



No.A-43020/61/2013-RTI
Government of India/भारत सरकार
Ministry of Home Affairs/गृह मंत्रालय

To be issued in Hindi
RTI MATTER/TIME BOUND

New Delhi, dated the 28th May, 2014.

ORDER

Sub: First Appeal made by Shri Maniram Sharma under the RTI Act, 2005

Whereas Shri Mani Ram Sharma vide his online RTI application No. MHOME/R/2014/60988 dated 20/04/2014 had sought information regarding action taken on the suggestions given by him to the various Public Authorities like Hon'ble Home Minister, The President of India, Hon'ble Prime Minister on various subjects like 'Replacement of Prison Act, 1894', 'Decision making and performance appraisal in MHA', 'Police reforms and reports', 'Protection of Human rights in India', 'Implementation of Model Prison Manual' etc.

2. Whereas, CPIO vide his reply dated 13/05/2014 had already forwarded his application to the CPIOs concerned of this Ministry.

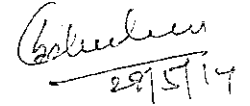
3. Whereas, having not satisfied with the reply given by the CPIO as above, the appellant has preferred first appeal No. MHOME/A/2014/60172 dated 21/05/2014.

4. Whereas, it is informed that the CPIO had tried to address all the issues raised and forwarded to the CPIOs concerned wherever possible. The appellant requested for information regarding action taken on the suggestions given by him to the various Public Authorities. The disposal of his RTI application is required the confirmation of movement of the said suggestions from nodal receiving points of this Ministry. Since, it will take time; therefore, nodal CPIO forwarded his RTI application to the CPIOs on the basis of forwarding of his earlier requests on the same subjects.

5. Further, online RTI applications are required to be forwarded to the CPIOs online as per practice. However, the said RTI application of the appellant could not be forwarded to the CPIOs concerned online because he had enquired of many subjects dealt with by different CPIOs which cannot be mentioned in online forwarding. Therefore, it was sent to CPIOs concerned through physical form which took time.

6. In view of the above, reply provided by the CPIO is in order. However, it is observed that the appellant had been filing many RTI applications on the same subjects for the last one and half years. He is at liberty to visit this Office at a mutually convenient time if he likes to put forth his point of view personally, if any, on these subjects.

7. The appeal is accordingly disposed of.


29/5/14

(Satpal Chauhan)
Joint Secretary(Admn.)
Tel. No. 23093178

Shri Maniram Sharma,
'Nakul Niwas' Behind Roadways Depot
Sardarshahar- 331 403
Distt.Churu
Rajasthan.

✓ Copy to SO(IT Cell) for uploading the RTI application, appeal and reply in the MHA website with search facility based on key words under the heading-RTI Act- Information under 4(1)(b) of the Act.

CASE ISSUE
& INFORMATIONसूचना का
अधिकार

No.A-43020/61/2013-RTI

Government of India/भारत सरकार

Ministry of Home Affairs/गृह मंत्रालय

New Delhi, dated the May, 2014.

16/5/14

12/5/14

To,

Shri Maniram Sharma,
Behind Roadways Depot
Sardarshahar, Distt.Churu,
Rajasthan - 331403.

Sub: Application made by Shri Maniram Sharma under the RTI Act, 2005

Please refer to your online application No. MHOME/R/2014/60988 dated 20/4/2014 under the RTI Act, 2005 wherein you have sought several details on various aspects/issues from this Ministry.

In this regard I am furnishing you the information as under:

Sl.No	Information sought	Reply / Information furnished
1	Point No. 1&2	Your application is being forwarded to Director(SR) in MHA.
2	Point No. 3 & 4	Your application is being forwarded to US(Coord.II) in MHA.
3	Point No. 5&6	Your application is being forwarded to Director(PMR) in MHA.
4	Point No. 7	Your application is being forwarded to JS(Judicial) in MHA.
5	Point No. 8 & 9	Your application is being forwarded to Dy.Secy.(HR) in MHA.
6	Point No. 10	Your application is being forwarded to JS(Judicial) in MHA.
7	Point No. 11 to 14	Your application is being forwarded to Director(SR) in MHA.

