

No. 18012/01/2014-K.I.
Government of India
Ministry of Home Affairs
(K.I. Desk, J&K Division)

To
Shri Virendra Kumar
37, Praja Vihar
NH-24, Vijay Nagar Bye-pass
Ghaziabad – 201009
Uttar Pradesh.

Subject: Information sought under RTI Act 2005.

Sir,

Please refer to your online RTI application dated 03.06.2014 received in this Section on 30.06.2014 through PMO, New Delhi. Only point no.3 of your application is concerned to this section.

2. With regard to debate of various politicians about Article 370, no information is available in this Section of this Ministry. Therefore, your application is being transferred to CPIO, Ministry of Parliamentary Affairs for providing the information. With regard to 2nd part of point no.3 of your application, the provisions of Article 370 of the Indian Constitution which occurs in part XXI relating to "Temporary, Transitional and Special Provision" may be read 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:*

... order which relates to matters other than those referred to in clause (b) of clause (1) or in the second proviso to sub clause (d) of that clause shall be issued except with the concurrence of 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 the Government.

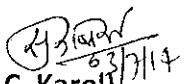
(2) If the concurrence of the Government of the State referred to in paragraph (ii) of sub clause (b) of clause (1) or in the second proviso to sub clause (d) of that clause be given before that Constituent Assembly for the purpose of framing the Constitution of the State is convened, it shall be placed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

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


(S. C. Karol)

Director (K.III) & CPIO
Telefax : 011-2309 3301

Copy along with RTI Application to :-

1. Smt Suman Bara, Under Secretary (Legislative) & CPIO, 90, Parliament House, M/o Parliamentary Affairs, New Delhi – with the request to provide information in r/o first part of point no.3 to the applicant directly.
2. Shri S E Rizwi, Deputy Secretary and CPIO, PM Office, New Delhi.
3. Under Secretary (RTI), MHA, N.D.
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.