



**विधान सभा  
राष्ट्रीय राजधानी क्षेत्र दिल्ली**

**LEGISLATIVE ASSEMBLY  
NATIONAL CAPITAL TERRITORY OF DELHI**

**सातवीं विधान सभा  
(SEVENTH ASSEMBLY)**

**विशेषाधिकार समिति का  
प्रथम प्रतिवेदन  
(03 जनवरी, 2022 को प्रस्तुत)**

**FIRST REPORT  
OF  
COMMITTEE OF PRIVILEGES  
(PRESENTED ON 03 JANUARY, 2022)**

**विधान सभा, पुराना सचिवालय, दिल्ली-110054  
Legislative Assembly, Old Secretariat, Delhi-110054**

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**DELHI LEGISLATIVE ASSEMBLY  
COMMITTEE OF PRIVILEGES**

**समिति का गठन**

**COMPOSITION OF THE COMMITTEE**

- |    |   |                    |
|----|---|--------------------|
| 1. | श्री अखिलेश पति त्रिपाठी<br>Shri Akhilesh Pati Tripathi | सभापति<br>Chairman |
| 2. | श्री अजय दत्त<br>Shri Ajay Dutt                         | सदस्य<br>Member    |
| 3. | श्री हाजी यूनूस<br>Shri Hazi Yunus                      | सदस्य<br>Member    |
| 4. | श्री महेन्द्र गोयल<br>Shri Mohinder Goyal               | सदस्य<br>Member    |
| 5. | श्री रघुविन्दर शौकीन<br>Shri Raghuwinder Shokeen        | सदस्य<br>Member    |
| 6. | श्री एस. के. बग्गा<br>Shri S.K. Bagga                   | सदस्य<br>Member    |
| 7. | श्री सौरभ भारद्वाज<br>Shri Saurabh Bharadwaj            | सदस्य<br>Member    |
| 8. | श्री शरद कुमार<br>Shri Sharad Kumar                     | सदस्य<br>Member    |
| 9. | श्री सुरेन्द्र कुमार<br>Shri Surendra Kumar             | सदस्य<br>Member    |

विधान सभा सचिवालय:  
Assembly Secretariat:

- |    |   |                                 |
|----|---|---------------------------------|
| 1. | श्री राज कुमार<br>Shri Raj Kumar                | सचिव<br>Secretary               |
| 2. | श्री सी. वेलमुरुगन<br>Shri C.Velmurugan         | संयुक्त सचिव<br>Joint Secretary |
| 3. | श्री सुनील दत्त शर्मा<br>Shri Sunil Dutt Sharma | उप सचिव<br>Deputy Secretary     |

## **PREFACE**

The Hon'ble Members of Delhi Legislative Assembly have been raising questions on subject matters related to Public Order, Police and Land corresponding to entry No. 1, 2 and 18 of the State List in the Seventh Schedule of the Constitution and replies to questions on these subject matters were being furnished since inception of this Assembly i.e. 1993. However, in a covert manner in order to curtail the powers of Delhi Legislative Assembly and privileges of Delhi Legislative Assembly, the replies to the questions on the subject matters noted above are not being provided to this Assembly since 2018 in view of letter dated 19.03.2018. Letter dated 19.03.2018 issued by Shri Ravi Dhawan, Joint Secretary to Lt. Governor to Principal Secretary (Law, Justice & Legislative Affairs) is enclosed as **Annexure-A**. The contents of this letter have been conveyed to Delhi Legislative Assembly by Shri Anoop Kumar Mendiratta, Principal Secretary (Law, Justice & Legislative Assembly vide letter dated 19.03.2018 and is enclosed as **Annexure-B**. The relevant extract, common to both letters, received as an advice from the Department Legal Affairs, GOI is reproduced below:-

*"As per Article 239AA(3)(a) of the constitution, the Legislative Assembly shall have power to make laws with respect to any of the matters enumerated in the State List, or in the Concurrent List except matters with respect to Entries 1, 2 and 18 of the State List and Entries 64, 65 and 66 of that List in so far as they related to the said Entries 1,2 and 18.*

*Further as per Article 239AA(4), the responsibility of Council of Ministers of NCT of Delhi to aid and advice to Lt. Governor is restricted to matter only on which the Legislative Assembly has power to make rule. Thus on reserved subject i.e. subject mentioned in Entry 1, 2 & 18, the State Government has no power either to make law or take an executive action.*

