

COMMITTEE ON SUBORDINATE LEGISLATION

(2017-2018)

(SIXTEENTH LOK SABHA)

TWENTY SIXTH REPORT

RULES/REGULATIONS FRAMED UNDER AIIMS ACT, 1956



LOK SABHA SECRETARIAT

NEW DELHI

FEBRUARY, 2018 / MAGHA, 1939 (Saka)

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(PRESENTED TO LOK SABHA ON 7.2.2018)



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COSL No.

PRICE: Rs.

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Published under Rule 382 of the Rules of Procedure and Conduct of Business in Lok Sabha (Fourteenth Edition) and printed by the Manager, Government of India Press, Minto Road, New Delhi.

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

Shri Dilipkumar Mansukhlal Gandhi Chairperson

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15. Shri Nandi Yellaiah

SECRETARIAT

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

INTRODUCTION

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

2. The matters covered by this Report were considered by the Committee on Subordinate Legislation at their sitting held on 18.10.2016 during which oral evidence of the representatives of Ministry of Health & Family Welfare (Department of Health & Family Welfare) and AIIMS were taken.

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

4. Minutes of the Second Sitting of the Committee (2016-17) held on 18.10.2016 and Extracts from Minutes of Eighth Sitting of the Committee (2017-18) held on 30.1.2018 relevant to this Report are included in Appendix-I of the Report.

DILIPKUMAR MANSUKHLAL GANDHI

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

**Chairperson
Committee on Subordinate Legislation**

PART-I

REPORT

A. Introduction

All India Institute of Medical Sciences (AIIMS) was created in 1956 as an autonomous institute under the Ministry of Health and Family Welfare to serve as a nucleus for nurturing excellence in all aspects of health care by an Act of Parliament namely, All India Institute of Medical Sciences Act, 1956. The AIIMS Act, which was passed on 2nd June, 1956, was enacted to provide for the establishment of an All India Institute of Medical Sciences as an institution of national importance.

2. Objectives of AIIMS -

Section 13 of the AIIMS Act, 1956 lays down the objects of establishing AIIMS which are as under--

- (a) to develop patterns of teaching in undergraduate and postgraduate medical education so as to demonstrate a high standard of medical education to all medical colleges and other allied institutions in India.
- (b) to bring together in one place educational facilities of the highest order for the training of personnel in all important branches of health activity; and
- (c) to attain self-sufficiency in postgraduate medical education.

3. Functions of the Institute--

With a view to promote the objects specified under section 13, the AIIMS Act, 1956 details the functions entrusted with Institute as given below : -

- (a) provide for undergraduate and postgraduate teaching in the science of modern medicine and other allied sciences, including physical and biological sciences;
- (b) provide facilities for research in the various branches of such sciences;
- (c) provide for the teaching of humanities in the undergraduate courses;
- (d) conduct experiments in new methods of medical education, both undergraduate and postgraduate, in order to arrive at satisfactory standards of such education;

- (e) prescribe courses and curricula for both undergraduate and postgraduate studies;
- (f) Notwithstanding anything contained in any other law for the time being in force, establish and maintain-
 - (i) one or more medical colleges with different departments including a department of preventive and social medicine sufficiently staffed and equipped to undertake not only undergraduate medical education but also postgraduate medical education in different subjects;
 - (ii) one or more well-equipped hospitals;
 - (iii) a dental college with such institutional facilities for the practice of dentistry and for the practical training of students as may be necessary;
 - (iv) a nursing college sufficiently staffed and equipped for the training of nurses;
 - (v) rural and urban health organisations which will form centers for the field training of the medical, dental and nursing students of the Institute as well as for research into community health problems; and
 - (vi) other Institutions for the training of different types of health workers, such as physiotherapists, occupational therapists and medical technicians of various kinds;
- (g) train teachers for the different medical colleges in India;
- (h) hold examinations and grant such degrees, diplomas and other academic distinctions and titles in undergraduate and postgraduate medical education as may be laid down in regulations;
- (i) institute, and appoint persons to professorships, readerships, lecturer ships and post of any description in accordance with regulations;

- (j) receive grants from the Government and gifts donations, benefications, bequests and transfers of properties, both movable and immovable from donors, benefactors, testators or transferors as the case may be,
- (k) deal with any property belonging to, or vested in , the Institute in any manner which is considered necessary for promoting the objects specified in Section 13;
- (l) demand and receive such fees and other charges as may be prescribed by regulations; (m) Construct quarters for its staff and allot such quarters to the staff in accordance with such regulation as may be made in this behalf;
- n) borrow money, with the prior approval of the Central Government , on the security of the property of the Institute; and
- (o) do all such other acts and things as may be necessary to further the objects specified in Section 13.”

