parties. However, the low threshold of a third of legislators required to split a political party was used routinely to break political parties as per political expediency. The situation reached a stage that in 1999 a proposal was mooted to delete the split provision from the anti-defection law. The Law Commission in its 170th report observed, "...there has been unanimous support (including that of the Prime Minister of India) to this proposal…"

The Commission recommended the deletion of the split provision. In 2003 there was political consensus on the issue. The 97th constitution amendment bill piloted by then minister for Law and Justice Arun Jaitley removed the split provision from the anti-defection law.

During the debate on the bill in the Rajya Sabha, two MPs, while supporting the deletion of the spilt provision asked for the deletion of the merger provision as well. One of them was Bal Apte of the BJP and the other one was Ravula Chandra Sekar Reddy of the TDP. Reddy stated, "Let this legislation be extended and made applicable to mergers as well since, in my opinion, merger is a hiatus and a respectable name for defection. They would have fought the election on a particular plan and manifesto. By merging the parties, they will be defeating the mandate of the people. If you want to cleanse politics, we should prohibit this type of mergers also."

The merger provision exists in the statute books and continues to encourage mass defections amongst legislators. It serves a purpose for political parties because in the words of another Rajya Sabha MP, "Defection has been pampered, perpetrated and encouraged by political parties only to suit their convenience in clinging to power".



The events of this year should catalyse a public debate about the need for the deletion of not only the merger provision but also the rest of the anti-defection law. After all, this law continues to threaten the very foundations of our representative democracy.

Chakshu Roy, Newsclick,

October 1, 2019,

PRS Legislative Research October 2019

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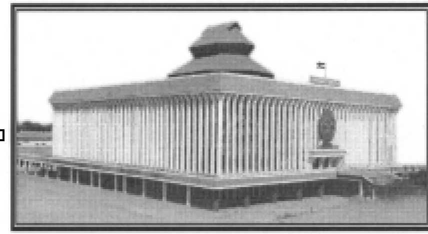


Fridays in Parliament are graveyard of ideas even under Modi govt.

In Modi's first Lok Sabha term, about 900 private member bills were introduced in Parliament but not even 2 per cent of these bills were discussed.

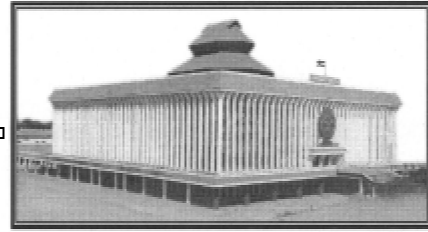
The speed with which the BJP government under Prime Minister Narendra Modi has passed bills – from laws on triple talaq and the reorganisation of Jammu & Kashmir to amendments in UAPA and RTI Act – makes it look like it is only the government that brings legislations into India's rulebook. But that's not true. There is also a graveyard of ideas in Parliament called the Friday syndrome. This is when Private Member Bills come but they don't get enough weight and time.

All Members of Parliament are lawmakers, and the ones who are not ministers (referred to as private members) can also introduce bills in Parliament.

MPs can decide issues that require legislative intervention and introduce what is called a Private Member Bill (PMB) to address them. These bills are introduced on a Friday (when Parliament is in session) and discussed during the last two-and-a-half hours of the day. This makes Fridays one of the most important and interesting days in India's parliamentary calendar.

Non-minister MP's power

Just like any government bill, a Private Member Bill also becomes law if it is passed by both houses of Parliament. During the first Lok Sabha term (1952-57), seven bills brought by private members became laws. One of them was the Proceedings of Legislatures (Protection of Publication) Bill, 1956, introduced by then-Rae Bareli MP Feroze Gandhi. The bill, which became law in 1957, sought immunity from civil and criminal lawsuits for anyone publishing a true account of parliamentary



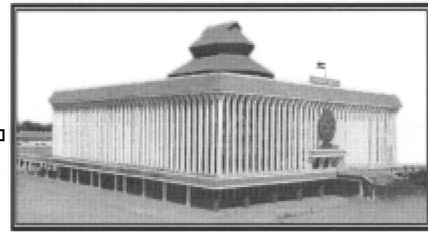
proceedings. Feroze Gandhi was managing director of daily newspapers National Herald and Navjivan at the time.

The idea behind the creation of PMBs was to use the experience of members who were not ministers in identifying gaps in the legal system and suggest solutions for them. The idea worked well during the initial years. Parliament supported the members and the committees examined the bills and gave extensive feedback. The government too was more accepting of the MPs in their role as individual lawmakers.

Even when a bill got rejected, its central idea was incorporated later in the government's own bill. For example, Atal Bihari Vajpayee, as an MP in Rajya Sabha (1962-67), had proposed a PMB seeking a ban on donations to political parties by private companies. His bill was rejected but in 1969, the government enacted a law putting restrictions on monetary contributions by private companies to political parties. During the first 18 years of our country's Parliament, 14 PMBs became laws – the last one being in 1970.

Right causes find support

Thereafter, Indian politics became more fractured and governments became resistant to accepting ideas and solutions proposed by individual MPs. But the hardening stance of successive governments did not discourage the MPs from working on private bills. They kept drafting and introducing PMBs to draw the attention of the government to critical issues or to suggest new ideas. At 35, Rajesh Pilot, in his first term in the 7th Lok Sabha (1980-84), introduced a bill, which proposed that MPs declare their assets and liabilities. The bill received widespread support from other MPs, some of whom (Madhu Dandavate and H.M. Bahuguna) shared their experience of making such declarations. The government agreed with the spirit of the bill, but requested Rajesh Pilot to withdraw it. Protests erupted in the Lok Sabha when he tried



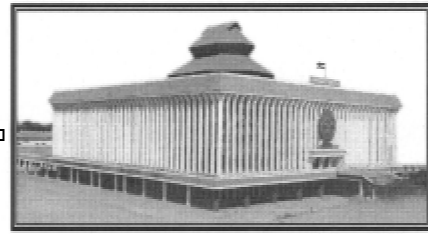
to do so. MPs demanded that votes be counted before the bill could be withdrawn. The bill was finally withdrawn after 44 MPs voted in favour of the withdrawal and 15 opposed the move. It is a different matter that Parliament finally had to make a law in 2002 following a judgment by the Supreme Court.