8	Point No. 15 to 18	Your application is being forwarded to JS(Judicial) in MHA.
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The address of the First Appellate authority in the matter is Shri Satpal Chauhan, Joint Secretary(Admn.), North Block, New Delhi.

Yours faithfully,

o/c

(V. K. Rajan)

Deputy Secretary & CPIO

Tel. No. 23094376

Copy alongwith the copy of online RTI application for necessary action to:

- 1) JS(J), MHA, NDCC II, New Delhi for Sl.No. 4,6 & 8.
- 2) Director(SR), MHA, NDCC II, New Delhi for Sl.No.1 & 7.
- 3) Director(PMR), MHA, Jaisalmer House, New Delhi for Sl.No.3.
- 4) DS(HR), MHA, NDCC II, New Delhi for Sl.No.5
- 5) US(Coord.II), MHA, North Block New Delhi for Sl.No.2

Handwritten notes: 15/5/14



RTI APPEAL DETAILS

RTI Appeal MHOME/A
Registration No. : /2014/60172

RTI Appeal Received 21/05/2014
Date :

RTI Request MHOME/R
Registration No. : /2014/60988

RTI Request 20/04/2014
Registration Date :

Name : MANIRAM
SHARMA

Gender : Male

Address : BEHIND ROADWAYS DEPOTSARDARSHAHARDIST
CHURU RAJ

Pin Code : 331403

State : Rajasthan

Country : India

Phone : +91-1564224652

Mobile No : +91-9460605417

Email : maniramsharma@gmail.com

Status : Details not
provided

Educational Status : Details not
provided.

Citizenship : Indian

Is Appellant below No
poverty line ? :

CPIO of Public Authority Approached : Details not
provided

CPIO's Order/Decision Date : Details not
provided

CPIO's Order/Decision No. : Details not provided

Ground For Appeal : Refused access to Information Requested

Text of RTI First Appeal : As per attachment

1. The PIO namely Sh. VK Rajan has not provided any information against my application dated 20.04.14 and transferred the same to various PIOs after 23 days defeating the very purpose and object of RTI Act. RTI Guide 2013 issued by DOPT says-“It is possible that in a public authority with more than one Public Information Officer, an application is received by the Public Information Officer other than the concerned Public Information Officer. In such a case, the Public Information Officer receiving the application should transfer it to the concerned Public Information Officer immediately, preferably the same day. Time period of five days for transfer of the application applies only when the application is transferred from one public authority to another public authority and not for transfer from one Public Information Officer to another in the same public authority.”
2. The Hon'ble Central Information Commission has held in CIC/OK/A/2007/00315 & CIC/SS/C/2013/000104 , “His explanation that he was “overburdened” due to heavy rush of the receipts, files etc. does not absolve him from his statutory duty to provide correct and complete information to the information seeker.”
3. The Hon'ble Commission has pleased to say in CIC/SG/C/2009/001346/6359final, “Section 7(1) of the Right to Information Act, 2005 clearly stipulates that information has to be provided within 30 days of the receipt of the request. It also further states that if information is not provided to the citizen within the time specified under the Act a personal penalty will be imposed on the defaulting public information officer. Thus Parliament has made a clear promise to the citizen of delivering her fundamental right in a time bound manner. This promise made by Parliament cannot be allowed to be diluted by public authorities' tactics to delay judicial and quasi-judicial processes. These mandatory provisions of providing information within a time-bound manner and imposition of penalty on the defaulting officer unequivocally indicate the intention of the RTI Act: that not only should information be provided, but it

should be provided within a time bound manner. The relationship between obtaining information and doing so within a stipulated time frame is crucial to serve the purposes of the RTI Act, not only for the citizen but also the public authority. Delay in providing information may lead to the information losing its relevance and hence defeating the purpose of the Act. Only when information is provided in a time bound manner would it serve the purpose of providing transparency and accountability. Without the time perspective the RTI Act would not fulfill its promise in its preamble of promoting transparency and accountability.