B. Framing and Laying of Rules/ Regulations

4. The AIIMS Act, 1956 provides for framing of rules by the Central Government under Section 28 and framing of regulations by the Institute with the previous approval of the Central Government, under section 29. Accordingly, AIIMS, with the prior approval of the Central Government have framed the All India Institute of Medical Sciences Regulations 1999. Section 28 (2) of the AIIMS Act, 1956 provides for laying of rules before both the Houses of Parliament. The Rules pertaining to AIIMS were notified in 1958 and the same were also laid on the Table of the House.

5. Section 29 (3) of the AIIMS Act, 1956 provides that, every regulation made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the sessions immediately following the sessions or the successive sessions aforesaid, both Houses agree in making any modification in the regulation

or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation. It has been brought to the notice of the Committee that the AIIMS Regulations which were notified in 1999 have not been laid on the Table of both Houses although they submitted that Rules have been laid on the Table of the Houses.

6. While explaining the delay of almost 43 years for notification of regulations, the representative of AIIMS submitted before the Committee during the sitting held on 18 October, 2016 as follows-

“When I studied the 1957 governing body minutes, what I noticed was that the regulations were always there in some form without notification. Even when Rajkumari Amrit Kaur chaired the first meeting in 1957, the regulations were discussed and some financial authority was laid down for the Director, AIIMS. It was only when the new centres started coming up and their relationship with central institute needed to be defined, the regulations were notified. But it is not that from 1957 to 1999, the institute was working without regulations. There were regulations that were very much in place.”

7. Further explaining the reasons for non-laying of Regulations on the Table of the both Houses, the Ministry of Health and Family Welfare (Department of Health) in their subsequent written reply dated 5 December, 2016 submitted the following:

“The AIIMS Rules were notified in 1958 and the AIIMS Regulations were notified in 1999. The AIIMS Rules were placed before the House. The AIIMS Regulations have not been laid before the House. An examination of the Records does not indicate any specific reason for not placing the AIIMS Regulations before the House. The amendments to the AIIMS Regulations are currently being finalized and the same will be placed before the House in a period of 6 months.”

C. Review of Rules/Regulations

8. Section 28(2) of the AIIMS Act, 1956 empowers the Central Government to frame Rules on the following aspects in consultation with the Institute:-

- “(a) the manner of nomination of members under clause (f) of Section 4;
- (b) the control and restrictions in relation to the constitution of standing and ad hoc committees under sub- section (5) of Section 10;

- (c) the conditions of service of, the procedure to be followed by, and the manner of filling vacancies among , members of the Institute;
- (d) the power and functions to be exercised and discharged by the President of the Institute.
- (e) the allowances, if any, to be paid to the President and members of the Institute;
- (f) the number of officers and employees that may be appointed by the Institute and the manner of such appointment;
- (g) the form in which and the time at which the budget and reports shall be prepared by the Institute and the numbers of copies thereof to be forwarded to the Central Government;
- (h) the form and manner in which returns and information are to be furnished by the Institute to the Central Government;
- (i) any other matter which has to be or may be prescribed by rules.”

9. Further, Section 29(1) of the AIIMS Act, 1956 stipulates as follows-

“The Institute, with the previous approval of the Central Government may by notification in the Official Gazette make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act, and without prejudice to the generality of this power, such regulations may provide for:

- (a) the summoning and holding of meetings other than the first meeting of the Institute, the time and place where such meetings are to be held, the conduct of business at such meetings and the number of members necessary to form a quorum;
- (b) the manner of constituting the Governing Body and standing and ad hoc committees, the term of office of, and the manner of filling vacancies among, the members of the Governing Body and standing and ad hoc committees;
- (c) the powers and functions to be exercised and discharged by the President of the Institute and the Chairman of the Governing Body;
- (d) the allowances, if any, to be paid to the Chairman and the members of the Governing Body and of standing and ad hoc committees;
- (e) the procedure to be followed by the Governing Body and standing and ad hoc committees in the conduct of their business, exercise of their powers and discharge of their functions;
- (f) the tenure of office, salaries and allowances and other conditions of services of the Director and other officers and employees of the Institute;
- (g) the powers and duties of the Chairman of the Governing Body; (h) the powers and duties of the Director and other officers and employees of the Institute;
- (i) the management of the properties of the Institute; (j) the degrees, diplomas and other academic distinctions and titles which may be granted by the Institute;

- (k) the professorships, readerships, lectureships and other posts which may be instituted and persons who may be appointed to such professorships, readerships, lectureships and other posts;
- (l) the fees and other charges which may be demanded and received by the institute;
- (m) the manner in which, and the conditions subject to which, pension and provident funds may be constituted for the benefit of officers, teachers and other employees of the Institute;
- (n) any other matter for which under the Act provisions may be made by regulations.”