*Rule 29 of Procedure and Conduct of Business of the Legislative Assembly of National Capital Territory of Delhi states that the subject matter of Questions must relate to a matter of administration for which the Government is responsible. Its purpose shall be to elicit information or to give suggestion of action on a matter of public importance.*

*In view of the provision contained in Article 239AA (3) and (4) read with Rule 29 of the Procedure and Conduct of Business of the Legislative Assembly of National Capital Territory of Delhi, legally the Speaker of the Legislative Assembly cannot admit any Question on any Reserved Subject."*

After the issue of this letter, the Head of Departments (HODs) in Government of NCT of Delhi stopped sending the answers to the questions on these so called 'Reserved Subjects' from the year 2018 onwards and till date. As of now, the replies of 34 questions (list of Questions enclosed **as Annexure-C**) have not been furnished to the Sixth and Seventh Legislative Assembly. This is an insult and grave injustice not only to Delhi Legislative Assembly but also to the residents of Delhi who voted and elected their 70 MLAs. Now these MLAs cannot even ask questions in the House on the issues being faced by the voters of their Assembly Constituencies. This is blatant violation of democracy and democratic principle.

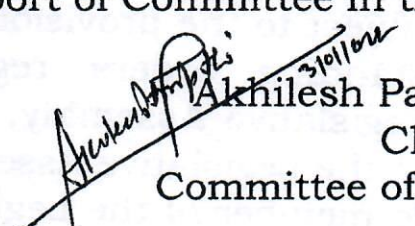
It can be unequivocally stated that the Legislative Assembly may not have the power to make laws on reserved subjects, but it has every right to discuss, ask questions and seek replies on all matters affecting the life of the people of Delhi. Not answering questions of the Legislative Assembly is a clear breach of privilege and contempt of the House.

The observations of the Committee on the above matter have been included in the Report. I would like to place on record my appreciation for the valuable assistance rendered by the staff of Delhi Legislative Assembly Secretariat for smooth functioning of the sittings of the Committee and preparation of report.

The Committee considered and adopted its Report in its sitting held on 03.01.2022.

The Committee authorized Shri Saurabh Bharadwaj, Hon'ble Member and in his absence Shri Ajay Dutt Hon'ble Member for presenting the Report of Committee in the House.

Dated: -----

  
Akhilesh Pati Tripathi  
Chairperson  
Committee of Privileges

## **INTRODUCTION**

The Delhi Legislative Assembly is free to make its own Rules of Procedures for conducting its business in Assembly as well as by the Committees. Article 118 as well as Article 208 of the Constitution of India clarifies the said position. Both the Articles are reproduced hereunder for sake of ease:

### **"118. Rules of Procedure**

- (1) ***Each House of Parliament may make rules for regulations, subject to the provisions of this Constitution, its procedure and***
- (2) x-x-x-x-x-x-x
- (3) x-x-x-x-x-x-x
- (4) x-x-x-x-x-x-x

### **"208. Rules of procedure**

- (1) A House of the Legislature of a State may make rules for regulating subject to the provisions of this Constitution, its procedure and the conduct of its business
- (2) x-x-x-x-x-x-x
- (3) x-x-x-x-x-x-x

In order to understand the crux of the matter under consideration of the Committee, it is pertinent to invite attention to the following Section of GNCTD Act, 1991 and Rules of Procedure and Conduct of Business in the Legislative Assembly of National Capital Territory of Delhi.

Section 18 (3) of the GNCTD Act 1991 deals with power, privileges of the Members of the Delhi Legislative Assembly. Section 18(3) is reproduced hereunder:

### **"18. Powers, privileges, etc. of members**

- 1) Subject to the provisions of this Act and to the rules and standing orders regulating the procedure of the Legislative Assembly, there shall be freedom of speech in the Legislative Assembly.
- 2) No member of the Legislative Assembly shall be liable to any proceedings in any Court in respect of anything said or any vote given by him in the Assembly or any

Committee thereof and no person shall be so liable in respect of the publication by or under the authority of such Assembly of any report, paper, votes or proceedings

- 3) In other respects, the powers privileges and immunities of the Legislative Assembly and of the members and the Committees thereof shall be such as are for the time being enjoyed by the House of the People and its members and Committees.
- 4) The provisions of sub-sections (1). (2) and (3) shall apply in relation to persons who by virtue of this Act have the right to speak in, and otherwise to take part in the proceedings of the Legislative Assembly or any Committee thereof as they apply in relation to members of the Assembly. "

**i. Rule 48.**

**"48. Speaker to decide admissibility of Questions**

The Speaker shall decide the admissibility of a question and may disallow any question or a part thereof which, in his opinion, contravenes these rules or is an abuse of the right of asking questions. The Speaker shall inform the Member concerned in brief the reasons for disallowing the question. He may also amend a question to bring it into conformity with the rules or may return a question for improvement."

