

[18 March, 2002]

RAJYA SABHA

placing him under suspension. However, subsequently, he was dismissed under article 311 of the Constitution of India.

Status of Employees of three organs of Government

1573. SHRI BANARASI DAS GUPTA: Will the Minister of LAW, JUSTICE AND COMPANY AFFAIRS be pleased to state:

(a) whether it is a fact that Government have three main organs i.e., Executive, Parliament and Judiciary;

(b) if so, whether the employees of these organs are Central Government employees; and

(c) if not, the reasons therefore?

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI ARUN JAITLEY): (a) Executive, Parliament (Legislature) and Judiciary are three wings of the State and not of the Government (the Executive) *vide* State of Bihar v. Bihar Distilleries Ltd., [(1997) 2 SCC 453].

(b) and (c) While dealing with the question whether members of the Gujarat Panchayat Service under Gujarat Panchayat Act, 1961 were Government servant or not, the Constitution bench of the Supreme Court in State of Gujarat v. Raman Lil Keshav Lal Soni [(1983) 2 SCC 33] has laid down the following criteria to determine whether an employee is employee of the Government or not:—

"We do not propose and indeed it is neither politic nor possible to lay down any definite test to determine when a person may be said to hold a civil post under the Government. Several factors may indicate the relationship of master and servant. None may be conclusive. On the other hand, no single factor may be considered absolutely essential. The presence of all or some of the factors such as, the right to select for appointment, the right to appoint, the right to terminate the employment, the right to take other disciplinary action, the right to prescribe the conditions of service, the nature of the duties performed by the employee, the right to control the employee's manner and method of the work, the right to issue directions and the

right to determine and the source from which wages or salary are paid and a host of such circumstances, may have to be considered to determine the existences of the relationship of master and servant. In each case, it is question of fact whether a person is a servant of the State or not."

Candidates with criminal background in U.P. Assembly elections

† 1574. SHRI RAM JETHMALANI:
SHRI RAJIV RANJAN SINGH 'LALAN':

Will the Minister of LAW, JUSTICE AND COMPANY AFFAIRS be pleased to state:

(a) whether it is a fact that a number of candidate who were having criminal background had contested in the recently concluded Uttar Pradesh Assembly elections;

(b) if so, Government's reaction thereto; and

(c) the total number of such candidates in the said elections?

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI ARUN JAITLEY): (a) to (c) The Election Commission of India has informed that it has no information of any person who has been convicted and who attracts the provisions of section 8 of the Representation of the People Act, 1951, has contested as a candidate in the election.

News-item "Lawyer's licence suspended for duping client"

1575. SHRI AMAR SINGH: Will the Minister of LAW, JUSTICE AND COMPANY AFFAIRS be pleased to state:

(a) whether Government's attention has been drawn to the news-item captioned, "Lawyer's licence suspended for duping

† Original notice of the question was received in Hindi.