4. The Hon'ble Commission went on to say, "This Commission which is a creation of the RTI Act is very conscious of the fact that its job is to ensure information to citizens within a time bound manner. This Commission is conscious that the poorest man in India, - who does not even get enough to eat and may be dying of hunger, - is paying for every minute of this Commission's time. Hence it believes its duty is to ensure that Respondents or Appellants are not able to take disproportionate amount of its time to delay matters through the device of adjournments or multiple hearings. A Citizen has a right to expect that delivery of every service which the State must provide to him, - whether a ration card, passport, or a decision by this Commission, - must be done within a reasonable time. Hence the Commission is giving its decision in the matter, though the respondent has refused to give any reasons for denial of information. The Commission deplores the acts of Public authorities in unnecessarily wasting public money by delaying supplying information to the public by using public money."
5. Section 7 (2) of the Act says, "If the Central Public Information Officer or State Public Information Officer, as the case may be, fails to give decision on the request for information within the period specified under sub-section (1), the Central Public Information Officer or State Public Information Officer, as the case may be, shall be deemed to have refused the request."

6. THE HIGH COURT OF MADRAS in W.P.NO.20372 of 2009 has also held, "The other objections that they are maintaining a large number of documents in respect of 45 departments and they are short of human resources cannot be raised to whittle down the citizens' right to seek information. It is for them to write to the Government to provide for additional staff depending upon the volume of requests that may be forthcoming pursuant to the RTI Act. It is purely an internal matter between the petitioner archives and the State Government. The right to information having been guaranteed by the law of Parliament, the administrative difficulties in providing information cannot be raised. Such pleas will defeat the very right of citizens to have access to information. Hence the objections raised by the petitioner cannot be countenanced by this court.

Accordingly the PIO has violated the provisions of law attracting penalty. He be directed to provide the information without further delay to avoid penal proceedings on card.

ACTION HISTORY OF RTI REQUEST No.MHOME/R/2014/60988

Applicant Name MANIRAM SHARMA
Text of Application The information or intimation for charges, if applicable may kindly be conveyed per email.
Reply of Application

SN.	Action Taken	Date of Action	Action Taken By	Remarks
1	RTI REQUEST RECEIVED	20/04/2014	Nodal Officer	
2	RTI REQUEST APPLICATION RETURNED TO APPLICANT	15/05/2014	Nodal Officer	Your online request has been forwarded to the concerned CPIOs for the information sought by you.

Print

RTI REQUEST DETAILS

Registration No. :	MHOME/R /2014/60988	Date of Receipt :	20/04/2014
Type of Receipt :	Online Receipt	Language of Request :	English
Name :	MANIRAM SHARMA	Gender :	Male
Address :	BEHIND ROADWAYS DEPOT, SARDARSHAHAR, DIST CHURU RAJ, Pin:331403		
State :	Rajasthan	Country :	India
Phone No. :	+91-1564224652	Mobile No. :	+91-9460605417
Email :	maniramsharma@gmail.com		
Status(Rural/Urban) :	Not Provided	Education Status :	Not Provided
Is Requester Below Poverty Line ? :	No	Citizenship Status	Indian
Amount Paid :	10	Mode of Payment	Payment Gateway
Mode(s) of information Supply :	Hard Copy	Request Pertains to :	Yet to be assign to CPIO
Information Sought :	The information or intimation for charges, if applicable may kindly be conveyed per email.		