**ii. Rule 291**

**"291. Interpretation and removal of difficulties**

If any doubt arises as to interpretation of any of the provisions of these rules, the decision of the Speaker shall be final."

**iii. Rule 292**

**"292. Residuary powers**

All matters not specifically provided for in these rules and all questions relating the detailed working of these rules shall be regulated in such manner as the Speaker may from time to time direct."

#### **iv. Rule-293.**

##### **"293. Speaker's decision not to be questioned**

No decision of the Speaker in respect of allowing or disallowing of any resolution or question or in respect of any other matter, shall be questioned."

It is obvious that what questions are to be raised in the Legislative Assembly is in the exclusive domain of the Hon'ble Speaker and it is for the Speaker to either allow or disallow the same. The Speaker is the sole authority who decides the admissibility of questions. The Lt. Governor certainly has no power to direct the Speaker either to entertain or to refrain him from allowing or admitting any specific question.

Further, as per the Allocation of Business Rules 1993 issued under Section 44 of the Government of National Capital Territory Act, 1991 even the reserved subjects of Home (Police), Land & Building and Services have been allocated to various Ministers of the Delhi Government and hence they are bound to reply to the Assembly in these matters. It is pertinent to record here that budget and expenditure of the Departments which are in the Reserved List comes from the budget and appropriations made by the Assembly. This gives the Delhi Legislative Assembly every right to seek information on the functioning of these departments. It is the basic right of the Assembly and its Members to seek information on the functioning of any department which received money from the budget passed by Delhi Legislative Assembly.

Rule 48 of the Rules of Procedure and Conduct of Business of Delhi Assembly confers absolute power on the Speaker to decide the admissibility of questions. Further the action of the Speaker in either allowing or disallowing of any question in the Assembly is immune from any challenge in view of Rule 293 of the Rules of Procedure. Thus, rules of the House bring about finality on the Speaker's absolute authority in respect of admitting a question.

Rule 29 of the Rules of Procedure provides that a question which may be raised in the Assembly must relate to a matter of administration for which the Government is responsible. It further says that the purpose of the question is to elicit information or to give suggestion of action on a matter of public importance. It is evident that since the Government is responsible for administration in Delhi, it stands to logic and comprehensive reasoning that both reserved subjects and the unreserved subject do become theme of questions. A similar provision to Rule 29 of Delhi Legislative Assembly is also available in Rule 41 (2) (viii) of Lok Sabha Rules which states that the question "shall not relate to a matter which is not primarily the concern of the Government of India. But even such questions are admitted on the discretion of Hon'ble Speaker of Lok Sabha. It is relevant to quote from Kaul and Shakhdar's Practice and Procedure of Parliament (Page 519 Seventh Edition) – "The discretion to allow the question which is not the primary concern of the Government of India is exercised by the Speaker on the merit of each case. In such matters, the extent of public importance is the deciding factor".

## **PROCEEDINGS**

The issue of non- receipt of reply to Starred Question No. 2 listed for 29.07.2021 asked by Smt. Bandana Kumari, Hon'ble Member from Department of Home and Starred Question No. 32 listed for 30.07.2021 asked by Shri Somnath Bharti, Hon'ble Member from Services Department were referred by Hon'ble Speaker to the Committee of Privileges on 06.08.2021. Starred Question No. 2 and correspondence received from concerned department is enclosed as **Annexure-D**. Starred Question No. 32 and correspondence received from concerned department is enclosed as **Annexure-E**.

The Committee of Privileges examined the above matter in its sittings held on 17.09.2021 and 23.09.2021.

During the sitting of the Committee held on 17.09.2021, Shri B.S. Bhalla, Additional Chief Secretary (Home) deposed on oath that any information which can be furnished under RTI Act by the Delhi Police or Home Department should also be furnished to the Hon'ble Members. He further stated that as regard to the reply in respect of Question No.2 dated 29.07.2021, raised in the Assembly on Police/Law & Order matters, the same could not be furnished in view of the compliance of the order issued by Law Department and Lt. Governor office. These are the orders dated 19.03.2018 issued by Shri Ravi Dhawan, Joint Secretary to Lt. Governor and Shri Anoop Kumar Mendiratta, Principal Secretary (Law, Justice & Legislative Affairs) to Delhi Legislative Assembly.

