

GOVERNMENT OF INDIA
MINISTRY OF LAW AND JUSTICE
DEPARTMENT OF LEGAL AFFAIRS

LOK SABHA
UNSTARRED QUESTION NO. 3668
TO BE ANSWERED ON FRIDAY, THE 21-03-2025

Appointment of Public Prosecutors

3668. Smt. Sajda Ahmed:

Will the Minister of LAW AND JUSTICE be pleased to state:

- (a) whether the Government is aware that the appointment of public prosecutors is often influenced by political favoritism and nepotism, leading to the undermining of merit-based selection as per the observation made by Supreme Court;
- (b) the measures being taken to ensure that the appointment process for public prosecutors is transparent, merit-based and free from political interference; and
- (c) whether Government is considering to establish an independent commission or implementing judicial oversight to ensure fair and impartial appointments of public prosecutors, if so, the details thereof and if not, the reasons therefor?

ANSWER

**MINISTER OF STATE (INDEPENDENT CHARGE) OF THE MINISTRY OF
LAW AND JUSTICE; AND MINISTER OF STATE IN THE MINISTRY OF
PARLIAMENTARY AFFAIRS**

(SHRI ARJUN RAM MEGHWAL)

(a) to (c): Section 18 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 contains provisions relating to appointment of Public Prosecutors which are as under-

18.Public Prosecutors.

(1) For every High Court, the Central Government or the State Government shall, after consultation with the High Court, appoint a Public Prosecutor and may also appoint one or more Additional Public Prosecutors, for conducting in such Court, any prosecution, appeal or other proceeding on behalf of the Central Government or the State Government, as the case may be: Provided that for National Capital Territory of Delhi, the Central Government shall, after consultation

with the High Court of Delhi, appoint the Public Prosecutor or Additional Public Prosecutors for the purposes of this sub-section.

(2) The Central Government may appoint one or more Public Prosecutors for the purpose of conducting any case in any district or local area.

(3) For every district, the State Government shall appoint a Public Prosecutor and may also appoint one or more Additional Public Prosecutors for the district: Provided that the Public Prosecutor or Additional Public Prosecutor appointed for one district may be appointed also to be a Public Prosecutor or an Additional Public Prosecutor, as the case may be, for another district.

(4) The District Magistrate shall, in consultation with the Sessions Judge, prepare a panel of names of persons, who are, in his opinion fit to be appointed as Public Prosecutors or Additional Public Prosecutors for the district.

(5) No person shall be appointed by the State Government as the Public Prosecutor or Additional Public Prosecutor for the district unless his name appears in the panel of names prepared by the District Magistrate under sub-section (4).

(6) Notwithstanding anything in sub-section (5), where in a State there exists a regular Cadre of Prosecuting Officers, the State Government shall appoint a Public Prosecutor or an Additional Public Prosecutor only from among the persons constituting such Cadre: Provided that where, in the opinion of the State Government, no suitable person is available in such Cadre for such appointment, that Government may appoint a person as Public Prosecutor or Additional Public Prosecutor, as the case may be, from the panel of names prepared by the District Magistrate under sub-section (4).

Explanation.---For the purposes of this sub-section,--

(a) "regular Cadre of Prosecuting Officers" means a Cadre of Prosecuting Officers which includes therein the post of Public Prosecutor, by whatever name called, and which provides for promotion of Assistant Public Prosecutors, by whatever name called, to that post;

(b) "Prosecuting Officer" means a person, by whatever name called, appointed to perform the functions of a Public Prosecutor, Special Public Prosecutor, Additional Public Prosecutor or Assistant Public Prosecutor under this Sanhita.

(7) A person shall be eligible to be appointed as a Public Prosecutor or an Additional Public Prosecutor under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (6), only if he has been in practice as an advocate for not less than seven years.

(8) The Central Government or the State Government may appoint, for the purposes of any case or class of cases, a person who has been in practice as an advocate for not less than ten years as a Special Public Prosecutor: Provided that the Court may permit the victim to engage an advocate of his choice to assist the prosecution under this sub-section.

(9) For the purposes of sub-section (7) and sub-section (8), the period during which a person has been in practice as an advocate, or has rendered (whether before or after the commencement of this Sanhita) service as a Public Prosecutor or as an Additional Public Prosecutor or Assistant Public Prosecutor or other Prosecuting Officer, by whatever name called, shall be deemed to be the period during which such person has been in practice as an advocate.

The Special Public Prosecutors (SPPs) are appointed, wherever applicable, to represent the Ministries/Departments before the Courts as per their respective Office Memorandum/Circulars/Instructions in view of the relevant provision of the Section 18 of Bharatiya Nagrik Suraksha Sanhita (BNSS), 2023, erstwhile Code of Criminal Procedure, 1973.