10 The AIIMS Rules 1958 were notified on 3rd March, 1958 and were amended in 1981. The AIIMS Regulations, 1999 were notified on 25th February, 1999 and subsequently, the same have been amended in 2003, 2009, 2011 and 2012.

11. When desired to know as to how Rules framed under the AIIMS Act, 1956 were amended only once in 1981 i.e. more than 36 years back, the representative of AIIMS while tendering oral evidence on 18 October, 2016, submitted before the Committee the following:-

‘The Institute’s rules are very brief. There are only 13 rules while the regulations are far more comprehensive. The Institute functions through the regulations. The rules merely and broadly lay down the allowances of President and Members, the Standing Finance Committee, creation of posts and appointments, Budget estimates and Annual Statement of Accounts.

Over a period of time, regulations have been discussed repeatedly in the governing bodies. There have been a number of committees constituted to deal with regulations because the day-to-day administration of the institute is based upon the AIIMS regulations. Those are the ones under which the Director as the Chief Executive Officer of the Institute exercises his functional authority.’

12. Regarding the review of Recruitment Rules of the Institute, the Ministry of Health and Family in their written reply submitted the following:-

“Regarding review of recruitment rules it is stated that the Ministry of Health Family Welfare has constituted a Coordination Committee for commonality in Cadres/RRs of AIIMS, PGIMER and JIPMER in 2012. The Ministry of Health and Family Welfare has examined the recommendations and the same have been sent to the Institutes for seeking internal approvals of their Governing Bodies.”

13. Regarding undertaking of the review of AIIMS regulations, the witness from AIIMS deposed before the Committee as follows-

"Review of AIIMS regulations have been undertaken by a number of Committees viz. Valiathan Committee (2006), Sujatha Rao Committee (2008), Sneh Bhargava Committee (2010), Pradhan Committee, Venkatachalam Committee (2015). The report of the Venkatachalam Committee was submitted to MOHFW on April 30, 2015."

14. As regards the areas in which rules/regulations need amendments and the time by which the same are likely to be carried out, the Ministry submitted:-

"On examination of report of Venkatachalam Committee it was observed that the recommendations in the reports submitted by Valiathan Committee, Pradhan Committee, Sneh Bhargava Committee & Sujata Rao Committee were not fully integrated into the recommendations of the Venkatachalam Committee. Hence to further examine the recommendations of the Venkatachalam Committee and fully integrate them, an internal committee of AIIMS headed by Prof. Balram Airan, Dean (Academic), AIIMS was constituted in December, 2015. Dr. Balram Airan Committee has submitted its report in October 2016. The report is being examined by AIIMS, New Delhi. Thus final view is yet to be taken on the amendments of Rules/Regulations framed under AIIMS act, 1956"

15. The Ministry of Health and Family Welfare (Department of Health) in their subsequent reply dated 5 December, 2016 further submitted the following-

"The Standing Committee on Subordinate Legislation of Rajya Sabha in its 178th and 212th reports has made recommendations on the areas in which Regulations need to be amended. The specific amendments in Regulations recommended by the Standing Committee on Subordinate Legislation of Rajya Sabha are:

- (a) Streamlining the functioning of the Governing Body;
- (b) Rationalisation of fee structure;
- (c) Appointment of Dean/Sub-Dean;
- (d) Delineation of functions of President AIIMS and Director, AIIMS;
- (e) Service conditions of Resident Doctors, Senior Residents and Physiotherapists;
- (f) Removal of adhocism in Reservation Policy;
- (g) Incorporation of recommendations of Valiathan Committee;
- (h) Incorporation of Assessment Promotion Scheme into Regulations; and
- (i) Faculty members holding more than one substantive post.

On being queried about the present status of the Report of Dr. Balram Airan Committee, the Committee were informed that:-

"The Venkatachalam Committee was constituted to follow-up on the recommendations of the Committee on Subordinate Legislation of Rajya Sabha. The Venkatachalam Committee submitted its report in April, 2015. On examination of the Venkatachalam Committee report, it was observed that the recommendations in the reports submitted by Valiathan Committee, Pradhan Committee, Sneh Bhargava Committee and Sujatha Rao Committee were not fully integrated into the recommendations of the Venkatachalam Committee. Hence to further examine the recommendations of the Venkatachalam in the light of the recommendations made by other Committees and fully integrate them, an internal committee of AIIMS headed by Prof Balram Airan, Dean (Academic), AIIMS was constituted in 2016. Dr. Balram Airan Committee has submitted its report in October, 2016. The report is being examined by AIIMS and will be placed before the Governing Body of AIIMS, New Delhi for their approval and thereafter it will be placed for approval of the Competent Authority."

