

[15 May, 2002]

RAJYA SABHA

Recommendation of NCRWC on article 356

5172. SHRI P. PRABHAKAR REDDY: Will the Minister of HOME AFFAIRS be pleased to state:

(a) whether the National Commission to Review the Working of the Constitution has recommended a very sparing use of Article 356 of the Constitution;

(b) if so, the details thereof and arguments adduced by the Commission in favour thereof;

(c) Government's reaction thereto;

(d) whether Government would like to carry out necessary amendment in the Constitution to give effect to this recommendations; and

(e) if so, the details thereof and if not, the reasons therefor?

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI I. D. SWAMI): (a) to (e) Yes, Sir.

The National Commission to Review the Working of the Constitution is of the view that article 356 has been lodged in the Constitution as a bulwark, a giant protection and remedy of the last resort. The Commission has also noted that in a fairly large number of cases the invocation of article 356 has been found to have been not only warranted but inevitable. The Commission, however, felt that the invocation of article 356 is a Constitutional device, the operation of which is vested in the executive domain. In invocation, it is, therefore, essential to preserve its stature in the constitutional scheme. If the exercise of this power is perceived to yield to political expediency, it will greatly damage the majesty of the executive power and the federal balance. Hence, the Commission has recommended that Article 356 of the Constitution be used sparingly.

The Commission submitted its report to the Government on 31st March, 2002. The Sarkaria Commission on Centre-State Relations had also made some recommendations pertaining to article 356 which are under consideration of the Inter-State Council. A comprehensive view in the matter can only be taken after the recommendations of the Inter-State Council are received.