

**No. 18012/01/2014-K.1**  
**Government of India**  
**Ministry of Home Affairs**  
**(Department of J&K Affairs)**

North Block, New Delhi,  
Dated the 8<sup>th</sup> August, 2014

**Shri Dipankar Dey**  
Village-Golakganj, PO-Golakganj  
Dist.-Dhubri, Assam - 783334

**Subject:** Information sought under RTI Act 2005.

This is with reference to your online RTI application dated 26.07.2014 [Registration No. MHOME/R/2014/61715] seeking information under RTI Act, 2005.

2. In this regard, the information as available in this office is as follows:

(A) The Article 370 was included in the Constitution of India by the Constituent Assembly. The Article 370 was Article 306A in the draft Constitution of India, which was debated in the Constituent Assembly on 17<sup>th</sup> October 1949. The details of debates in the Constituent Assembly are available on the website '[parliamentofindia.nic.in](http://parliamentofindia.nic.in)'. For more information in this regard, if any, you may seek information from the CPIO in the Ministry of Parliament Affairs, whose address is: Under Secretary (Legislative) & CPIO, 90-Parliament House, the Ministry of Parliamentary Affairs, New Delhi.

(B) The Article 370 of the Constitution of India occurs in Part XXI relating to "Temporary, Transitional and Special Provisions". The Article reads as under:

***"[370. (1) Notwithstanding anything in this Constitution,—***

- (a) the provisions of article 238 shall not apply in relation to the State of Jammu and Kashmir;***
- (b) the power of Parliament to make laws for the said State shall be limited to—***
  - (i) those matters in the Union List and the Concurrent List which, in consultation with the Government of the State, are declared by the President to correspond to matters specified in the Instrument of Accession governing the accession of the State to the Dominion of India as the matters with respect to which the Dominion Legislature may make laws for that State; and***
  - (ii) such other matters in the said Lists as, with the concurrence of the Government of the State, the President may by order specify.***

***Explanation.—For the purposes of this article, the Government of the State means the person for the time being recognized by the President as the Maharaja of Jammu and Kashmir acting on the advice of the Council of Ministers for the time being in office under the Maharaja's Proclamation dated the fifth day of March, 1948;***

- (c) *the provisions of article 1 and of this article shall apply in relation to that State;*
- (d) *such of the other provisions of this Constitution shall apply in relation to that State subject to such exceptions and modifications as the President may by order specify:*

*Provided that no such order which relates to the matters specified in the Instrument of Accession of the State referred to in paragraph (i) of sub-clause (b) shall be issued except in consultation with the Government of the State:*

*Provided further that no such order which relates to matters other than those referred to in the last preceding proviso shall be issued except with the concurrence of that Government.*

(2) *If the concurrence of the Government of the State referred to in paragraph (ii) of sub-clause (b) of clause (1) or in the second proviso to sub-clause (d) of that clause be given before the Constituent Assembly for the purpose of framing the Constitution of the State is convened, it shall be placed before such Assembly for such decision as it may take thereon.*

(3) *Notwithstanding anything in the foregoing provisions of this article, the President may, by public notification, declare that this article shall cease to be operative or shall be operative only with such exceptions and modifications and from such date as he may specify:*

*Provided that the recommendation of the Constituent Assembly of the State referred to in clause (2) shall be necessary before the President issues such a notification."*

(C) The Article 370 has been and is being, used for applying provisions of the Constitution of India to the State of J&K with the concurrence of the State Government. Effect of this Article is that the Jammu & Kashmir State which is part of India will continue to be part of India, will be unit of future Federal Republic of India.

(D) The State of Jammu & Kashmir also has its' State Constitution. The Constitution of the State of Jammu & Kashmir provides for a separate State Flag for the State.

(E) The issues of purchase of land and agricultural assets in J&K, marriage laws/rules in J&K etc. are governed by the law of the land. It is mentioned that your application is not transferable to the J&K Government for providing you the relevant information under RTI Act, 2005; as RTI Act, 2005 is not applicable to the State of J&K. You may seek detailed information, if any, directly from the State Government. You may also seek information in this respect, if eligible, from the Government of J&K directly under the Jammu & Kashmir RTI Act, 2009.

3. I hope that the given information would help you in clearing the position in the matter. The Appellate Authority in this case is Shri R. K. Srivastava, Joint Secretary (MHA), Room No. 127 A, North Block, New Delhi.

  
(S. C. Karol)

Director (K-III) & CPIO

Copy to :

(1) RTI Cell, MHA

✓(2) IT Cell, MHA