16. When the Committee desired to know about the initiatives taken by the Ministry after submission of Reports by various Committees and also in view of Rajya Sabha 178th and 212th Reports, the representative from AIIMS stated before the Committee that-

"The major change that has been recommended is the introduction of Accelerated Promotion Scheme into the regulations. We are very keen to introduce the APS. We have even formulated the clarificatory regulation 30 and sent it to the Ministry of Law. Unfortunately, the APS went into litigation and is currently sub-judice under Supreme Court and Delhi High Court and there are day-to-day hearing going on. The Ministry of Law advised us that the APS cannot be notified till the matter is sub-judice. This scheme has been recommended by Shri Valiathan and also by Shri Pradhan into our regulations. There are some regulations which we are taking to our governing body on October 21 which will be incorporated following approval."

17. The witness further submitted –

"As regards the other recommendations that have been made by five Committees that looked into it, I submitted in my presentations that we have revised fee structure for packages. We have not been able to revise fee structure for admissions of students and fee structure for OPD. We have taken it to our Standing Finance Committee (SFC) and we were told three times by SFC that the time is not opportune to revise the OPD charges or the fee structure. Since number of admissions have increased, we have introduced the post of the Dean (Examinations) and Associate Dean (Examinations). So this recommendation has been accepted by us through an administrative order."

18. As regards the expected time by which the Rules/Regulations are expected to be finalised and published, the Ministry in the written reply dated 5 December, 2016 submitted as follows-

“The AIIMS Governance model which is operational for past 60 years has enabled the development of a strong resilient Institute, which is widely regarded as the best Medical Sciences University of India. Further, improvements in the Governance structure of AIIMS as envisaged by the Committee on Subordinate Legislation would be taken up in the next 6 months period. “

19 To a query regarding applicability of AIIMS, New Delhi regulations on new AIIMS opened/being opened in other parts of the Country, the witness informed the Committee that it is same for all the AIIMS. Rules and Act have been implemented in all AIIMS. One Dr. Bhan Committee is working on it, because Governance issues have increased. Now with the increase in the number of AIIMS, to conduct Governing Body etc of all is causing difficulty. One Committee Chas been formed which will redefine the governance structure because today there are 6 AIIMS and tomorrow there will be 12 AIIMS. Currently, the Rules and Act of New Delhi AIIMS are being applied on other AIIMS.

D. Manpower Requirement

20. The numerical strength of the staff as well as the quality of the staff weighs heavily on the performance of any institution more so an institute of high reput e such as AIIMS. When asked about the details of number of vacancies lying vacant in respect of various categories of posts in AIIMS, the Ministry of Health and Family Welfare in their written reply submitted the following:-

“The existing sanctioned strength and actual strength (in-position) in Faculty and Non-faculty posts in AIIMS, New Delhi, are as follows-

S.	Category	Sanctioned Strength	In-position	vacancy
1.	Faculty	883	638	245*
2.	Non-Faculty	11807	9782	2025**

*Recruitment process to fill up 118 posts of faculty has been undertaken and these will be filled up shortly.

**The vacancy in non-faculty positions are due to new creation/resignation/retirement. These vacant posts also include promotional posts as well as posts for which direct recruitment has to be made. Recruitment process for these vacant posts are at different stages.”

21. When asked about any assessment carried out to review the manpower requirements in AIIMS, the Ministry in their written reply submitted:-

“The Sub-Committee of the Standing Finance Committee of AIIMS, New Delhi, was constituted by the Ministry of Health & Family Welfare under the chairmanship of AS&FA in November, 2014. The Committee assessed the additional manpower requirement as follows:

S.No.	Department	Faculty (including Residents)	Non-Faculty	
			Regular	Out-sourced
1.	Rheumatology	22	20	-
2.	Bio-technology	10	56	-
3.	Surgery	87	916	863
4.	Trauma	77	549	511
5.	Mother & Child Block	64	2305	578
6.	Burns & Plastic Surgery	92	367	170
7.	Anaesthesiology	212	191	-
8.	Administration	-	60	-
9.	Accounts & Finance	-	26	-
10.	Stores	-	17	-
11.	Engineering	-	8	-
12.	Gymkhana	-	3	-
13.	Remaining Departments	-	3733	2599
	Total	553	8251	4721
		Grand Total – 13525		

22. During the oral evidence before the Committee held on 18 October, 2016, the representative of AIIMS while apprising the Committee about the latest position submitted that, recently, 300 additional faculty members and more than 1000 nurses have been recruited in AIIMS for ensuring smooth functioning of the Institution. It was also brought out to the notice of the

Committee that there is a lot of pressure on AIIMS from all States as the patients who do not get full medical facilities in their States, come to AIIMS. To address this problem, in different States new AIIMS are being established of which six have been established and on the remaining six the work is going on. It would enable people of that particular areas to approach the AIIMS in their area, where they will get same level of medical facilities as they get in Delhi AIIMS.