Shri S.B. Deepak Kumar, Secretary (Services) did not attend the sitting of the Committee scheduled for 17.09.2021 and neither any intimation regarding his absence from the sitting was received in the Assembly Secretariat. Further, in the sitting held on 23.09.2021, Shri S.B. Deepak Kumar, Secretary (Services) tendered an apology before the Committee for his absence on account of complications arising due to second dose of covid vaccination to his wife.

Shri S.B. Deepak Kumar, Secretary (Services) deposed on oath that he concurred that if the information regarding vacant posts in a department can be given under RTI Act, then the same should be made available in form of a reply to a question raised in Delhi Legislative Assembly. He also informed the Committee that reply to S.Q No. 32 dated 30.07.2021 could not be furnished as 'Services' is a reserved subject in terms of MHA Notification dated 21.05.2015 (enclosed as **Annexure-F**) and Services Department is under the control of Lt. Governor.

## **OBSERVATION**

1. Hon'ble Speaker gave a Ruling on 26.03.2018 thereby directing that the officers are duty bound to provide replies to all question which are admitted. He reiterated that all the questions, replies to which have not been received from the concerned Departments stand referred to the Committee of Privileges. Hon'ble Speaker also pointed out the statement of Deputy Chief Minister that the information which cannot be denied under RTI Act, which an ordinary citizen is entitled to have, cannot be denied to this privileged House. The Ruling of the Speaker was conveyed to Principal Secretary, Department of Law, Justice & Legislative Affairs vide letter dated 26.03.2018 (enclosed as **Annexure-G**).

The letter dated 19.03.2018 issued by LG office has encouraged the officers not to cooperate with the Delhi Legislative Assembly and not to provide replies to the questions raised in this august House.

2. Whenever a matter became inconvenient for the authorities to furnish suitable replies to questions or clarification for non-furnishing of replies of questions to Committees, they approached the courts and obtained a stay order against the Delhi Legislative Assembly. Astonishingly, no HODs/Officers in any State of India is allowed to approach the courts against the Legislature and that too at government expense. 05 (Five) such matters are still sub-judice in the Courts:

- (a) WP(C)2231/2018 and 2348/2018 titled as Sh. Shurbir Singh Vs. GNCTD
- (b) WP(C)2232/2018 titled as Sh. J.B. Singh Vs. GNCTD
- (c) WP(C)6576/2018 titled as Ms. Manisha Saxena Vs. GNCTD
- (d) WP(C)6577/2018 titled as Sh. Sandeep Kumar Vs. GNCTD
- (e) WP(C)2043/2018 and WP(C)12197/2018 titled as Sh. Anshu Prakash Vs. GNCTD

3. The Committee has observed that "Services" is presently under the jurisdiction and control of Lt. Governor in terms of MHA Notification dated 21<sup>st</sup> May, 2015 and not under the

control of elected Government of NCT of Delhi. As a result a number of vacancies have not been filled up since long.

4. The Committee views with distress that a large number of posts under different categories for e.g. teacher, doctors, pharmacists etc. are presently lying vacant thereby affecting the effective functioning of the elected Government of NCT of Delhi and is also against public interest which is working day and night to improve the quality of life of the residents of Delhi.
5. The Committee is also pained to point out that Lt. Governor had accorded permission to the HODs of the Departments of Government of NCT of Delhi at the cost of public exchequer/money to obtain stay order from Courts for refusing answers to the questions raised by the Hon'ble Members in the Sixth Assembly or clarification sought by Committees of the House for non-furnishing of replies to the questions and the same has adversely influenced the functioning of the elected Government.
6. The elected Government of NCT of Delhi sincerely intends to regularize the services of its contractual employees for e.g. Guest teachers etc. but is prevented from doing so since control of Services Department is presently with Lt. Governor.
7. The Committee is also of the categorical view that "good governance" is being badly affected on account of non-answering of the questions related to Entry No. 1 (Public Order), 2 (Police), 18 (Land) of the State list under Seventh Schedule of the Constitution and 'Services' which are presently under the control of Lt. Government.
8. The Committee fails to understand and is at a complete loss to ascertain the rationale and reason for not furnishing replies to the questions raised by Hon'ble Member on the subject related to Public Order, Police, Land and Services. The Committee can only ponder as to what can be the hidden agenda for not furnishing replies to such questions. Whether it is to malign the elected Government of NCT of Delhi or hamper and hinder the competent and effective functioning of the elected Government, the Committee can only speculate.