A trend has evolved over the last four decades. After holding a discussion on a private bill, the government requests the MP piloting the bill to withdraw it. So far, the governments have always been successful in their attempts. But sometimes, MPs press on in an attempt to see the bill through. Since 1970, only one MP has been successful in getting his PMB passed in Parliament. In 2015, Dravida Munnetra Kazhagam (DMK)'s Rajya Sabha MP Tiruchi Siva was able to build consensus around his Rights of Transgender Persons Bill to get it passed by a unanimous voice vote.

Steady decline of PMBs

Over the years, the parliamentary mechanism of PMBs has seen a slow and steady decline. In the last Lok Sabha, approximately 900 PMBs were introduced and not even 2 per cent of these bills were discussed in the House. There are three broad factors that have led to this decline. First, the government's adversarial stance towards MPs has hardened over time. For example, over the last decade, many MPs have suggested ideas for strengthening the working of Parliament – the latest being Rajya Sabha MP Naresh Gujaral. His PMB proposed measures like a minimum number of sitting days for Parliament, special sessions in addition to the three sessions, and making up for lost time due to disruptions. While there was widespread support for the bill, it was not acceptable to the Modi government and the bill was rejected in the first week of this session.

But the government is not the only one to be blamed for this decline. MPs themselves are not very serious about PMBs. It reflects not only in the poor quality of drafting of their bills but also in their absence on Fridays when these bills come up for



discussion. Attendance in the second half of Friday is sparse as many MPs use the weekend break to visit their constituencies. For example, the second Friday of this session was on the 28th of June. On this day, PMBs were not listed but the House was discussing a private member resolution about water and fodder scarcity in the Bundelkhand region of Uttar Pradesh. During the discussion on this important issue, there were less than 55 MPs (the minimum number required for conducting the business) in the Lok Sabha. The absence of MPs led to the abrupt end to the discussion.

Disinterested MPs, not enough time

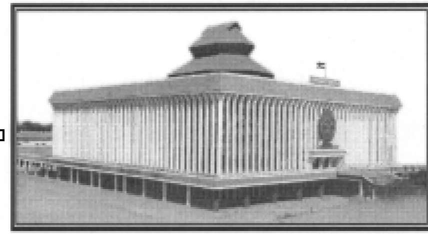
The disinterest of MPs is a combination of the attitude of the government and the lack of attention to PMBs by Parliament. The rules of Parliament allocate two-and-a-half hours every alternate Friday in a session to discuss PMBs. This duration has not changed since the 1950s. With an average Parliament session lasting four to five weeks, there are only five hours available to discuss PMBs in one session. This leads to PMBs piling up and not being discussed on the floor of the House.

Our Parliament is supposed to be a market place for ideas. In a mature parliamentary system, all ideas should get debated and decided upon. While the legislative ideas piloted by the government get discussed, the ideas of MPs get accumulated and remain ignored. Every Friday in our Parliament's calendar becomes a graveyard for ideas and insights of our public representatives. We are at the beginning of the 17th Lok Sabha. This is an opportune time to find a solution to strengthen the ideas for laws that our parliamentarians will introduce over the next five years.

Chakshu Roy, The Print,

August 8, 2019,

PRS Legislative Research August 2019



Speech delivered by Shri P. Sreeramakrishnan, Hon'ble Speaker, during the 64th Commonwealth Parliamentary Conference 2019, Uganda.

Innovation in Parliament

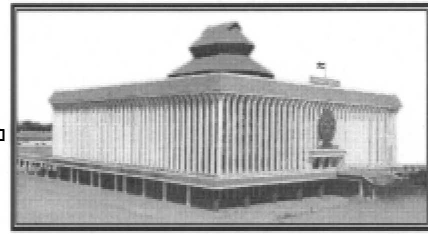
(The impact of science & technology on how parliament works today)

Hon'ble President, Hon'ble dignitaries, media representatives, ladies and gentlemen,

I wish to speak on how scientific and technological innovations have evolved in my part of the world, the State of Kerala in the southern part of India, and the Kerala Legislative Assembly, which I represent in the capacity of its Presiding Officer. I also wish to restrict my views and intentions to the practices being followed and that are being planned at the Kerala Legislative Assembly. We all are aware of the fact that the procedures in different Houses display certain variations, even while dealing with the very same parliamentary process.

A Panorama of existing facilities

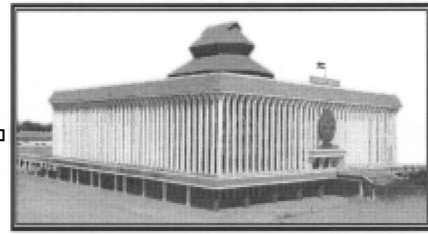
The impact of scientific and technological innovations that are incorporated in the functioning of our system manifests itself in almost all of its functions and processes, right from issuance of Summons to Members regarding an ensuing session. Mobile phones, apart from rendering the obvious purpose, serve us in numerous ways in todays' world. Following a proposal by the government to hold a session of the legislature or upon formation of a newly elected Legislative Assembly, the Governor approves that a session be convened. Consequently as directed by the Speaker, the Secretary issues the summons on behalf of the Governor to all members, in



signed hard copies. The same is simultaneously sent via sms to individual members. All information regarding the session, viz. Calendar of sittings, Allotment of Days for Answering Questions, Daily agenda etc. are uploaded in the Legislative Assembly website that can be viewed by legislators. Submission of notices of questions by members, processing of notices by the Legislature Secretariat, onward transmission to concerned ministries/departments, receipt of replies from ministers etc are executed online employing Legislative Assembly Interpellation System (LAIS), embedded in the Kerala Legislative Assembly's website. All information that are open to public is uploaded and made available in the website. Members of public can also give their suggestions online regarding a particular Bill via Kerala Legislative Assembly website. Inside the Assembly chamber, individual members are provided with electronic voting control buttons, which when operated carry the Yes/Nos/Abstention vote tally to an electronic board to one side of the Speaker's chair and the colour coded LED indicator board to the other. The final tally shows Yes votes in green, Nos in red and Abstentions in blue. The LED board reflective of Member's seating position is capable of flashing any of the three colours, according to command from the legislators. Individual mikes used by members are activated only upon directions from the Speaker to the electronics control room.