23. With regard to the faculty position in the six new AIIMS, the Ministry in their reply dated 5 December, 2016 submitted the following:-

Position of Faculty in Six AIIMS

AIIMS	Sanctioned	Post advertised in 2015-16 and 2016-17	No. of candidates empanelled against post advertised	Present In-Position	Vacancy
Bhopal	305	251	00	58	247
Bhubaneswar	305	244	105	141	164
Jodhpur	305	221	89	103	202
Patna	305	195	00	54	251
Raipur	305	133	42	78	227
Rishikesh	305	256	65	93	212
Total	1830	1300	301	527	1303

The Committee were also apprised that a total number of 305 posts of various Faculty disciplines have been created for each of six functional AIIMS namely AIIMS at Bhopal, Bhubaneswar, Jodhpur, Patna, Raipur and Rishikesh. Recruitment to various positions is done on need basis keeping in view the additional services and facilities planned to be added in the hospitals. Vacant faculty posts are being advertised regularly by the Institute depending on their requirement. However, as high standards have to be maintained in selection, keeping in view the stature of these Institute of National Importance, all the advertised positions could not be filled up.

In this regard, it was submitted that special focus was given in the past one year on filling up of Faculty positions. In all 1300 Faculty positions were advertised and selections held. However, only 301 faculty positions could be filled. Presently, there are 527 faculty in position in all the six AIIMS. However, unfilled vacancies are being re-advertised.

The various positions of Senior Resident, Junior Resident and non-faculty posts are also advertised and filled up on need basis by the respective AIIMS. All the Institutes have been advised to fill up the posts on regular basis. To facilitate expeditious filling up of vacancies, separate Standing Selection Committee (SSCs) have been constituted for each of the aforesaid six AIIMS.

To address the shortage of doctors in various departments of AIIMS, following measures have been taken:-

- (i) The upper age limit for direct recruitment against the post of Professor and Additional Professor in the six AIIMS has been raised from the present 50 years to 58 years. This will make available experience willing faculty of various Government Medical Colleges where the retirement age is 58/60 years.
- (ii) Contractual appointment of Faculty is also permitted as stop gap arrangement.

E. Admission Process in AIIMS

24. On the issue of admissions in AIIMS, the Ministry in their written reply to the Committee furnished the following information:-

“AIIMS, New Delhi conducts its own entrance examination for MBBS course on All India Basis through online (Computer Based Test) mode followed by counseling.

AIIMS, New Delhi is having 72 seats in MBBS for Indian nationals with following distribution:

General category - 37 seats

SC category -11 seats

ST category - 5 seats

OBC category - 19 Seats

Reservations for PH category are 3% for OPB category provided on horizontal basis. Besides these, foreign nationals are also admitted as per direction of the Central Government.

Admission in PG courses

AIIMS, New Delhi conducts its own entrance examination for MD/MS/MDS on All India Basis through online (Computer Based Test) mode followed by counseling.

For other AIIMS, AIIMS, New Delhi conducts the examination as and when such direction is received from the Ministry of Health & Family Welfare.

AIIMS, New Delhi is having a total 845 seats in 3 years PG courses and seats are reserved for SC/ST/OBC categories as per reservation policy of Government of India.

Besides this, 107 PG seats are sponsored seats for which candidates are sponsored by State Government and Ministry of External Affairs.”

PART-II

Observations/Recommendations

Delay in framing of Regulations

1. The Committee note that AIIMS is a statutory Institute established under the All India Institute of Medical Sciences Act, 1956 to serve as a nucleus for nurturing excellence in all aspects of human health care. Sections 28(1) of the Act confers Rules making power on the Central Government and section 28(2) provides for laying of the Rules before both the Houses of Parliament. Similarly, Section 29 of the Act confers Regulations making power on the AIIMS with the prior approval of the Central Government. In this regard, while observing that the Rules under the Act were framed in 1958, the Committee find it appalling to find that the required Regulations under the Act were framed and notified only in the year 1999 i.e. after a gap of almost 43 years. The Committee, therefore fail to understand as to how a large array of areas which were expected to be governed by a well framed set of Regulations were actually governed in the absence of Regulations during the intervening period of 43 years. The Committee do not agree with the submission of the Institute that the regulations were there in some form or the other but without notification and it was only when the new Centres started coming up and their relationship with Central Institute was needed to be defined, that the regulations were notified. The Committee strongly deprecate this kind of callous and ostensible justification by the AIIMS authorities having the effect of belittling the mandatory statutory requirements prescribed in the AIIMS Act, 1956. The Committee squarely blame the Ministry of Health and Family Welfare which is the nodal Ministry for the functioning of the Institute and responsible for giving prior approval to the Regulations framed by the Institute for abrogating their responsibilities by not ensuring framing of Regulations by the Institute for almost 43 years. The Committee have time and again emphasized that the statutory provisions regarding delegated legislation with regard to framing of Rules/Regulations should be strictly adhered to. This precisely is the reason

that the Committee have recommended in their earlier Reports that the Rules/Regulations should be framed within the six months of the coming into force of the Act and in case of any delay, extension of time is needed to be sought from the Committee by the Ministry concerned. The Committee, therefore, reiterate their earlier recommendation and exhort the Ministry of Health and Family Welfare to ensure that in future such kind of lapses do not recur and a monitoring mechanism is put into place to ensure that the requisite Rules/Regulations required to be framed under an Act are framed as soon as possible after the commencement of the Act and in no case this period should exceed six months.