## **RECOMMENDATIONS**

1. The Committee strongly recommends that Government of NCT of Delhi should take appropriate steps to ensure that the replies to the Questions raised by the Hon'ble Members in the Assembly are duly answered by the Department concerned.
2. The Committee is of the categorical view that all instances where the information sought by the Hon'ble Minister for replying in the House is denied constitute a serious breach of Privilege and contempt of House. The Committee recommends that in such cases the concerned Administrative Secretary/Head of Department shall be personally held liable and responsible and proceeded against as the House deems fit.
3. The Committee further recommends that Government of NCT of Delhi should take necessary action in coordination with the Central Government to introduce an amendment in the Parliament in order to legislate or make laws on subject matter related to Public Order, Police, Land of the State list under Seventh Schedule of the Constitution.



सत्यमेव जयते

राज निवास  
दिल्ली-११००५४  
RAJ NIWAS  
DELHI-110054

**MOST URGENT**

On the issue of questions being raised in Legislative Assembly of Delhi on matters related to 'Reserved Subjects', the following advice of Department of Legal Affairs, Government of India has been received through the Ministry of Home Affairs, Government of India:

PB of Pr. Secretary (LJ&LA)  
19 MAR 2018


As per Article 239AA(3)(a) of the constitution, the Legislative Assembly shall have power to make laws with respect to any of the matters enumerated in the State List, or in the Concurrent List except matters with respect to Entries 1, 2 and 18 of the State List and Entries 64, 65 and 66 of that List in so far as they related to the said Entries 1, 2 and 18.

Further as per Article 239AA(4), the responsibility of Council of Ministers of NCT of Delhi to aid and advice to Lt. Governor is restricted to matter only on which the Legislative Assembly has power to make rule. Thus on reserved subject i.e. subject mentioned in Entry 1, 2 & 18, the State Government has no power either to make law or take an executive action.

Rule 29 of Procedure and Conduct of Business of the Legislative Assembly of National Capital Territory of Delhi states that the subject matter of Questions must relate to a matter of administration for which the Government is responsible. Its purpose shall be to elicit information or to give suggestion of action on a matter of public importance.

In view of the provision contained in Article 239AA (3) and (4) read with Rule 29 of the Procedure and Conduct of Business of the Legislative Assembly of National Capital Territory of Delhi, legally the Speaker of the Legislative Assembly cannot admit any Question on any Reserved Subject."

The above legal position may kindly be brought to the notice of Secretary of Legislative Assembly, Delhi for kind information of Hon'ble Speaker, Legislative Assembly, Delhi and departments concerned for necessary action.

  
(Ravi Dhawan)  
Jt. Secretary to Lt. Governor


✓ Pr. Secretary (Law, Justice & Legislative Affairs), GNCTD

U.O. No. 2C3/17-RM/379/A-1490

Date- 19/03/2018

Copy for kind information and necessary action to:

1. Chief Secretary, Delhi.
2. Secretary to Minister (Law, Justice & Legislative Affairs), GNCTD

  
(Ravi Dhawan)  
Jt. Secretary to Lt. Governor

15/c  
Most Urgent

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI  
(DEPARTMENT OF LAW, JUSTICE & LEGISLATIVE AFFAIRS)  
8th LEVEL, C-WING, DELHI SECRETARIAT, NEW DELHI.

F.No. 18(11)/LA-2018 /1720-1769

Dated: 19.03.2018 \*

✓  
The Secretary,  
Delhi Legislative Assembly,  
Govt. of NCT of Delhi  
Old Secretariat, Delhi.

Sub: U.O. No. 2(3)/17-RN/379/A-1490 dated 19.03.2018 received from Joint Secretary to Hon'ble Lt. Governor.

Sir,

Please find enclosed herewith the copy of above mentioned UO received from Joint Secretary to Hon'ble Lt. Governor informing that on the issue of questions being raised in Legislative Assembly of Delhi on matters related to 'Reserved Subjects', the following advice of Department of Legal Affairs, Government of India has been received through the Ministry of Home Affairs, Government of India.