Green Protocol Vs- Technology Development

As part of the green protocol being observed at the Kerala Legislative Assembly, a dedicated attempt is now being undertaken to digitize all official activities that are presently exercised involving lots of file work as well as vast quantity of Printing. Efforts to digitize all official communication between various offices/authorities of executive and legislature including the functioning of Legislature Committees is also being thought of.

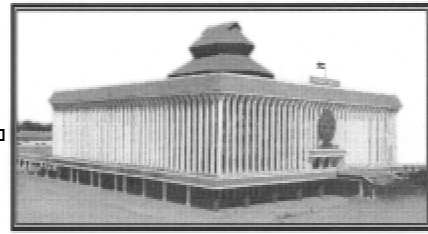


Social Media/Media Promotion

Currently only the Governor's address which happens on the first day of the first session of a newly elected Assembly, and on the first day of the first session of every calendar year, Presentation of annual finance statement by the Minister of Finance and Question Hour are the processes that are aired live via television networks. However, chances of telecasting more programmes live are being explored. Production of programmes to be telecasted in slots of choice in leading regional Television channels is currently being undertaken, with the ultimate intention of launching a channel fully owned and manned by the Legislative Assembly. Another programme for the online promotion of Legislative activities of the House and allied activities in connection with the parliamentary procedure through social media is under progress and will be declared opened by the 1st of November this year.

National Youth Parliament – A Success Story

The power and possibilities of innovations were vastly on display at the national level conferences on various subjects convened by the Kerala Legislative Assembly under one of my dream projects titled 'Festival on Democracy'. The event that was conceived and organized to coincide with the Diamond Jubilee celebrations of the formation of the State of Kerala as well as that of the first Kerala Legislative Assembly. A dedicated site (www.festivalondemocracy.in) was launched for the purpose and the two conferences that have already been organized received massive response. One of the conferences saw participation of almost 2,000 youngsters from all over the country and a few from abroad. Registration, for the programme, payments, acceptance of delegates, details of programme, accommodation, protocol facilities, advertisements, promotion in various



social media like youtube, facebook, twitter, etc. were successfully undertaken. Here, innovations proved critical in arranging a programme of such magnitude, without having to encounter a single serious complaint. Various sessions of these conferences were also telecast live. Experiences gained in organizing these conferences will surely contribute positively in the conduct of the ensuing conferences that are "now being planned under the Festival on Democracy series.

Conclusion

By way of conclusion, I may be permitted to touch upon the rather delicate matter of acceptance and ease of operability of available digi- systems by its targeted users. Even if the finest products of scientific innovations are employed in the service of Parliament, be it the latest techniques in libraries for referencing or the latest security hardware, be it the digi-systems that I mentioned earlier, the will and intent of political parties and individual legislators will prove in the final count, if the systems in place contributed to the betterment and effectiveness of parliamentary processes or if indeed they remained inanimate instruments of Secretarial assistance. Pro-active Houses with dedicated and informed legislators, diligent in their pursuits and purposes will undoubtedly transform their societies and address the will and aspirations of their people. The need to empower the lowest sections of the societies, especially in developing nations, with easy and cheap access to digi-systems, among other essential services is also an area that demands undivided attention of governments and Parliaments. The possibilities that such a confluence of human resolve, access to latest technologies& gadgets and properly channelled vision can offer, could be our most fascinating dream for today and for a much, much better tomorrow.

Thank you all.

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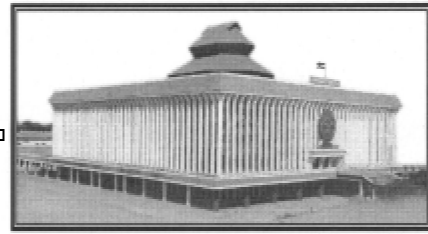


Youth Roundtable

Strategies to deal with youth unemployment

Hon'ble President, Hon'ble dignitaries, media representatives, ladies and gentlemen,

One of the most challenging undertakings for policy makers in nations around the world is the persistence, and in many cases, the rise of rate of unemployment among youth. The situation becomes critical when large sections of educated and skilled youth find it difficult get employed in their fields of expertise. While countries with relatively low population get to address the issue in a rather composed manner, in large countries like India, where 65% of its population of 1.3 billion falls below the age of 35, unemployment on a massive scale could prove to be disastrous. We may examine the matter in finer detail today and try to analyse in India's particular case, how we manage to employ, and leave out sections of youth from a teeming talent pool numbering in excess of 845 million.

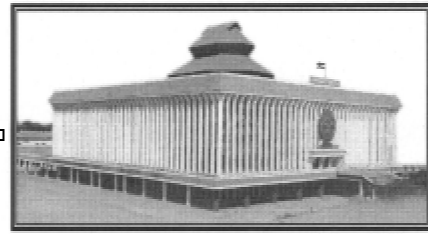
In a predominantly agrarian economy of India, the last decades indicated a preference among youth hailing from both urban and rural backgrounds for higher paying, city based white collar jobs as against the traditional farmer's life. Although the exodus of youth in large numbers from remote parts to major cities is not a phenomenon that is endemic to India, the numbers that are staggering in comparison, spell greater woes to governments and societies alike.

New Strategies

Strategies to deal with grave situations must, I believe, involve the serious consideration and pointed action on the following aspects.