केन्द्रीय जन सूचना अधिकारी ,

महोदय ,

कृपया मुझे निम्नांकित सूचनाएँ प्रदान करने का श्रम करें :-

- Dir (SR)
- US (Coord II)
- Dir (PM)
- SS (J)
- DS (HR)
- SS (J)
- Dir (SR)
- SS (J)
1. मेरे सन्देश Dated 04.02.2014 प्रसंग - REPLACEMENT OF PRISONS ACT, 1894 पर की गयी टिप्पणियों की प्रति (Copy attached)
 2. उक्त को मंत्री महोदय के समक्ष रखने की तिथि
 3. मेरे सन्देश Dated 24.03.2014 प्रसंग - DECISION MAKING AND PERFORMANCE APPRAISAL OF MINISTRY OF HOME AFFAIRS पर की गयी टिप्पणियों की प्रति (Copy attached)
 4. उक्त को मंत्री महोदय के समक्ष रखने की तिथि
 5. मंत्रालय को मेरे सन्देश Date: 07.04.14 प्रसंग - POLICE REFORMS AND REPORTS पर की गयी टिप्पणियों की प्रति (Copy Attached)
 6. उक्त को मंत्री महोदय के समक्ष रखने की तिथि
 7. मेरे सन्देश दिनांक 17.06.13 प्रसंग - आपराधिक न्याय प्रशासन में सुधार: मलीमथ समिति रिपोर्ट 2002 पर की गयी टिप्पणियों की प्रति
 8. मंत्रालय को सन्देश Date: 27.05.13 प्रसंग - PROTECTION OF HUMAN RIGHTS IN INDIA - AMENDMENT TO LAW पर की गयी टिप्पणियों की प्रति
 9. उक्त को मंत्री महोदय के समक्ष रखने की तिथि
 10. Prevention of Torture Bill पर राज्य सरकारों से प्राप्त अभिमत की प्रतियां
 11. प्रधानमन्त्री कार्यालय के माध्यम से मेरे सन्देश दिनांक 14.12.2013 प्रसंग IMPLEMENTATION OF MODEL PRISON MANUAL- (copy attached) पर की गयी कार्यवाही
 12. उक्त को मंत्री महोदय के समक्ष रखने की तिथि
 13. उक्त सन्देश पर की गयी टिप्पणियों की सत्यापित प्रति
 14. उक्त सन्देश के सन्दर्भ में प्रेषित एवं प्राप्त पत्रों की सत्यापित प्रतियां
 15. मेरे सन्देश दिनांक 22.12.2013 प्रसंग लोक अभियोजन प्रणाली में सुधार हेतु (copy attached) - पर की गयी कार्यवाही
 16. उक्त को मंत्री महोदय के समक्ष रखने की तिथि
 17. उक्त सन्देश पर की गयी टिप्पणियों की सत्यापित प्रति
 18. उक्त सन्देश के सन्दर्भ में प्रेषित एवं प्राप्त पत्रों की सत्यापित प्रतियां

Hon'ble Home Minister,
New Delhi

Sir,

REPLACEMENT OF PRISONS ACT, 1894

I wish to submit you that the above Act enacted by English Regime which even does not recognize the basic human rights at all still continues on the statute book after 65 years of Independence. On the other England has enacted Prisons Act, 1952(<http://www.legislation.gov.uk/ukpga/Geo6and1Eliz2/15-16/52>) for the home land which acknowledges human dignity and allied matters connected thereto. Government of Sikkim has also enacted new law (http://www.lawsotindia.org/pdf/sikkim_12-07/0007SK16.pdf) on the subject. United Nations has also settled a compendium (<http://www.unodc.org/unodc/en/justice-and-prison-reform/compendium.html>) on the subject.

Since the present Prisons Act is a creation of Union Legislature and administration of the same in Union Territories falls within the exclusive domain of Union of India. Therefore you are hereby requested to study the material referred herein above and enact suitable Act and set up an example for State Governments.