Non-laying of Regulations

2. The Committee note that Section 29 (3) of the AIIMS Act, 1956 provides for laying of regulations framed by the Institute before both the Houses of Parliament. The Committee, however, feel dismayed to find that in complete disregard to these statutory provisions, the Regulations which were first framed by AIIMS in 1999 and subsequently also amended a number of times, have never been laid by the Government in the Parliament. In this regard, the Committee also take cognizance of the recommendations made by Committee on Subordinate Legislation, Rajya Sabha in their 178th Report presented to the House on 21.6.2012 wherein that Committee had also expressed their dismay over the delay in framing and non-laying of Regulations under AIIMS Act, 1956 and held the Ministry responsible for such omission (Para 6 of 178th Report). In this backdrop, the Committee trust the submission made by the Ministry of Health and Family Welfare that the amendments to AIIMS Regulations are being finalized and the same will be placed before the two Houses of parliament in a period of six months because the position till date is *status quo* even after a lapse of five years after of presentation of the Report of the said Report of the Rajya Sabha Committee. In the opinion of the Committee, effective Parliamentary control is the defining feature of subordinate legislation for the purpose of legislative scrutiny and ensuring that the same have been framed in accordance with the

Act. That is why the Committee in their various Reports have impressed upon the need for laying of 'statutory orders' before both the Houses of Parliament, like the 20th Report (7LS) wherein the Committee had recommended that, 'laying on the Table of all orders' in pursuance of powers delegated by Parliament is very significant as it affords an opportunity to Members of Parliament, if they so desire to move any amendment or modification to such 'Order' including a motion for their amendment.' According to the recommendations of the Committee, even the amendments brought out in the principal Rules/Regulations are to be laid on the Table of both Houses of Parliament. The Committee strongly deprecates such lackadaisical attitude of the Ministry towards compliance of statutory provisions laid down in the Act and recommend that responsibility must be fixed in the Ministry/ AIIMS for such brazen violation and non-compliance of prescribed statutory provisions contained in the Act as well as the direction of the Committee on Subordinate Legislation for time-bound framing of Rules and Regulations and the statutes issued of laying in the House, thereby defeating the very purpose of their enactment. The Committee further recommend that Ministry take immediate steps for laying all the Regulations framed till date under the AIIMS Act, 1956 on the Table of both the Houses without any further delay and furnish a compliance report in this regard within 3 months after presentation of the Report in the Parliament.

Review of AIIMS Rules

3. The Committee note that the Rules framed under AIIMS Act, 1956 are very brief and broadly lay down about nomination of members, constitution of Standing Finance Committee, Power and functions of President, creation of Posts and appointments, Budget Estimates, Annual Statement etc. The Rules have been amended only once in the year 1981. However, as regards the review of Recruitment Rules for various faculty and non-faculty posts in the AIIMS are concerned, the Committee note that the Ministry of Health and Family Welfare constituted a Coordination Committee way back in the year 2012 for obtaining

commonality in Cadres/ Recruitment Rules of AIIMS, PGIMER and JIPMER and the recommendations of the said Committee after examined by the Ministry/ Institutions concerned have been sent to the Institutes for seeking internal approvals of their Governing Bodies. The Committee, therefore, while observing that there has already been a considerable delay in the completion of review process of the Recruitment Rules, desire that the same may be finalised at the earliest and the Committee may be apprised of the same.

