

**GOVERNMENT OF INDIA
HOME AFFAIRS
LOK SABHA**

UNSTARRED QUESTION NO:2044
ANSWERED ON:16.12.2003
ARREST OF WOMEN
P. RAJENDRAN

Will the Minister of HOME AFFAIRS be pleased to state:

- (a) whether existing rule/law permits arrest of women during night hours by policemen without the presence of women police;
- (b) if so, the details thereof;
- (c) whether a recent judgement of Supreme Court allow to arrest women during night hours without presence of women police;
- (d) whether any representation is submitted against above order of Supreme Court; and
- (e) if so, the details thereof?

Answer

MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI I.D. SWAMI)

(a)to(e): The code of Criminal Procedure, 1973 does not specifically provide that presence of women police is necessary while arresting women during night hours by policemen. However, the Supreme Court in its judgment dated 15th October, 2003 in Criminal Application No. 508 of 1996 with the Criminal Application No.509 of 1996 in the case of State of Maharashtra Vs. Christian Community Welfare Council of India and others has directed that all efforts should be made to keep a lady constable present but in circumstances where the arresting officers is reasonably satisfied that such presence of a lady constable is not available or possible and/or the delay in arresting caused by securing the presence of a lady constable would impede the course of investigation such arresting officer for reasons to be recorded either before the arrest or immediately after the arrest be permitted to arrest a female person for lawful reasons at any time of the day or night depending on the circumstances of the case even without the presence of a lady constable.

The Code of Criminal Procedure (Amendment) Bill, 1994 introduced in Rajya Sabha has, inter alia, a proposal to add a new sub-section (4) to section 46 Cr.P.C. to prohibit arrest of a woman after sunset and before sunrise except in unavoidable circumstances.