With regards,

Yours faithfully

Mani Ram Sharma
Advocate
Behind Roadways Depot
Sardarshahar -331403
Distt. Churu (Raj)

Dated 04.02.2014

From: Mani Ram Sharma

Chairman, Indian National Bar Association, Churu- Chapter

Nakul Niwas,

Behind Roadways Depot

Sardarshahar- 331 403-7 District Churu

Email: maniramsharma@gmail.com

Cell: 919460605417,919001025852

Dated: 24th Mar, 2014

The President of India

New Delhi

Sir,

DECISION MAKING AND PERFORMANCE APPRAISAL OF MINISTRY OF HOME AFFAIRS

I wish to bring to your kind notice that Governments have allocated it's business through the above Rules amongst various Ministries and Department. But delegation of powers has not been done strictly in tune with the demands of democracy in the Ministry of Home Affairs. There is no specific distribution of business amongst Cabinet Minister/ State Minister and the Secretaries of various grades. Therefore the total situation remains in doldrums. An elected government is expected to take Policy decisions, hear public grievances in respect of Policies, Schemes and Law but such representations received are miscarried by the Secretariat without the approval of Competent Ministers/Public Representatives. The permanent executives are engaged to assist the Public Representatives in arriving at a decision but they are not arbiter to finalise a policy matter. Only a care taker Government may afford decisions on Policy matters by permanent executives.

The Officers in Ministry are hardly available to public whenever called over phone. The phone, in general, call is attended by a PA/Assistant/ steno, and stereophonic reply is received by the caller that the called officer is busy in an urgent meeting, or the phone is not attended at all and Fax tone commences. The officers come too late and that too for a while like a guest artist. They sip tea, gossip and depart thereafter. An accumulation of pending files stage managed spread over table in early hours and collected in the late hours to exhibit that there is very much work pending and the officer is busy much in work. But there is a battalion of about 200 officers – Secretary to Under Secretary- in the Ministry who hardly writes 500 letters/notes affecting a common man in a single day. The operating cost of the Ministry works out more than Rs. 30,00,000 per day and the cost per decisive letter/note amazingly works out more than Rs.6000 ! Public Grievances pending against the Department reported as at the beginning of the year 2012 were 3,629 while only 3,007 grievances have been disposed off during the year which means a public grievance takes 14 months for disposal or alternatively 15 public grievances are disposed off per officer in a year on an average by the Ministry. Though there are 5500 grievances still pending with Ministry.

Therefore it is humbly requested that time recorder machine with thumb/ photo identification system be installed in the Secretariat to mark attendance & monitor movements, and CCTV cameras be also installed to record the movements. The live recording of the CCTV be made available on website so that Public may watch their servants and keep a vigil over their activities since they are being paid from pocket of common man.

With regards,

Yours sincerely

गृहमंत्री,
भारत सरकार,
नई दिल्ली -
मान्यवर,

लोक अभियोजन प्रणाली में सुधार हेतु

आपको ज्ञात ही है कि न्यायालय के समाप्त ही पुलिस और लोक अभियोजक आपराधिक न्याय प्रशासन के आधार स्तंभ हैं। पुलिस किसी मामले में तथ्यान्वेषण करती है और लोक अभियोजक अपनी प्रथमी पेशी से अभियुक्त को दण्डित करवाने हेतु प्रयास करते हैं। सामान्य अपराधों का परीक्षण मजिस्ट्रेट न्यायालयों द्वारा होता है और गंभीर (जिन्हें जघन्य अपराध कहा जाता है) अपराधों का परीक्षण सामान्यतया सत्र न्यायालयों द्वारा किया जाता है।

मजिस्ट्रेट न्यायालयों में तो पेशी हेतु अभियोजन सञ्चालन के लिए पूर्णकालिक स्थायी सहायक लोक अभियोजक नियुक्त होते हैं किन्तु सत्र न्यायालयों में अभियोजन के सञ्चालन के लिए दंड प्रक्रिया संहिता की धारा 24 के अंतर्गत मात्र अंशकालिक और अस्थायी लोक अभियोजक नियुक्त किये जाते हैं। इन लोक अभियोजकों को नाम मात्र का पारिश्रमिक देकर उन्हें अपनी आजीविका के लिए अन्य साधनों से गुजारा करने के लिए थुला छोड़ दिया जाता है। वर्तमान में लोक अभियोजकों को लगभग सात हजार रुपये मासिक पारिश्रमिक दिया जा रहा है जबकि निचले न्यायालयों में सहायक लोक अभियोजकों को पूर्ण वेतन लगभग तीस हजार रुपये दिया जा रहा है। यह भी एक विरोधाभासी तथ्य है कि सामान्य अपराधों के लिए निचले न्यायालयों में स्थायी सहायक लोक अभियोजक नियुक्त हैं जबकि उपरी न्यायालयों में संगीन अपराधों के परीक्षण और अपील की पेशी को अल्पवेतनभोगी अस्थायी लोक अभियोजकों के भरोसे छोड़ दिया गया है। यह स्थिति आपराधिक न्याय प्रशासन का उपहास करती है और अपराधों की रोकथाम व अपराधियों को दण्डित करने के प्रति सरकार की संजीदगी की जनता के सामने एक गलत तस्वीर पेश करती है।