Review of AIIMS Regulations

4. As regards the AIIMS Regulations, the Committee note that the AIIMS regulations were first notified in the year 1999 and subsequently amended in the years 2003, 2009, 2011 and 2012. Also, a review of AIIMS regulations have been undertaken in the past by a number of Committees viz. Valiathan Committee (2006), Sujatha Rao Committee (2008), Sneh Bhargava Committee (2010), Pradhan Committee and Venkatachalam Committee (2015). As per the Ministry of Health and Family Welfare submission, the Venkatachalam Committee was constituted to follow-up on the recommendations made by the Committee on Subordinate Legislation of Rajya Sabha in their 178th Report (presented on 21.06.2012) and 212th Report (presented on 03.09.2013) which *inter-alia* recommended to review regulations to address the issues such as streamlining of the functioning of the governing body, rationalization of fee structure, appointment of Dean/Sub-Dean, delineation of functions of President AIIMS and Director AIIMS, service conditions of Resident Doctors, Senior Residents and Physiotherapists, removal of adhocism in Reservation Policy, incorporation of recommendations of Valiathan Committee, incorporation of Assessment Promotion Scheme into Regulations, and faculty members holding more than one substantive post. However, it was found that the recommendations submitted by other committees were not fully integrated into the recommendations of the Venkatachalam Committee Report and, therefore, another internal committee of AIIMS headed by Prof

Balram Airan was constituted in 2016. This Committee has submitted its report in October, 2016 which is being examined by AIIMS.

5. The Committee feel appalled at such tardy progress for comprehensive review of the AIIMS Regulations which forms the backbone of the overall functioning of this prestigious Institute. As a result, the review process which was initiated in the year 2006 has remained incomplete even after a lapse of 11 long years. In the opinion of the Committee, bringing out necessary amendments in the Rules/ Regulations is an ongoing feature of good governance. Moreover with the increase in number of AIIMS to six and plan to make the number to 12, the review of Rules and Regulations is urgently required. The Committee while deprecating such kind of indecisiveness on the part of the concerned authorities in review of important aspects governing the functioning of the Institute, strongly recommend that the final decisions based on the of recommendations of the Prof. Balram Airan as well as the recommendations of various other committees constituted earlier may be taken without any further delays so as to safeguard the interests of the Institute. The Committee would like to be apprised of action taken in this regard.

6. The Committee further note that a number of important decisions like introduction of the posts of Dean (Examinations) and Associate Dean (Examinations), increase in the remuneration of residents under the residency scheme, increase in reservation of residents, etc. have been implemented in the Institute through administrative orders instead of appropriate amendments in the relevant rules/ regulations. The Committee take serious note of the way in which the premier Institute of the country is functioning and taking decisions by way of issuing administrative orders instead of implementing necessary amendments in the relevant Rules/ Regulations. The Committee are of the view that administrative orders/ executive orders are no substitute for statutory Rules/Regulations as such orders are not notified through Gazette Notifications and do not enjoy the legal backing of statutory Rules/ Regulations and may cause unnecessary litigations. The

Committee, therefore, recommend that instead of implementing important decisions by way of administrative orders which have no legal backing, the Government should bring amendment to the relevant regulations and notify the same.

Manpower Shortage

7. The Committee are of the view that the institute of such high stature has to have not only sufficient manpower but also the most efficient manpower. However, the Committee feel disappointed to find from the submission of the Government that there are 245 vacancies in the faculty and 2025 vacancies in non-faculty staff strength of AIIMS, New Delhi and 1303 vacancies in the faculty of six new AIIMS established in different States of the country. In this regard, the Committee note that off late the AIIMS has given special focus in the past one year on filling up the vacancies. As a result 300 additional faculty members and 1000 nurses have been recruited in AIIMS, New Delhi and 301 faculty positions also filled up in six new AIIMS. Further to facilitate expeditious filling up of various posts separate Standing Selection Committees (SSCs) have been constituted for the six new AIIMS. The Committee feel that huge shortage in the non-faculty posts poorly reflects on the flawed recruitment policy of the Institute. The Committee feel that with coming up of more new AIIMS, formulation of a personnel policy covering optimum staff ratio is the need of the hour. This would necessarily involve prior planning viz. preparation of lists of vacancies for the prospective years and schedule for filling up of the same.

8. As regards filling up of faculty posts, the Committee observe from the submission made by the Ministry that, as high standards have to be maintained in selection, keeping in view the stature of these Institutes of National importance, all the advertised posts could not be filled up, are of the opinion that non-filling of the staff/faculty vacancies takes a toll on the existing staff who have to compensate for the incumbent's position. The Committee feel that the vacancy position in the Institute, poorly reflect on the management of human resources in the Institute and is bound to compromise the efficiency as well as the high

standard of the Institution. The Committee, therefore, desire that the issue of manpower shortage in the AIIMS be addressed urgently otherwise the expansion of AIIMS would be futile because in the absence of good doctors /staff, the patients will not get proper and timely medical facilities which are expected at such prestigious Institutions . The Committee therefore recommend that a comprehensive study should be carried out to address the root cause of non-availability of Doctors of high standards may it be braindrain, comparatively lesser remunerations/facilities shortage of undergraduate/post-graduate seats and colleges, etc. so as to address the issue for all times to come.