1) <u>Catch them young / coach them young (Early Intervention and guidance)</u>

While striving to ensure basic till high school education for all, governments must also act to include multiple career guidance sessions for every student in 10th and 12th



grades. The counsellor must be a trained professional and not a member of the schools' teaching faculty, who should be able to distinguish students abilities and guide them accordingly, One piece of good advice at the right point in time can result in wonders in that child's career and life.

2) Ensure greater access to employment information

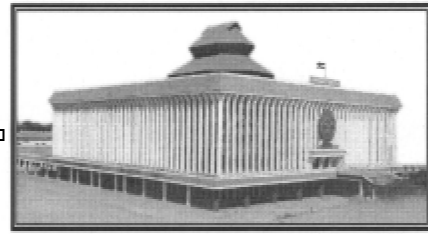
Any society with ample opportunity in the field of employment and one that has a large pool of prospective candidates will still remain in shatters if the right bits of information fails to reach its targeted audience at the right time. Amenities for public information such as radio, television, hoardings, internet etc, as well as janseva kendras, post offices and local administration offices must be put to use for proper and timely assimilation and dissemination of employment related information.

3) Encouragement to start-ups & co-operative ventures

The emergence of service oriented start-ups has already become a distinctive and enterprising aspect of entrepreneurship of our times. Many a start-up has already scripted golden stories of success in the annals of contemporary history. However, we can also see that most successful start- ups have been the result of the efforts of a few smart individuals with adventurous pioneering and inventive bends of mind. The State as well as large business houses must find ways to promote and assist start-ups as well as co-operative ventures when skilled youngsters emerge in groups, to give form to their ideas. We must not forget that all the largest and richest corporations of the world were once just a dream and an idea in somebody's head.

4) Campus interviews in non-tech institutions

Campus interviews and placements in esteemed technical and professional institutions have long been recruiting the finest brains of the country to the benefit of both the individual as well as the institution. However such interviews are all but unheard of in lower education centres



and science and arts colleges that also churn out graduates and post graduates, in large numbers. Corporates and smaller business houses may be encouraged to hire the services of these qualified youngsters from their campuses to fill the non-technical and non-professional vacancies in their respective institutions.

5) Employment of women, differently abled and transgender individuals

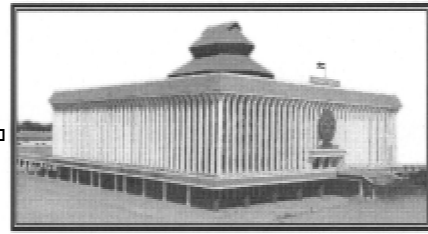
Although, the central and state governments have introduced several new welfare schemes and employment policies that are intended to assign greater chances and roles for women and transgender and differently abled individuals, the private sector by and large has so far been less enthusiastic in this regard. Private sector may be actively encouraged by way of incentives, tax concessions etc to look into possibilities of employing greater number of individuals from the said communities in the undertakings.

6) Service rules and Employees Welfare in private Sector

The rights of employees in private firms still remains in poor condition. It is true that some of the large corporates offer unparalleled and world class job environment, emoluments and perks to its employees, a number of medium and small scale private ventures being fiercely protective of their means, assets and profits, still regard their work force as dispensable, redundant and a liability. Statutory rules may be formed to ensure greater employee friendliness in this sector, while protecting the interests of the employer at the same time.

7) Easier and simpler grant of sanction to new ventures

One of the persistent complaints raised by entrepreneurs is regarding the governmental hurdles in their attempts towards starting new businesses. The red tape and the licence raj are often blamed as culprits in many a failed business effort. Dedicated measures are to be initiated to simplify the processes in this regard.

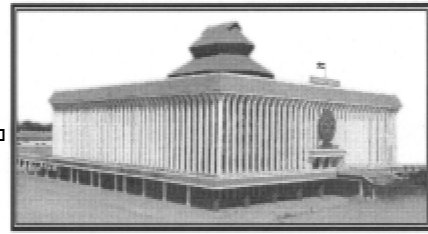


8) Employment rallies and Hackathons

Holding of periodical events such as employment rallies specially to cater to medium and small scale industries as well as to offices in a particular locality may be thought of. This may be made practical by the involvement of a governmental agency or a private agency entrusted with the jobs of conduct, co-ordination and follow up. Local youth can easily land at jobs that are convenient and located at the vicinity of their homes, and employers would also get the labour they need without resorting to advertisements. Hackathons that last a few days can involve tech savvy youth to interact and engage in collaborative computer programming and identify new ventures as well as employment opportunities.

9) Promotion of overseas employment, information and guidance

For many decades, skilled, unskilled and professionally qualified Indian youth have been exploring every corner of the globe in search of jobs. If the phenomenon was largely migrant workers travelling to the Persian gulf in the early years, it gave way to massive egress of aspirants from all the walks of life to almost all countries around the world, that could sustain migrant work forces in large numbers. Today, the Indian Diaspora round the world have become a matter of pride for their motherland by virtue of their dedicated services to the host country, and for their contribution in enhancing India's foreign exchange reserves. The State of Kerala has perhaps the maximum number of its people employed abroad in the highest professional capacities to that of the lowest unskilled labour in a multitude of countries. Kerala State established the Overseas Development and Employment Promotion Consultants (ODEPC) almost three decades back to aid and assist overseas job aspirants by giving them relevant information and proper assistance. Setting up of agencies under government in all States can ensure that the migrant is properly guided in his quest for overseas jobs and that he is not subjected to cheating by the host organisation abroad or by intermediaries or manpower export agencies.



Rings of Fire

Finally, may I add that holding of national level youth seminars will immensely help understand the aspirations and yearnings of the youth in changing times. Earlier this year, the Kerala Legislative Assembly played host to around 2000 youngsters from all walks of life, predominantly students, in one of the largest events of its kind, a three day National Students' Parliament. The event was part of the Festival on Democracy (FOD), a series of national level conferences that I had conceived as part of the Diamond Jubilee Celebrations of the First Kerala Legislative Assembly. The youngsters, who stayed at Thiruvananthapuram and attended the plenary and regional conferences and the informal 'Rings of Fire' sessions, set ablaze the festival with their explosive new thoughts and ideas. It served as an eye opener to the highest political leadership who was there in attendance at the event, on invitation, from all over the country. Several suggestions were given by the students and distinguished guests, which were codified into the form of 'Thiruvanathapuram Declaration', which was in turn, submitted to various authorities of the country. It was a hugely gratifying process that saw youngsters from all corners of the country come as one and exchange ideas on their future plans and nation building.