*"As per Article 239AA (3)(a) of the constitution, the Legislative Assembly shall have power to make laws with respect to any of the matters enumerated in the State List, or in the Concurrent List except matters with respect to Entries 1, 2 and 18 of the State List and Entries 64, 65 and 66 of that List in so far as they related to the said Entries 1,2 and 18.*

*Further as per Article 239AA(4), the responsibility of Council of Ministers of NCT of Delhi to aid and advice to Lt. Governor is restricted to matter only on which the Legislative Assembly has power to make rule. Thus on reserved subject i.e. subject mentioned in Entry 1, 2 and 18, the State Government has no power either to make law or take an executive action.*

*Rule 29 of Procedure and Conduct of Business of the Legislative Assembly of National Capital Territory of Delhi states that the subject matter of Questions must relate to a matter of administration for which the Government is responsible. Its purpose shall be to elicit information or to give suggestion of action on a matter of public importance.*

*In view of the provision contained in Article 239AA(3) and (4) read with Rule 29 of the Procedure and Conduct of Business of Legislative Assembly of National Capital Territory of Delhi, legally the Speaker of the Legislative Assembly cannot admit any Question on any Reserved Subject."*

The above legal position may kindly be brought to the notice of Hon'ble Speaker, Legislative Assembly, Delhi for kind information as requested in the aforesaid U.O.

A copy of the same is also being endorsed to all the Hon'ble Ministers and Departments for information and further necessary action.

*(Signature)*  
(Anoop Kumar Mendiratta)  
Pr. Secretary (Law, Justice & LA)  
Government of National Capital Territory of Delhi

Encl: As above.

F.No. 18(11)/LA-2018

Dated: 19.03.2018

Copy forwarded to the following for information and further necessary action.-

1. Joint Secretary to Hon'ble Lt. Governor for information.
2. Pr. Secretary to Hon'ble Chief Minister, Delhi.
3. Secretaries to all the Hon'ble Ministers of Government of NCT of Delhi.
4. Staff Officer to Chief Secretary for information.
5. All the Pr. Secretaries/Secretaries/Heads of Departments of GNCTD.
6. Website of Law, Justice & LA. Department.

(Anoop Kumar Mendiratta)  
Pr. Secretary (Law, Justice & LA)  
Government of National Capital Territory of Delhi

**DETAILS OF QUESTIONS OF WHICH REPLIES WERE NOT RECEIVED AFTER  
BEING A RESERVE SUBJECT SINCE MARCH,2018.**

S.No.	Questions No.	Listed for	Name of Hon'ble Member	Department
1.	S-4	19.03.2018	Sh. Pankaj Pushkar	Vigilance
2.	S-16	19.03.2018	Sh. Somnath Bharti	Vigilance
3.	US-180	20.03.2018	Sh. Shridutt Sharma	Land & Building
4.	US-181	20.03.2018	Sh. Jagdish Pradhan	Land & Building
5.	US-182	20.03.2018	Sh. Jagdish Pradhan	Land & Building
6.	S-79	22.03.2018	Sh. Pawan Kumar Sharma	Services
7.	US-217	22.03.2018	Sh. Pankaj Pushkar	Services
8.	US-218	22.03.2018	Sh. Pawan Kumar Sharma	Services
9.	S-96	23.03.2018	Sh. Pawan Kumar Sharma	Vigilance
10.	US-277	23.03.2018	Sh. Pawan Kumar Sharma	Vigilance
11.	US-278	23.03.2018	Sh. Raju Dhingan	Vigilance
12.	S-132	27.03.2018	Sh. Vishesh Ravi	Home
13.	S-16	06.06.2018	Sh. Saurabh Bhardwaj	Revenue
14.	S-44	08.06.2018	Sh. Surender Singh	Services
15.	S-54	08.06.2018	Col. Devinder Sehrawat	Land & Building
16.	US-120	08.06.2018	Sh. Vijender Gupta	Services
17.	US-255	09.08.2018	Sh. Pankaj Pushkar	Vigilance
18.	US-256	09.08.2018	Sh. Sukhbir Singh Dalal	Services
19.	US-257	09.08.2018	Sh. Jagdish Pradhan	Services
20.	US-258	09.08.2018	Col. Devinder Sehrawat	Services
21.	US-56	25.02.2019	Ms. Alka Lamba	Vigilance
22.	US-62	25.02.2019	Sh. Pankaj Pushkar	Revenue
23.	US-63	25.02.2019	Sh. Rajesh Rishi	Revenue
24.	US-64	25.02.2019	Sh. Sanjeev Jha	Revenue
25.	US-65	25.02.2019	Sh. Sanjeev Jha	Revenue
26.	US-66	25.02.2019	Sh. Ram Chander	Revenue
27.	US-226	26.08.2019	Sh. Sukhbir Singh Dalal	Services
28.	US-227	26.08.2019	Sh. Pankaj Pushkar	Services
29.	US-74	02.12.2019	Sh. Jarnail Singh	Home
30.	US-75	02.12.2019	Sh. Vishesh Ravi	Vigilance
31.	US-76	02.12.2019	Sh. Rajesh Gupta	Vigilance
32.	US-79	02.12.2019	Sh. Girish Soni	Land & Building
33.	S-2	29.07.2021	Smt. Bandana Kumari	Home
34.	S-32	30.07.2021	Sh. Somnath Bharti	Services



