

DISCRETIONARY POWERS UNDER ARTICLE 136 OF THE CONSTITUTION

3197. SHRI M. A. BABY : Will the PRIME MINISTER be pleased to state :

(a) whether it is a fact, that under Article 136 of the Constitution, the Supreme Court of India has discretionary powers to grant special leave to appeal from any judgment made by any court of first instance;

(b) whether Government have received a number of complaints that the justice is not being; provided to an ordinary citizen who cannot afford a Senior Advocate ;

(c) whether any guidelines have been framed by the Supreme Court to stop the misuse of the discretion; and

(d) if so, the details thereof ?

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. BHARDWAJ) : (a) to (d) Hon'ble Judges., of the Supreme Court are constitutional functionaries who have in a number of judicial pronouncements laid down the scope of Article 136 of the Constitution. Powers under Article 136 being exceptional and discretionary in nature are exercised to decide substantial questions of law of general importance and in accordance with the requirement of justice. They cannot be treated as arbitrary powers. It is also not true that justice is not provided to those who cannot afford a Senior Advocate.

CORPUS FUNDS BENEFIT TO PUBLIC TRUSTS

3198 SHRI DILIP SINGH JUDEVA : Will the PRIME MINISTER be pleased to state :

(a) what are the criteria of Corpus Funds Benefit given to public trusts, societies and institutions in the country;

(b) the norms laid down, by Government for public trust society to borrow

donations" from the Public under Corpus Fund Act ;

(c) whether it is a fact that the Delhi Gujarati Samaj Management is borrowing donations from those visitors, tourists and passengers who stay in the guest house building on commercial purpose rent on each room charges on account of donations and management of Delhi Gujarati Samaj are misusing corpus fund benefit;

(d) whether Government have permitted Delhi Gujarati Samaj to use corpus fund for their commercial purpose;

(e) whether Government have ever charged sales tax and hotel tax from Delhi Gujarati Samaj on their commercial hotel activity;

(f) whether Government have conducted any enquiry into corpus fund scandal; and

(g) if so, the action taken in the matter ?

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. BHARDWAJ) : (a) and (b) The societies are registered under the Societies Registration Act, 1860. There is no provision under this Act, as applicable to N.C.T. of Delhi, for grant of any corpus fund to societies.

(c) to (e) The Delhi Gujarati Samaj Management is registered in Delhi vide Registration No. S-71. Registered societies are required to send only annual list of governing body, under Section 4 of the said Act, to the Registrar of Societies. No other information about internal working of societies is maintained by the Registrar of Societies.

(f) and (g) No such enquiry has been conducted by the Registrar of Societies, Delhi as he is not empowered to investigate the internal affairs of the societies.

MERGER OF INDIAN HELD COMPANIES

3199. SHRI. ASHOK MITRA : Will the PRIME MINISTER be pleased to state ;

(a) the details of Indian companies which have either merged with, or have been acquired by multinational corporations with headquarters abroad. July, 1991;

(b) whether Government have considered the impact of such mergers and acquisitions or the degree of fair competition within the country; and

(c) if so, whether Government would consider adoption of an upper threshold in respect of market shares beyond which the dominant firm in such mergers and acquisitions will be required to divest a part of its holdings?

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. BHARDWAJ) : (a) While there are cases of Indian Companies merging with other companies registered in India, there is no case of any company registered in India merging since July, 1991 with a foreign company incorporated outside India.

A foreign company may acquire shares of an Indian Company subject to such approvals as may be required. The list of foreign collaborations approved with increase in foreign equity during the period ...from August, 1991 to September, 1993 is given in the Annexure. [See Appendix GUOX Annexure No. 62].

(b) The government has taken into consideration all such factors.

(c) Sections 23 and 24 of the M.R.T.P. Act, 1969 have been omitted by the M.R.T.P. (Amendment) Act, 1991 with effect from 27-9-1991. The M.R.T.P. Commission is, however, empowered to look into allegations relating to the monopolistic restrictive and unfair trade practices under the provisions of the said Act.

न्यायाधीशों के विरुद्ध अप्रत्याचार प्रणाली के अन्तर्गत
किये गये मामलों

3206. श्री श्रिकमनभई हरिभाई शुक्ल : क्या
प्रधान मंत्री यह बताने की कृपा करेंगे कि :

(क) वर्ष 1990, 1991, 1992 के दौरान
श्री 30 नवम्बर, 1993 तक न्यायाधीशों के
विरुद्ध अप्रत्याचार के कितने मामले उच्चतम
न्यायालय में दर्ज हुए और उनका राजस्वार
मौजुद क्या है,

(ख) उपर्युक्त शिकायतों में से माननीय
न्यायालयों में अप्रत्याचार निरोध विभाग द्वारा
दर्ज की गयी शिकायतों की संख्या क्या है और
उनके क्या परिणाम निकले हैं,

(ग) इनमें ऐसे मामले, यदि कोई हों, जिन
पर अप्रत्याचार निरोध विभाग द्वारा कार्रवाई
वाही की गयी हो उसके प्रत्यक्ष मुद्दयों के
माननीय उच्च न्यायालय में दर्ज किये गये मामलों
की संख्या क्या है, और

(घ) ऐसे मामलों में मुंबरात के माननीय
न्यायालय द्वारा क्या कदम उठाये गये हैं?

विधि, न्याय और कंपनी कार्य मंत्रालय में
राज्य मंत्री (श्री हरिभाई भास्करभाई) : (क) के
(ख) जानकारी एकत्र की जा रही है और सदन
के पटल पर रख दी जाएगी।

STUDY OF TRIBUNAL SYSTEM BY LAW COMMISSION

3201. SHRICMMANBHAI HARIBHAI
SHUKLA : Will the PRIME MINISTER
be pleased to state :

(a) whether Government have asked the
Law Commission to undertake a study of the
entire tribunal system ;

(h) whether the Law Commission has
submitted its report}