Conclusion

I may be permitted to conclude my rather long speech by adding that every State and society grapples with varied difficulties in their attempts to find employment for its youth. But if a concerted and dedicated effort is made by converging the endeavours all entities who are party to this challenge, I'm sure that we shall overcome all odds, and emerge as the most economically sound and domestically happy nations in the world. I thank you most profusely for listening.

Thanks again

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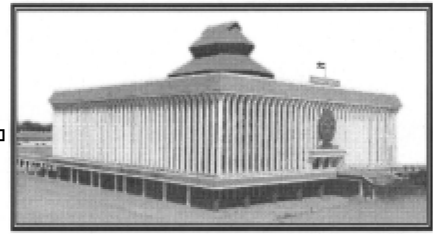

സവിശേഷ വിവരങ്ങൾ

രണ്ട് കേന്ദ്രഭരണ പ്രദേശങ്ങൾകൂടി

കൃഷ്ണപ്രിയ ടി.ജോണി

ജമ്മുകശ്മീർ

♦ ഭരണം : ലെഫ്റ്റനന്റ് ഗവർണർ ജി.സി. മുർമു

♦ ജനസംഖ്യ:1,22,45,090(2011 സെൻസസ് പ്രകാരം)

♦ തലസ്ഥാനം : ശ്രീനഗർ

♦ വിസ്തീർണ്ണം : 42.241 ചതുരശ്ര കിലോമീറ്റർ

♦ പ്രദേശങ്ങൾ : ജമ്മു, കഠുവ, ദോഡ, കിഷ്ത്വാർ, പൂഞ്ച്, രജോരി, രംബൻ, റിയാസി, സാംബ, ഉധംപൂർ, അനന്ത്നാഗ്, ബാന്ദിപോർ, ബാറാമുള, ബുദ്ഗാം, ഗാന്ദർബൽ, കുൽഗാം, കുപ്‌വാര, പുൽവാമ, ഷോപ്പിയാൻ, ശ്രീനഗർ ജില്ലകൾ, പാക് അധീന കശ്മീർ, ഗിൽഗിത് ബാൾട്ടിസ്താൻ, ഷാസ്കെൻ താഴ്‌വര (ചൈനീസ് അധിനിവേശത്തിൽ)

♦ നിയമസഭ: ന്യൂഡൽഹി, പുതുച്ചേരി തുടങ്ങിയ കേന്ദ്രഭരണപ്രദേശങ്ങൾക്ക് സമാനമായി തിരഞ്ഞെടുക്കപ്പെട്ട നിയമസഭ. പുതുച്ചേരിക്ക് ബാധകമായ ഭരണഘടനയിലെ അനുച്ഛേദം 239-എ ജമ്മുകശ്മീരിനും ബാധകം. നിയമസഭയുടെ കാലാവധി അഞ്ചുവർഷം. സംസ്ഥാനമായിരുന്നപ്പോൾ ആറു വർഷമായിരുന്നു.

♦ സീറ്റുകൾ : 114 (നിലവിൽ 107, തിരഞ്ഞെടുക്കപ്പെട്ട അംഗങ്ങൾ 87, രണ്ട് നോമിനേറ്റഡ് അംഗങ്ങൾ, പാക് അധീന കശ്മീരിനായുള്ള 24 സീറ്റ് ഒഴിഞ്ഞുകിടക്കുന്നു)

♦ രാജ്യസഭാസീറ്റ്-4 ♦ ലോക്സഭാസീറ്റ്-5

♦ മതവിഭാഗങ്ങൾ: മുസ്ലീം(63%), ഹിന്ദു(33.53%), സിഖ് (2.22%), ബുദ്ധമതക്കാർ(0.31%)

ലഡാക്ക്

♦ ഭരണം : ലെഫ്. ഗവർണർ രാധാകൃഷ്ണ മാഥൂർ

♦ ജനസംഖ്യ: 2,90,492 (2011-ലെ സെൻസസ് പ്രകാരം)

♦ തലസ്ഥാനം : ലേ

♦ വിസ്തീർണ്ണം : 56,146 ചതുരശ്ര കിലോമീറ്റർ

♦ പ്രദേശങ്ങൾ : കാർഗിൽ, ലേ, അക്സായി ചിൻ (ചൈനയുടെ അധീനതയിൽ)

♦ നിയമസഭ: ഇല്ല (ചണ്ഡീഗഢിനുസമാനമായി ലെഫ്. ഗവർണർ ഭരണം)

♦ രാജ്യസഭാസീറ്റ്-0 ♦ ലോക്സഭാസീറ്റ്-1

♦ മതവിഭാഗങ്ങൾ: മുസ്ലീം(47.40%), ഹിന്ദു(6.22%), ബുദ്ധമതക്കാർ(45.87%).

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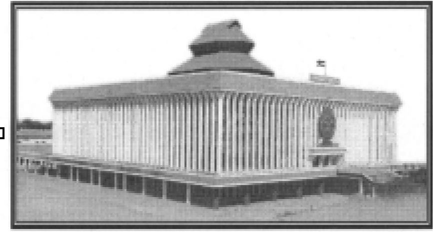

മാറിയതെന്തൊക്കെ

♦ **ഭരണഘടന**

മുമ്പ് : സ്വന്തം ഭരണഘടന, പ്രത്യേക പദവി, പ്രത്യേകനിയമം തുടങ്ങിയ സവിശേഷാധികാരങ്ങൾ

ഇനി : പ്രത്യേകാധികാരമില്ല.