**Legislative Assembly Secretariat**  
National Capital Territory of Delhi  
Old Secretariat, Delhi 110 054  
(Questions & Reference Committee)

F.No.12(6)/2020-25/Q.B./ LAS/Q&Ref.-Priv./2020-25/750-54

Dated: 06.08.2021

To

The Dy. Secretary (Legislation),  
Delhi Legislative Assembly Secretariat,  
Old Secretariat, Delhi-110054.

**Sub: Reg. Starred Question No.2 listed for 29.07.2021 asked by Hon'ble Member Smt. Bandanda Kumari from Department of Home and Starred Question No.32 listed for 30.07.2021 asked by Sh. Somnath Bharti from Services Department.**

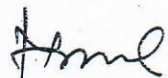
Sir,

Please find enclosed herewith a copy of Starred Question No.2 listed for 29.07.2021 asked by Hon'ble Member Smt. Bandanda Kumari from Department of Home and Starred Question No.32 listed for 30.07.2021 asked by Hon'ble Member Sh. Somnath Bharti from Services Department along with the copy of letters dated 28.07.2021 as received from Department of Home, copy of letter No.F.8(26)/Misc./VS/2016-S.III.1086 date 26.07.2021 as received from Services Department and U.O. letter No.dy. cm/2021/197 dated 29.07.2021 as received from OSD to Dy. CM.

As per the directions of the Hon'ble Speaker the above matter has been referred to the Committee on Privileges.

Yours faithfully

Encl.: As above.


  
 (Neeraj Aggarwal)  
 Deputy Secretary (Questions & Committee)

F.No.12(6)/2020-25/Q.B./ LAS/Q&Ref.-Priv./2020-25/

Dated: 06.08.2021

Copy for information to:

1. The Secretary to Hon'ble Speaker, Delhi Legislative Assembly.
2. Smt. Bandana Kumari, Hon'ble Member, Delhi Legislative Assembly.
3. Sh. Somnath Bharti, Hon'ble Member, Delhi Legislative Assembly.
4. PS to Secretary, Delhi Legislative Assembly.

  
 (Neeraj Aggarwal)  
 Deputy Secretary (Questions & Committee)

29.07.2021

02. श्रीमती बंदना कुमारी

गृह

क्या माननीय गृह मंत्री यह बताने की कृपा करेंगे कि :

- क) क्या सरकार इस तथ्य से अवगत है कि आम आदमी को पुलिस स्टेशन में अपनी शिकायत दर्ज कराने में अत्यंत कठिनाई का सामना करना पड़ता है;
- ख) क्या सरकार इस तथ्य से भी अवगत है कि पुलिस कर्मचारियों में जनता के साथ पेश आने संबंधी बुनियादी विनम्रता और उचित दृष्टिकोण का अभाव है और प्रायः शिकायतकर्ता को ही परेशान किया जाता है और पुलिस तक पहुँचने के लिए हतोत्साहित किया जाता है;
- ग) क्या विभाग को शालीमार बाग चुनाव क्षेत्र में अवैध शराब की बिक्री और अवैध निर्माण की शिकायतें मिली हैं;
- घ) क्या यह भी सत्य है कि स्थानीय विधायक द्वारा पुलिस के वरिष्ठ अधिकारियों से शिकायत किए जाने के बाद भी इन अवैध गतिविधियों को रोकने के लिए कोई कार्रवाई नहीं की गई है;
- ड) क्या सरकार ने इन शिकायतों के निवारण और पुलिस को जनता के प्रति मैत्रीभाव रखने एवं उत्तरदायी बनाने के लिए कोई कदम उठाए हैं या उठाने का प्रस्ताव है; और
- च) यदि हाँ, तो उसका विवरण क्या है?

6/c

C.F.O.-01/2021 Assembly H.P.-IIA  
Government of National Capital Territory of Delhi  
Home Police- Department  
5th Floor, Old Delhi Secretariat, L.P. Estate, New Delhi.

Dated: 28/7/21

To

The Deputy Secretary (Questions),  
Delhi Legislative Assembly,  
NCT of Delhi,  
Old. Secretariat, Delhi.


Sub: Regarding Vidhan Sabha Starred Question No. 02.