न्याय प्रशासन की पवित्रता के लिए न्यायप्रणाली की स्वतन्त्रता एवं न्यायाधीशों का निर्भय होना, एवं उनकी सेवा का स्थायित्व आवश्यक है। लोक इसी प्रकार न्यायप्रशासन के अहम स्तंभ लोक अभियोजक की सेवा की अनिश्चितता से देश वास्तव में कुपभाषित हो रहा है। जैसे भी वर्तमान में लोक अभियोजक इन्हें अल्प पारिश्रमिक के लिए पेशी में न तो कोई रुचि लेते हैं और न ही न्यायालयों द्वारा सामान्यतया अभियुक्तों को दण्डित किया जाता है। राजस्थान के एक जिले के आंकड़ों के अनुसार वर्ष 2005 में दण्डितों का मामले दर्ज होने से मात्र 1.5% का अनुपात है। यह तथ्य भी उक्त दुःखद स्थिति की पुष्टि करता है। लोक अभियोजक भी अपनी आजीविका के लिए अंतिक साधनों पर आश्रित रहते हैं। यह तो स्वस्पष्ट है कि भारतीय न्यायालयों से दण्डित होने की बहुत कम संभावनाएं हैं किन्तु फिर भी एक अभियुक्त के लिए अभियोजन एवं की यातनाओं से मुक्ति पाया एक बड़ा कार्य है। भारत के राष्ट्रीय पुलिस आयोग का भी कहना है कि देश में 60% गिरफ्तारियां अनावश्यक होती हैं जिन पर जेलों का 43.2% खर्चा होता है। माननीय सुप्रीम कोर्ट भी जोगिन्दर कुमार के मामले में कह चुका है कि जघन्य अपराध के अतिरिक्त गिरफ्तारी को टाला जाना चाहिए और मजिस्ट्रेटों पर यह दायित्व डाला गया है कि वे इन निर्देशों की अनुपालना सुनिश्चित करें। किन्तु देश की दण्डित न्यायप्रणाली में मजिस्ट्रेटों के निष्क्रिय सहयोग से स्वयंसेवक पुलिस अनावश्यक गिरफ्तारियां करती रहती हैं और वकील न तो इनका विरोध करते और न ही मजिस्ट्रेट से इन अनुचित गिरफ्तारियों में दंड प्रक्रिया संहिता की धारा 69 के अंतर्गत बिना जमानत रिहाई की मांग करते हैं। उन्हे इन अनावश्यक गिरफ्तारियों में भी जमानत से इन्कार कर गिरफ्तार व्यक्ति को मजिस्ट्रेटों और न्यायाधीशों द्वारा जेल भेज दिया जाता है।

वैकिक न्यायालयों द्वारा दण्डित होने की संभावनाएं अत्यंत क्षीण हैं अतः लोक अभियोजकों की भूमिका प्रमुखतः (अग्रिम एवं पश्चात्कर्तव्य) जमानत तक ही सीमित हो जाती है। प्रचलित परम्परानुसार एक गिरफ्तार व्यक्ति की जमानत (चाहे इसकी गिरफ्तारी अनावश्यक या अवैध ही क्यों न हो) के लिए भी लोक अभियोजक के निष्क्रिय सहयोग की आवश्यकता है अर्थात् जमानत आसानी से हो जाये इसके लिए आवश्यक है कि लोक अभियोजक की ओर से जमानत का विरोध नही हो। वकील समुदाय में आम चर्चा होती रहती है कि वकील को जमानत के लिए जमानत से कीमत मिलती है अतः सरकारी वकील को चुप रहने के लिए जमानत फीस (नजराना) देती है।