♦ **പൗരത്വം**

മുമ്പ് : ഇരട്ടപൗരത്വം

(ഇന്ത്യയുടെയും ജമ്മുകശ്മീരിന്റെയും)

ഇനി : ഇന്ത്യൻ പൗരത്വംമാത്രം

♦ **പതാക**

മുമ്പ് : ജമ്മുകശ്മീരിന് പ്രത്യേക പതാക

ഇനി : ദേശീയപതാകമാത്രം

♦ **കേന്ദ്രനിയമങ്ങൾ**

മുമ്പ് : ബാധകമല്ല

ഇനി : 106 പ്രധാന കേന്ദ്രനിയമങ്ങൾ ബാധകം

♦ **സംസ്ഥാനനിയമങ്ങൾ**

മുമ്പ് : സംസ്ഥാനനിയമങ്ങൾ മാത്രം ബാധകം

ഇനി : 166 സംസ്ഥാനനിയമങ്ങൾ ബാധകം

153 നിയമങ്ങൾ റദ്ദാക്കും

♦ **ആർട്ടിക്കിൾ 360 (സാമ്പത്തിക അടിയന്തരാവസ്ഥ)**

മുമ്പ് : ബാധകമല്ല

ഇനി : ബാധകം

♦ **സംവരണം**

മുമ്പ് : ന്യൂനപക്ഷങ്ങൾക്ക്

(ഹിന്ദു, സിഖ്, ബുദ്ധമതക്കാർ) സംവരണമില്ല

ഇനി : 16 ശതമാനം സംവരണം

♦ **ഭൂമിവാങ്ങൽ**

മുമ്പ് : മറ്റു സംസ്ഥാനങ്ങളിൽ നിന്നുള്ളവർക്ക് വീടും വസ്തുവും വാങ്ങാനാവില്ല.

ഇനി : മറ്റു സംസ്ഥാനക്കാർക്കും ഭൂമി വാങ്ങാം.

♦ **വിവരാവകാശനിയമം**

മുമ്പ് : ബാധകമല്ല

ഇനി : ബാധകം

♦ **ക്രമസമാധാനം**

മുമ്പ് : സർക്കാർ നിയന്ത്രണം

ഇനി : ലെഫ്. ഗവർണറുടെ നിയന്ത്രണത്തിൽ

♦ **സിവിൽ സർവീസസ്**

(ഐ.എ.എസ്., ഐ.പി.എസ്., അഴിമതി വിരുദ്ധവിഭാഗം)

മുമ്പ് : കശ്മീർ സർക്കാരിന്റെ നിയന്ത്രണത്തിൽ)

ഇനി : ലെഫ്. ഗവർണറുടെ നിയന്ത്രണത്തിൽ (പർവത മേഖലകൾ കേന്ദ്രസർക്കാരിന്റെ നേരിട്ടുള്ള നിയന്ത്രണത്തിൽ)

♦ **ഹൈക്കോടതി**

മുമ്പ് : ജമ്മുകശ്മീർ ഹൈക്കോടതി

ഇനി : മാറ്റമില്ല.

♦ **സർക്കാർ ജോലി**

മുമ്പ് : ജമ്മുകശ്മീരിലുള്ളവർക്കുമാത്രം

ഇനി : മറ്റ് സംസ്ഥാനങ്ങളിൽ നിന്നുള്ളവർക്കും കശ്മീരിൽ സർക്കാർ ജോലി

♦ **സർക്കാർ സ്കോളർഷിപ്പ്**

മുമ്പ് : ജമ്മുകശ്മീരികൾക്കു മാത്രം

ഇനി : എല്ലാ ഇന്ത്യക്കാർക്കും

♦ **വിവാഹം**

മുമ്പ് : ജമ്മുകശ്മീരിന് പുറത്തുള്ളയാളെ വിവാഹം കഴിച്ചാൽ കശ്മീർ പൗരത്വം നഷ്ടമാകും.

ഇനി : കശ്മീരിനുപുറത്തുനിന്നോ രാജ്യത്തിനു പുറത്തു നിന്നോ വിവാഹം ചെയ്യാം. പൗരത്വം നഷ്ടമാകില്ല.

മാതൃഭൂമി,

13 ഒക്ടോബർ 2019.

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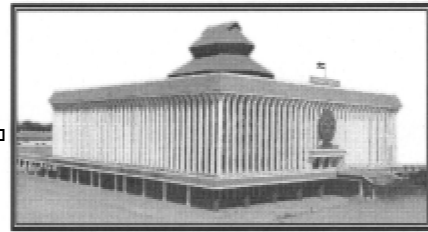
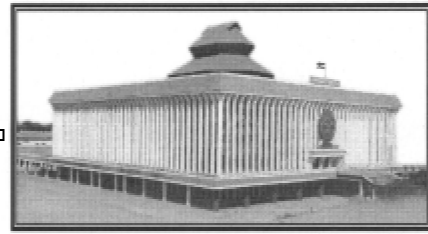


Special Marriage Act extended to Sikkim

The President of India notified the extension of the Special Marriage Act, 1954 to Sikkim. The Act provides for the recognition and registration of marriages between two persons, irrespective of their religions. The provisions of the Act will come into force in Sikkim on the date notified by the government.

Roshni Sinha

PRS Legislative Research, October 2019



RESUME OF BUSINESS TRANSACTED DURING THE 8TH SESSION OF THE 6TH LEGISLATIVE ASSEMBLY OF NATIONAL CAPITAL TERRITORY OF DELHI

The Eighth Session (Budget Session) of the Sixth Assembly commenced on 22 February, 2019 and was adjourned SINE-DIE by the Hon'ble Speaker on 28.02.2019 after holding six sittings for 16 Hours & 17 Mins. The sittings were held on 22.02.2019, 23.02.2019, 25.02.2019, 26.02.2019, 27.02.2019 & 28.02.2019.

The Business conducted by the House during the Eighth Session is summarized below.

