Subject

Legislation of the...
MINISTRY OF PERSONNEL, P.G. & PENSIONS
(Department of Personnel & training)

S.No. 1(PUC)......pps.1- /corr.

'The Freedom of Information Bill, 2002', as passed by the Lok Sabha on 3rd December, 2002 and the Rajya Sabha on 16th December, 2002, received the assent of the President on 6th January, 2003 and 'The Freedom of Information Act, 2002' has been published in the Gazette of India on 7th January, 2003 for general information. Section 1(3) of the Act lays down that it shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. As the basic infrastructure required for operationalising the Act is in the process of being set up, the Act has not yet been brought into force.

2. The Common Minimum Programme of the United Progressive Alliance inter-alia provides that

'The Right to Information Act will be made more progressive, participatory and meaningful.'

A follow-up action Report on the above item was submitted to the Prime Minister who had directed as follows:-

'The first priority should be to bring into force the Act as passed. To expedite this, DOPT should immediately place their draft rules on website for inviting comments from public within a period of 45 days. Simultaneously, during this period DOPT should arrange meeting(s) with the Legislative Dept. at appropriate levels to resolve differences regarding the draft rules. Draft rules should be finalized by 15.9.2004 on the basis of inputs received from public and State Govts. It may not be necessary to wait for all State Govts. to respond, as they will be framing their own rules.

Simultaneously DOPT should study the F of I Acts passed by several States to see if they have any progressive features that should be incorporated in the Central Act. DOPT's considered views on this should be received by 15.9.2004.'

Pursuant to the directives given by the Prime Minister, an inter-departmental meeting was held on 6th August, 2004 wherein the positions of the Ministry of Personnel, P.G. & Pensions and the
Ministry of Law and Justice over the provision of the draft rules were reconciled. These draft rules have subsequently been put on the website of the Ministry of Personnel, P.G. & Pensions inviting the public to give its suggestions by 31st August, 2004. The suggestions so received will thereafter be taken up for examination with a view to finalise the rules by 15th September, 2004.

3. As for the PM’s directive that a study should be made of the FOI Acts passed by several States with a view to incorporate their progressive features in the Central Act, we had written to all State Governments to provide us with a copy of their enactment. The response has been somewhat slow in coming and we have reminded the State Governments to expedite their replies. The matter is also being followed up informally with the State Governments and according to available information, there are only 9 States which have notified their Acts on the subject. Copies of the enactments have been received from some of the State Governments and it is hoped that the remaining States would also respond by the end of this month thereby enabling us to undertake the contemplated study in the first week of September.

4. As may be seen from para 2 above, the National Common Minimum Programme also promises that the 'Right to Information Act will be made more progressive'. In pursuance of the above commitment, the National Advisory Council has, after due deliberation, forwarded to the Prime Minister a draft amendment to the 'Freedom of Information Act' as inputs towards the fulfillment of this commitment. On this, the Prime Minister has directed that the Department of Personnel & Training may look into the proposal on priority basis and bring a formal note to the Cabinet as soon as possible so that an amendment Bill can be tabled by the Government in the next session of Parliament. This note is a sequel to the directions given by the Prime Minister.

5. The draft amendments suggested by the National Advisory Council (NAC), prima-facie, are so extensive that these would virtually lead to a repeal of the existing 'Freedom of Information Act, 2002' with the proposed ‘Right to Information Act, 2004’ coming as a replacement. In view of the fact that the suggested Act( of 2004) proposes to retain the existing coverage in as much as it will apply to all State Governments (except of course the J&K), and considering that the Government is also committed to make the Act ‘participatory’, it may perhaps be appropriate to forward a copy of the amendments, together with the draft of the new Act as proposed by the NAC, to all State Governments for
their considered views and suggestions in the matter. This practice, it may be recalled, was also followed in the course of finalizing the present Act when, in 1997, the report of the Shourie Working Group together with the draft of the Act suggested by it, was forwarded to all State Governments for their comments. For a fuller participation, it would also be desirable if the draft amendments/proposed Act are put on the website so as to enable the public to give its comments/suggestions. Furthermore, considering that meaningful suggestions can be made only after an in-depth study is made of the existing provisions vis-à-vis the amendments suggested by NAC, it is felt that a time period of at least two months may be given to the State Governments/public to formulate their views and give us their comments.

6. The course of action, as suggested in the preceding para, is for approval after which a suitable communication shall be sent to all State Governments; and, the amendments suggested by the NAC to be put on the website for inviting the suggestions of the public.

