

Check on piled-up criminal cases for minor offences

2247. DR. PRABHAKAR KORE: Will the Minister of CORPORATE AFFAIRS be pleased to state:

(a) whether it is a fact that blind application of provisions of Companies Act by officers has led to a massive pile-up of cases, which could have been dealt with penalties for minor offences; and

(b) if so, the steps taken by Government to deal with minor offenders to check pile-up of criminal cases for minor offences, the details thereof?

THE MINISTER OF STATE IN THE MINISTRY OF CORPORATE AFFAIRS (SHRI P. P. CHAUDHARY): (a) The administration of the Companies Act, 2013 (the Act) is carried out through a mechanism of inquiries, inspections, investigations and prosecution. These are carried out with due examination of the company's documents filed on MCA registry, books of account and other records etc. by following due procedure of law. Hence, there is no blind application of provisions of the Act.

(b) However, the Ministry of Corporate Affairs regularly reviews the provisions of the Companies Act, 2013 (the Act) in order to effectively administer and monitor the implementation of various provisions of the Act. Accordingly, the Ministry on 13.07.2018 has constituted a 10 member committee to review some of the Penal provisions under the Act. The objectives as well as the terms of reference of the said Committee are as follows:—

- (i) To examine the nature of all 'acts' categorized as compoundable offences viz. offences punishable with the fine only or punishable with fine or imprisonment or both under the Act and recommend if any of such acts may be re-categorized as 'acts' which attract civil liabilities wherein the company and its officers in default are liable for penalty;
- (ii) To review the provisions relating to non-compoundable offences and recommend whether any such provisions need to be re-categorized as compoundable offence;
- (iii) To examine the existing mechanism of levy of penalty under the companies Act, 2013 and suggest any improvements thereon;
- (iv) To lay down the broad contours of an in-house adjudicatory mechanism where penalty may be levied in a MCA21 system driven manner so that discretion is minimized;
- (v) To take necessary steps in formulation of draft charges in the law; The move is likely to accelerate the disposal of minor offences.