MOTION OF THANKS

The Hon'ble Lieutenant Governor addressed the House on 22 February 2019. Hon'ble Minister Shri Gopal Rai, moved the Motion of Thanks on 22.02.2019 as under:

"That this House expresses its gratitude to Hon'ble Lieutenant Governor for his address delivered to the Assembly on 22 February 2019".

06 Members participated in the discussion on the Motion of Thanks and the Hon'ble Deputy Chief Minister replied to the discussion.

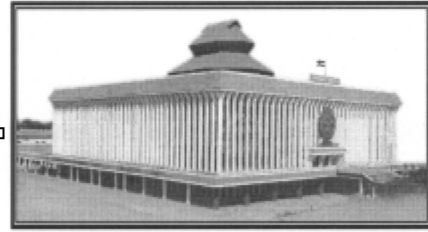
The Motion of Thanks was put to vote and adopted by voice vote on 23 February 2019.

HOMAGE

The House paid homage to the following:

1. 40 CRPF martyrs who died in the terrorist attack in Pulwama, Jammu & Kashmir on 14 February 2019 and subsequent military operation in which 02 Majors, 03 Army Personnel and 01 Police Personnel were killed on 16 February 2019 & 18 February 2019.

2. 17 People who died in a Fire accident in a Hotel at Karol Bagh, Delhi on 12 February 2019.



3. Sh. Aman Thakur, DSP of Jammu & Kashmir Police and Sh. Sombir, Havaldar of Indian Army who laid down their lives in an anti-terrorist operation in Kulgam District of Jammu & Kashmir on 24 February 2019.

4. 143 persons who died in Assam after consuming illicit liquor.

5. 06 Air Force officers & 01 civilian who died in MI-17 Helicopter crash incident at Budgam in Jammu & Kashmir on 27 February 2019. The House observed silence of two minutes as a mark of respect for the departed souls.

ECONOMIC SURVEY

The Hon'ble Deputy Chief Minister presented the Economic Survey of Delhi (2018-19) on 23rd February, 2019.

ANNUAL BUDGET (2018-19)

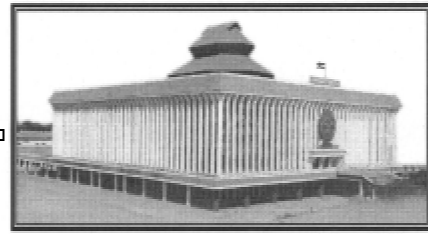
The Hon'ble Deputy Chief Minister presented the Annual Budget for the year 2019-2020 on 26 February 2016. The discussion on the Budget was held on 27th February 2019 and 28th February 2019. 14 Members participated in the discussion. The Hon'ble Chief Minister also expressed his views on the budget. The budget was passed on 28th February 2019.

QUESTIONS

A total of 349 notices of Questions were received during the Session for the Question Hour scheduled for 03 days. Out of these 60 Notices of Starred Questions and 225 Notices of Unstarred Questions were admitted.

38 Starred Questions and 62 Supplementary Questions were asked and replies to the same were provided by the concerned Ministers in the House.

Replies to 15 Unstarred Questions were not provided by some Departments on the pretext of them being 'reserved' subjects. This matter of non-furnishing of replies was subsequently referred to the Committee of Privileges vide Ruling by the Chair on 25.02.2019.



MATTER RAISED BY MEMBERS

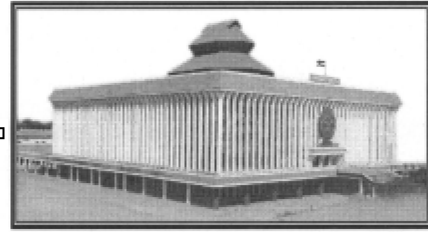
Special Mention (Under Rule 280): 74 Notices for Special Mention were received for the Session. 41 Matters were raised in the Session under Rule 280. The Matters raised under Rule 280 have been referred to the concerned Departments for furnishing replies to the Hon'ble Members within 30 days.

Short Duration Discussions (Rule 55): On 23 February 2019, Ms. Bhavna Gaisr initiated Short Duration Discussion on 'Full Statehood to Delhi. 08 Members including Hon'ble Minister of Development, Hon'ble Leader of Opposition, participated in the discussion. Hon'ble Chief Minister replied to the discussion.

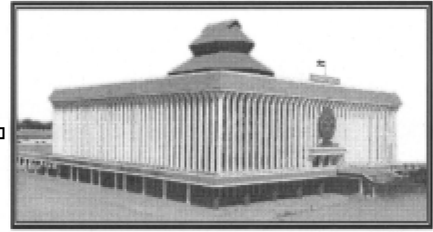
RESOLUTION

Sh. Nitin Tyagi moved the following Resolution with the leave of the House on 23 February, 2019 during Short Duration Discussion on 'Full Statehood to Delhi', under Rule 55.

"This House resolves the following: In keeping with the decades-old demand of the residents of National Capital Territory of Delhi for a better quality of life commensurate with their contribution to the country's economy, which have been strongly and unambiguously reflected in the views expressed by Hon'ble Members of this august House, the Ministry of Home Affairs, Government of India, must take all necessary legal and legislative steps to declare NCT of Delhi a full-fledged state without any further delay; This House notes with extreme disappointment that successive Central Governments have without any valid justification attempted to undermine the basic rights of the people of Delhi by denying them statehood; People of Delhi can no longer be kept at the mercy of a Central Government appointed Lieutenant Governor, who has no accountability towards the public and enjoys absolute power without any responsibility; Elected representatives are directly accountable to the voters and are rightly questioned by the people on issues affecting their daily lives and developmental issues. It is, therefore, beyond