माननीय भारतीय विधि आयोग ने अपनी रिपोर्ट संख्या 197 दिनांक 31.07.2006 में भी लोक अभियोजकों की वर्तमान नियुक्ति प्रणाली में परिवर्तन की सिफारिश की है और यह रिपोर्ट यथासमय आपके मंत्रालय को प्राप्त हो चुकी है। प्रद्वीपी राज्य हरियाणा में लोक अभियोजकों का नियुक्ति और स्थायी काइर है। इस परांग में मेरे पूर्व में दिनांक 18.02.12 को गृह मंत्रालय, भारत सरकार को एक निवेदन भेजा था। दंड प्रक्रिया संहिता का पशासन आपके मंत्रालय के क्षेत्राधिकार में आता है। किन्तु दुर्भाग्यवश मेरे उक्त निवेदन को पर्याप्त दिलचस्पी से, अपने स्तर पर अपेक्षित व वांछित कार्रवाई किये बिना ही विभाग के पत्रक 20011/3/2012-टाई-III दिनांक 16.05.12 द्वारा विधि एवं न्याय मंत्रालय को अनुचित व अनावश्यक रूप से अगोचर कर दिया गया। मैं यह भी निवेदन करना अपना कर्तव्य समझता हूँ कि उक्त पत्रकरण में, त्रुटिगत भात्रता होने के कारण, निर्णय लेने का अधिकार मात्र आप मंत्री महोदय को है जोकि जवापतिनिधि होने के कारण जनता के प्रति जवाबदेह है। इस प्रकार, मंत्री महोदय के अनुमोदित विना, पत्रोत्तर देने वाले अधिकारी ने अपनी अधिकार सीमा का गंभीर अतिक्रमण किया है।

अतएव आपसे पुनः निवेदन है कि विधि आयोग की सिफारिशों को ध्यान में रखते हुए दंड प्रक्रिया संहिता में संशोधन के माध्यम से उपयुक्त नियमों का निर्माण कर आपराधिक न्यायप्रशासन को अजबूती प्रदान करें।

सादर,

भवनिष्ठ

मन्दीराम शर्मा

22.12.13

Hon'ble Prime Minister,
North Block,
New Delhi - 110001

Sir,

IMPLEMENTATION OF MODEL PRISON MANUAL

As you are aware that Mahatma Gandhi has said, "Crime is the outcome of a diseased mind and jail must have an environment of hospital for treatment and care." Earlier, the All India Committee on Jail Reforms (1980-83) had also emphasized the need for a consolidated law on prisons. In the recent years, the Supreme Court of India has come down heavily on the sub-human conditions obtaining in prisons. In many States, the problems of dilapidated prison structure, overcrowding and congestion, increasing proportion of undertrial prisoners, inadequacy of prison staff, lack of proper care and treatment of prisoners, etc., have been engaging the attention of the press and social activists. With a growing advocacy for the protection of human rights in the various walks of lives, the plight of prisoners has emerged as a critical issue of public policy.

More recently, the apex Court in Rama Murthy Vs. State of Karnataka (1996) brought to the fore an urgent need for bringing uniformity in laws relating to the prisons and has directed the Central and State Governments to formulate a new **Model Prison Manual**. In compliance of the said directives, Bureau of Police Research and Development, Ministry of Home Affairs, Government of India, New Delhi has prepared a **Model Prison Manual 2003**. Unfortunately the New Prison Manual has not been yet implemented by most of the State Governments.

Therefore, you are requested to implement the Manual in Union Territories and set up precedents for other States.