(RAKESH MALHOTRA)
Under Secretary
27.8.2004

Dir. (E-II)
Ref notes from p1/naut

We may seek orders of the Honourable

PM on the following points,

(a) whether we go ahead with the publication

of draft made around October 996, or

The amendments proposed by NAC may be examined in the 1st instance

(b) The POJ Act provision may be kept

pending and the Act need not be brought into force.

Submitted pl

P Mohan

27.8.2004

Chandrasekhar
27th August 2004

Secretary (P)

MOS(P) agreed A fresh note may be made to highlight P.N.

Suresh BACHHAWA

3/9/04 Secy (P)
Contd...

MOS(PP)’s minute on pre-page.

2. A draft I.D. note, for obtaining the orders of the Prime Minister, is placed below for consideration and approval.

(RAKESH MALHOTRA)
Under Secretary
13.9.2004

Dir(EI)

Ref: MOS(PP)’s orders prepared and dated

[Signature]

Communication at FR

Note placed below at DIP may please be signed by MOS(PP). Thereafter a reply will be sent to PMO w.r.t FR. DPA gives latest status note.

Submitted for kind consideration/approval

P. Mohan
13.9.2004

Secretary (G)

[Signature]

MOS(PP)

[Signature]

Secretary (G)

[Signature]

[Postmark: 17/8/04]

[Postmark: 20/9/2004]

Dir(G)
DEPARTMENT OF PERSONNEL & TRAINING

'The Freedom of Information Act, 2002', as assented to by the President on 6th January, 2003, has been published in the Gazette of India on 7th January, 2003 for general information.

2. Section 1(3) of the Act lays down that it shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. As the basic infrastructure required for operationalising the Act is in the process of being set up, the Act has not yet been brought into force.

3. The Common Minimum Programme of the United Progressive Alliance (UPA) Government envisages that

' The Right to Information Act will be made more progressive, participatory and meaningful.'

In furtherance thereof, the Prime Minister has directed as follows:-

"The first priority should be to bring into force the Act as passed. To expedite this, DOPT should immediately place their draft rules on website for inviting comments from public within a period of 45 days. Simultaneously, during this period DOPT should arrange meeting(s) with the Legislative Dept. at appropriate levels to resolve differences regarding the draft rules. Draft rules should be finalized by 15.9.2004 on the basis of inputs received from public and State Govts. .......

The deadline for finalizing the draft rules has been extended to 15th October, 2004 by a communication dated the 20th September, 2004 from the PM's Office.

4. Separately, the National Advisory Council has forwarded to the Government a draft of the amendments to the FOI Act as inputs towards the fulfillment of the commitment made in the National Common Minimum Programme. P.M. has directed that the Department of Personnel & Training should look into the proposal on priority basis and bring a formal note to the Cabinet as soon as possible so that an Amendment Bill can be tabled by the Government in the next session of Parliament. With the approval of MOS(PP), a formal reference has been made to the Ministry of Law & Justice today for according legislative and Constitutional clearance to the amendments proposed by NAC.
5. Reverting to the directives given by the Prime Minister for finalizing the draft rules under the existing Act, an inter-departmental meeting was held on 6th August, 2004 wherein the positions of the Ministry of Personnel, P.G. & Pensions and the Ministry of Law and Justice over the provisions of the draft rules were reconciled. These draft rules were subsequently put on the website of the Ministry of Personnel, P.G. & Pensions inviting the public to give its suggestions by 31st August, 2004. A total of 28 responses have been received there to. However, before these are taken up for a comprehensive examination, it is worth mentioning that once the proposal to amend the FOI Act on the basis of the NAC’s recommendations comes through, the ‘Freedom of Information Rules’ as may be finalized in the context of the existing enactment, would lose their relevance. Having regard to this, it may perhaps be desirable to seek fresh directions from the Prime Minister whether the proposal to finalise the draft rules under the present Act, and on the basis of the responses received from the public on the provisions contained therein, may be taken to its logical conclusion.

(RAKESH MALHOTRA)
Under Secretary
21.10.2004

Dir(E-II) – not in position

JS(E) Please speak

VSC(RK) Spoken

\[\text{\underline{\text{\textit{A}}}}\]

\[\text{\underline{\text{\textit{A}}}}\]

Secretary(\textit{A})
Are we trying to say that
the old bill be brought into force
even when it amendment can
on it and!

M. went. Z

US (On R-R)

£,

12) Dispel II.

J. (E) to R.T. Bill on 23/12

with the word

no further

action afforded to by reason

5/4/12