any legal and reasonable understanding how a politically nominated LG be the super- boss of a democratically elected Council of Ministers which is collectively responsible to the Legislative Assembly; Ever since 1952 and then later in 1993, when the Legislative Assembly was set-up in its present form for NCT of Delhi, every single elected Delhi government has strongly demanded statehood in order to be able to fulfill the aspirations of the people; In 2003, the then Hon'ble Deputy Prime Minister and Home Minister Mr *LK Advani had on 18th August 2003 presented the Constitution Amendment Bill and the Bill for statehood of Delhi in the Lok Sabha; The Parliamentary Standing Committee on Home Affairs, headed by the then Chairman* Mr *Pranab Mukherjee in its 106th Report tabled in Parliament in December 2003 had strongly endorsed the Bill. Unfortunately, however,. due to dissolution of the Lok Sabha a few months later, the Bill lapsed. Strangely, no attempt was made to revive the Bill after that despite the same party having been in power at the Centre and in Delhi for 10 years since 2004*; *This House is of the view that now since almost 16 years have passed since the previous Delhi Statehood Bill was presented in Parliament and there were some shortcomings in that Bill, therefore the MHA must consult the elected government to be on the same page about the fresh draft Bill; This House resolves that the NDMC area in Delhi, which is governed by the NDMC Act be kept under the exclusive control of the Central government and the rest of NCT of Delhi be declared a full-fledged state; Therefore, the people of Delhi will not tolerate any further unjustified delay in granting them their rights, which have been denied for decades despite promises having been made by all political parties repeatedly in their election campaigns; This House strongly demands that MHA must place the feelings of the people of Delhi before both Houses of Parliament in the form of a Constitution Amendment Bill to grant full statehood for Delhi."*



The Resolution moved by Shri. Niting Tyagi was put to vote and adopted by voice vote.

CONGRATULATORY MOTION

1. The House Congratulated the Indian Air Force for destroying Terrorist Camps by conducting Air Strike across LOC of Jammu & Kashmir Border on 26 February 2019. The House expressed appreciation by giving a standing ovation.

2. The Chair expressed appreciation for Shri. Manish Sisodia, Hon'ble Deputy Chief Minister for allocating Budget of ₹ 20 crore for automation of Delhi Legislative Assembly and ₹. 14.50 Crore for Delhi Assembly Research Centre (DARC). He stated that both project will help the Hon'ble Members to discharge their constitutional duties more efficiently and establish Delhi Legislative Assembly as a Model Green Legislative Assembly.

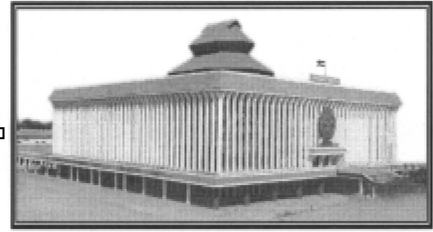
3. Ms. Rakhi Birla, Hon'ble Deputy Speaker congratulated the Cabinet on inauguration of Automatic Cleaning Machines for Sewers/Sewage & Drainage systems and their deployment in Delhi.

STATUS REPORT OF OUTCOME BUDGET

Shri. Manish Sisodia, Hon'ble Deputy Chief Minister presented the Status Report of Outcome Budget 2018-19 (upto 31st December 2018) on 25 February, 2019.

RULING BY THE CHAIR

On 25th February 2019, The Chair stated that replies to certain Questions had not been received from Some Departments inspite of the direction of the Hon'ble Ministers. He reiterated that these stand referred to the Committee of Privileges. The Chair further stated that Hon'ble Minister of Law had also informed that the Revenue Department had refused to submit information regarding some Questions. He stated that the power to admit or disallow a Question lies with the Speaker alone. He also directed the Committee of Privileges to examine these issues on priority



COMMITTEE REPORTS

1. Ms. Rakhi Birla, Hon'ble Deputy Speaker presented the Third Report of Business Advisory Committee on 22 February 2019. The House adopted the Report on 23rd February, 2019.

2. Ms. Bhavna Gaur, Hon'ble MLA presented the First Report of the House Committee on Municipal Corporations in Delhi on 25th February, 2019. The House adopted the Report on 27th February, 2019.

3. Shri. Som Dutt, Hon'ble MLA Presented the First Report of General Purposes Committee on 25th February, 2019. The House adopted the Report on 27th February, 2019.

4.Shri. Ajay Dutt, Hon'ble MLA presented the First Report of the Committee on Papers Laid on the Table on 25th February 2019. The House adopted the Report on 27th February, 2019.

PAPERS LAID

Eight papers were laid on the Table of the House by Hon'ble Ministers during the Session as follows:

(i) Annual Report of Delhi Transco Limited for the year 2016-17.

(ii) Annual Account of Delhi Electricity Regulatory Commission for the year 2017-18.

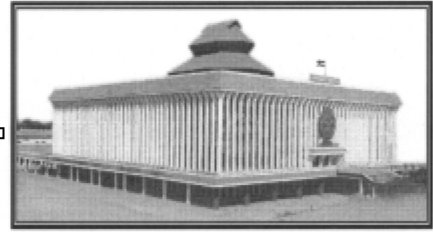
(iii)Annual Report of Delhi Metro Rail Corporation (DMRC) for the year 2017-18 .

(iv)Annual Audit Report of Delhi Transport Corporation for the year 2016-17.

(v) Profit & Loss Account and Balance Sheet of Delhi Transport Coporation for the year ending 31st March 2017.

(vi)Review for the Audit Report and Annual Accounts of Delhi Transport Corporation for the year 2016-17.

(vii) Annual Report of Delhi Co-operative Housing Finance Corporation Ltd.for the year 2017-18.



(viii) Notificiation dated 27.12.2018 regarding the Delhi Rights of Person with Disabilities Rules, 2018.

LEGISLATION

The Appropriation (No.1) Bill, 2019 and Appropriation (No.2) Bill, 2019 were passed during the Session by voice vote.

ELECTION TO FINANCIAL COMMITTEES

09 nominations were received each for the three Financial Committees namely Committee on Public Accounts, Committee on Estimates and Committee on Government Undertakings for the year 2019-20 in accordance with Rule 192(2), Rule 194(2) and Rule 196(2) respectively of the Rules of Procedure and Conduct of Business in the Legislative Assembly. All these 09 Members each, who had filed Nomination for the respective Committee, were elected unopposed.

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