9. The Committee further note that in order to address the shortage of doctors, certain measures have been taken by AIIMS such as increasing the upper age limit for the post of Professor and Additional Professor in six new AIIMS and contractual appointment of faculty to overcome the shortage of faculty. The Committee are of the opinion that stop-gap arrangements cannot fulfill the long term needs of the premier institution and may also result in dilution of the standards of the Institute. The Committee, therefore recommend that all-pervasive efforts may be made to plug-in the shortage of staff both at the faculty and non-faculty levels and the vacant posts should be filled up on permanent basis.

Admissions

10. The Committee note that the AIIMS is not only the nation's prestigious hospital but is also an institution of higher learning in the medical arena. As an educational institution it conducts its own online entrance examination for MBBS course throughout the country followed by counseling. AIIMS also conducts its own online entrance examination for MD/MS/MDS courses followed by counseling. The Committee feel that the entrance exams conducted by AIIMS should be welded with statutory arm to make the entrance more transparent and to remove any ambiguity in the same. As the entrance exam forms the basis for merit based selection of candidates to the undergraduate and post graduate courses there is a need to give it a statutory backing so that no questions are raised on the

authenticity of entrance exams. Moreover, on eventuality of any deviation, remedial measures can be taken on the basis of statutory provisions and this will also reduce the scope of litigations. Therefore, the Committee recommend the Ministry to take up measures to bring the entrance exams conducted by AIIMS for various courses within the statutory ambit and apprise the Committee about the action taken in this regard.

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

DILIPKUMAR MANSUKHLAL GANDHI
Chairperson
Committee on Subordinate Legislation

APPENDIX I

(Vide Para 4 of the Introduction of the Report)

MINUTES OF THE SECOND SITTING OF THE COMMITTEE ON SUBORDINATE LEGISLATION (2016-2017)

The Second sitting of the Committee (2016-2017) was held on Tuesday, the 18th October, 2016 from 1500 to 1630 hours in Committee Room 'E', Parliament House Annexe, New Delhi.

PRESENT

1. Shri Dilipkumar Mansukhlal Gandhi Chairperson

MEMBERS

2. Shri Birendra Kumar Chaudhary
3. Shri. S.P. Muddahanume Gowde
4. Shri Jhina Hikaka
5. Shri Chandulal Sahu
6. Adv. Narendra Keshav Sawaikar
7. Shri Ram Kumar Sharma

SECRETARIAT

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

WITNESSES

Ministry of Health & Family Welfare/AIIMS

1. Shri C.K. Misra : Secretary
2. Shri Arun Singhal : Joint Secretary
3. Shri Rabindra Prasad : Director (INI-I)
4. Prof. Balram Airan : Dean Academic, AIIMS
5. Prof. Virendra Kumar Bansal : Associate Dean Academics,
AIIMS
6. Shri V. Srinivas : Deputy Director
(Administration), AIIMS

2. The sitting of the Committee was convened for having a briefing by the representatives of the Ministry of Health and Family Welfare/All India Institute of Medical Sciences (AIIMS), New Delhi on rules/regulation framed under the AIIMS Act, 1956 for governing the functioning of AIIMS.

3. At the outset, the Chairperson welcomed the Members of the Committee. Thereafter, the representatives of Ministry of Health & Family Welfare and AIIMS were called in. The Chairperson welcomed the representatives of the Ministry of Health & Family Welfare and AIIMS to the sitting of the Committee and also drew their attention to Direction 55(1) of the Directions by the Speaker regarding confidentiality of the proceedings. The representatives of the Ministry of Health & Family Welfare and AIIMS then briefed the Committee on various provisions of the Rules/Regulations governing the functioning of AIIMS.

4. The representatives of the Ministry made a brief Power Point Presentation outlining the Aims and Objectives, Legislative Framework, Chronology of Amendments made in the AIIMS Act/Rules/Regulations, etc. Thereafter, the Committee deliberated on various issues broadly covering aspects such as non-laying of Regulations of AIIMS before the Houses of Parliament, non-compliance of Regulation 8 (1) which mandates the Governing Body to meet at least thrice a year, rules and procedure for appointment of various heads of Departments, expansion plans of AIIMS and status of establishment of new AIIMS in other States, fire safety measures in AIIMS, introduction of new technological advancements, reservation policy in recruitment and admissions etc.

5. The representatives of the Ministry then furnished clarifications on the queries raised by the Committee. On some of the points, the information on which was not readily available with the representatives of the Ministry, the Chairperson asked them to furnish written replies to those points within 15 days to the Lok Sabha Secretariat.

6. The Chairperson then thanked the representatives of the Ministry for presenting their inputs on the subject before the Committee.

7. The witnesses then withdrew.

8. The verbatim proceedings were kept on record.

The Committee then adjourned.

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

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

PRESENT

Shri Dilipkumar Mansukhlal Gandhi Chairperson

MEMBERS

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

SECRETARIAT

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

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

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

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

The Committee then adjourned.
