

**GOVERNMENT OF INDIA
PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS
LOK SABHA**

UNSTARRED QUESTION NO:1127

ANSWERED ON:09.12.2003

CENTRAL VIGILANCE COMMISSION ACT

GANGASANDRA SIDDAPPA BASAVARAJ; IQBAL AHMED SARADGI; SUNIL KHAN; VARKALA RADHAKRISHNAN

Will the Minister of PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS be pleased to state:

- (a) whether according to the new CVC Act the enquiring agency requires prior permission of the Government to start any inquiry against officers of the level of Joint Secretary and above;
- (b) if so, whether this provision results in classifying the offenders on the basis of their ranks;
- (c) whether it contradicts the right to equality guaranteed in the constitution;
- (d) if so, the reaction of the Government thereto;
- (e) whether Supreme Court has issued a notice to the Government on 3 November, 2003 regarding secret single directive clause in the Central Vigilance Commission Act, 2003 to clip the independence of CBI and CVC; and
- (f) if so, the action taken by the Government thereon?

Answer

MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS AND MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS. (SHRI HARIN PATHAK)

(a) to (f): In Section 26(c) of the Central Vigilance Commission Act, 2003, a new Section 6A has been inserted in the Delhi Special Police Establishment Act, 1946 which inter alia provides that the Delhi Special Police Establishment shall not conduct any inquiry or investigation into any offence alleged to have been committed under the Prevention of Corruption Act, 1988 except with the previous approval of the Central Government where such allegation relates to-

(a) the employees of the Central Government of the level of Joint Secretary and above; and

(b) such officers as are appointed by the Central Government in corporations established by or under any Central Act, Government companies, societies and local authorities owned or controlled by that Government.

The above newly inserted Section 6A is known as the 'Single Directive'

In the Writ Petition (C) No.38/97 - Dr. Subramaniam Swamy -vs- CBI and others, the amicus curie has filed written submissions in the Supreme Court praying to strike down the provisions of Section 26(c) of the Central Vigilance Commission Act, 2003 and the newly inserted Section 6A in the DSPE Act, 1946 whereunder the CBI functions. On 3.11.2003, the Supreme Court, while hearing the matter, allowed four weeks time to file response to the written submissions of the amicus curie. The matter is thus presently subjudice in the Supreme Court.