

No. 18012/02/2014-K.1
Government of India
Ministry of Home Affairs
(Department of J&K Affairs)

North Block, New Delhi,
Dated the 24th June 2014

To

Shri D.N. Singh
Malanv (Paraspur), Gonda
Uttar Pradesh

Subject: Information sought under RTI Act 2005.

Sir,

Please refer to your RTI application dated 5.06.2014 which received in this office on 20.06.2014 through RTI cell, MHA for providing information in respect of para 5 to 7 of your application.

2. In this regard, it is informed that exact answers to the question number 5 to 7 asked by you are not available in the records of this section. However, the information relevant to these questions is as under:

Point No.5: The Constitution of India came into force on 26 Jan 1950. Article 370 of the Constitution occurs in part XXI relating to "Temporary, Transitional and Special Provisions". The Article reads as under:

"(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 the India as the matters with respect to which 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 purpose 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 that 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 provision 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 exception 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."

The final Article 370 was Article 306 A of the draft Constitution of India, which was debated in the Constituent Assembly on 17th October 1949. The details of debates in Constituent Assembly are available on website 'parliamentofIndia.nic.in'. For more details, you may get information from CPIO in Ministry of Parliamentary Affairs whose address is: Smt. Suman Bara, Under Secretary (Legislative) & CPIO, 90, Parliament House, m/o Parliamentary Affairs, New Delhi.

Point No.6: The final Article 370 was Article 306A of the draft Constitution of India, which was debated in the Constituent Assembly on 17th October 1949. The details of debates in Constituent Assembly are available on website 'parliamentofIndia.nic.in'. For more details, you may get information from CPIO in Ministry of Parliamentary Affairs whose address is: Smt. Suman Bara, Under Secretary (Legislative) & CPIO, 90, Parliament House, m/o Parliamentary Affairs, New Delhi.

Point No.7: Regarding death of Dr. Shyama Prasad Mukherji, no information is available in this section. Your application is being transferred to Shri V. S. Rana, Dy. Secretary & CPIO(HR-II), MHA, New Delhi and Shri J. P. Agrawal, Joint Secretary & CPIO(Judicial), MHA, New Delhi for providing the information.

3. The Appellate Authority in this case is Shri R. K. Srivastava, Joint Secretary (MHA), Room No. 127 A, North Block, New Delhi.

Yours faithfully


25/6/14

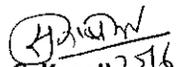
(S. C. Karol)

Director (K.III) & CPIO

Telefax : 011-2309 3301

Copy along with RTI application to:

1. Shri J. P. Agrawal, Joint Secretary & CPIO (Judicial), MHA, NDCC Building, New Delhi - with the request to provide information on point 7, as may be available, to the applicant directly.
2. Shri V. S. Rana, Dy. Secretary & CPIO(HR-II), MHA, NDCC Building, New Delhi - with the request to provide information on point 7, as may be available, to the applicant directly.
3. Under Secretary, RTI Cell, MHA w.r.t. OM No. A-43020/01/2014-RTI dated 12.6.2014
4. SO, IT Cell, MHA: - With a request to upload the RTI application and the reply there to on the website of MHA as per the guidelines of DoPT's in this regard.


(S. C. Karol) 25/6/14
Director (K.III) & CPIO