I shall be glad to know the action taken by you in this behalf.

Sincerely yours

Mani Ram Sharma

14.12.13

FROM: MANI RAM SHARMA
Advocate
Nakul Niwas, Behind Roadways Depot
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Date: 07.04.14

Home Minister,
Govt. of India,
New Delhi

Sir,

POLICE REFORMS AND REPORTS

Please recapitulate that the Gore Committee has, inter alia, observed and recommended some time in 1971 as under:-
The basis of the authority of any police force, in a democratic country, has to be 'public trust'. In a developing society, in particular, no discerning police officer should fail to take note of the expectations of the people vis-a-vis the police. The police are also citizens with the only difference that they are employed on a whole-time basis to perform duties which are normally incumbent on every citizen. The police have done good work since Independence in furtherance of the national interests, but the common man is most concerned with the conduct of the Thana Police. The evidence before us suggests that the public image of the Thana Police is unsatisfactory.

Corruption is a taint which deprives the force of public esteem and cooperation. There should be a concerted drive to make it impossible for a dishonest person to remain in service. All complaints of corruption should be promptly investigated and action against the guilty must be drastic whatever be his rank. The lead for a relentless campaign for weeding out corruption should come from the gazetted police officers.

The popular impressions with regard to non-registration and minimization of crime, improper methods of investigation, complicity or connivance with the under-world, indiscriminate arrest and implication of innocent persons have to be removed. The work-load of police officers posted to police stations is much too excessive. It should be rationalised by so increasing the strength of the police station staff as to enable officer to carry out his official tasks promptly and have some spare time to attend to his personal necessities and follow individual creative pursuits occasionally for mental sustenance and recreation.

It should be one of the important duties of the District Superintendent to ensure that all complaints of misbehaviour, etc., received against his subordinates are promptly enquired into by a gazetted officer, appropriate disciplinary action is taken in cases in which the complaint is found substantiated and the action taken is communicated to the complainants concerned. Moreover, senior police officers should be readily accessible to the public at all times of the day or night, as far as circumstances permit.

Better training, close supervision and prompt attention to complaints will wean investigating officers away from malpractices and lead to greater public confidence in the methods of the police. The classification of offences under the existing criminal law as cognizable and non-cognizable affects the image of the police adversely because it restricts their potentiality to be of service to the people to the cognizable area only. The worst affected by this distinction are the poorer and weaker sections of society who do not have either the resources or the time to go to court. The promotional role that the police are expected to play in our welfare democracy by performing non-enforcement functions is also adversely affected when the police are prevented from taking positive or immediate action their own against violations which happen to be non-cognizable in nature. A wholesale abolition of this distinction is not practicable, but Government should consider the problem urgently.

Police action in dealing with strikes and other agitational activities also has much scope for mis-understandings and strained relations with large sections of the people. The police should project an image of strict neutrality on such occasions and make it patently clear that the police are present on the scene to forestall breaches of the peace and to prevent violence and not to side with any party whatsoever. An attitude of mind should be developed that situations can often be tackled without the use of force, if the approach is one of patience and understanding.

The dealings of Police are undemocratic in general. All Public authorities are trustees to public and a trustee has to function according to wills of his master. However there is a misconception in Indian minds that judicial authorities superior creatures in democracy but these are also public servants but not masters of democracy. A trustee can not to overstep the wishes of trustator but have to honour wills of public. In UK police is enabled to release an arrested on bail at any place and there is no classification of cognizable or non-cognisable offences as recommended by the Committee. Even in US no private complaining system is in existence in criminal justice system but all criminal cases are State cases and an accused is called "accused of US."

Police should not be given uncontrolled powers to arrest but this power must be exercised in most rational manner. Police should obtain warrant from magistrates in appropriate case and the option to arrest as a last recourse should be very liberal but the Police of India even arrests, misbehaves and threatens to witnesses. It is high time that the recommendations of Gore Committee be considered and implemented now to partial democratize the criminal justice system.

With regards,

Yours faithfully,