Sir,

Vidhan Sabha Starred Question No. 02 sent to Home Department of GNCT of Delhi is returned herewith in view of letter dated 19/03/2018 of Department of Law, Justice & Legislative Affairs (copy enclosed).

Encl: As above.

Yours faithfully,

  
(Shakti Bangar)  
Dy. Secretary (Home-IIA)

5/c  
Most Urgent

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI  
DEPARTMENT OF LAW, JUSTICE & LEGISLATIVE AFFAIRS  
8th FLOOR, C-10, DELHI SECRETARIAT, NEW DELHI.

P.N. 18(11)/LA-2018 / 1220-1759

Dated: 19.03.2018

The Secretary,  
Delhi Legislative Assembly,  
Chhatra of NCT of Delhi  
Old Secretariat, Delhi.

Sub. L.O. No. 233/17-RN/379/A-1490 dated 19.03.2018 received from Joint Secretary to Hon'ble Lt. Governor.

Sir,

Please find enclosed herewith the copy of above mentioned UO received from Joint Secretary to Hon'ble Lt. Governor informing that on the issue of questions being raised in Legislative Assembly of Delhi on matters related to 'Reserved Subjects', the following advice of Department of Legal Affairs, Government of India has been received through the Ministry of Home Affairs, Government of India.

*"As per Article 239AA (3)(a) of the constitution, the Legislative Assembly shall have power to make laws with respect to any of the matters enumerated in the State List, or in the Concurrent List except matters with respect to Entries 1, 2 and 18 of the State List and Entries 64, 65 and 66 of that List in so far as they related to the said Entries 1, 2 and 18.*

*Further as per Article 239AA(4), the responsibility of Council of Ministers of NCT of Delhi to aid and advice to Lt. Governor is restricted to matter only on which the Legislative Assembly has power to make rule. Thus on reserved subject i.e. subject mentioned in Entry 1, 2 and 18, the State Government has no power either to make law or take an executive action.*

*Rule 29 of Procedure and Conduct of Business of the Legislative Assembly of National Capital Territory of Delhi states that the subject matter of Questions must relate to a matter of administration for which the Government is responsible. Its purpose shall be to elicit information or to give suggestion of action on a matter of public importance.*

*In view of the provision contained in Article 239AA(3) and (4) read with Rule 29 of the Procedure and Conduct of Business of Legislative Assembly of National Capital Territory of Delhi, legally the Speaker of the Legislative Assembly cannot admit any Question on any Reserved Subject."*

The above legal position may kindly be brought to the notice of Hon'ble Speaker, Legislative Assembly, Delhi for kind information as requested in the aforesaid U.O.

A copy of the same is also being endorsed to all the Hon'ble Ministers and Departments for information and further necessary action.

(Anoop Kumar Mendiratta)  
Pr. Secretary (Law, Justice & LA)  
Government of National Capital Territory of Delhi

Encl. As above

P.N. 18(11)/LA-2018

Dated: 19.03.2018

Copy forwarded to the following for information and further necessary action:-

1. Joint Secretary to Hon'ble Lt. Governor for information.
2. Pr. Secretary to Hon'ble Chief Minister, Delhi.
3. Secretaries to all the Hon'ble Ministers of Government of NCT of Delhi.
4. Staff Officer to Chief Secretary for information.
5. All the Pr. Secretaries/Secretaries/Heads of Departments of GNCTD.
6. Website of Law, Justice & LA Department.

(Anoop Kumar Mendiratta)  
Pr. Secretary (Law, Justice & LA)  
Government of National Capital Territory of Delhi

30.07.2021

32. श्री सोमनाथ भारती

सेवाएँ

क्या माननीय उप मुख्यमंत्री यह बताने की कृपा करेंगे कि :

- क) दिल्ली के विभागों में विभिन्न पदों के लिए रिक्तियों का विवरण;
- ख) इन रिक्तियों को भरने के लिए उठाए गए कदम;
- ग) विभागों की आवश्यकताओं का मूल्यांकन करने के लिए उठाए गए कदम, ताकि आवश्यक जनबल को कम या अधिक किया जा सके;
- घ) सेवाओं से संबंधित विषयवस्तु माननीय उप राज्यपाल महोदय के अधिकार क्षेत्र में है या संबंधित मंत्री के;
- ङ) माननीय उच्चतम न्यायालय में उक्त मामले की स्थिति, और
- च) सरकार के विभिन्न विभागों में अनुबंध आधारित कर्मचारियों को नियमित कर्मचारियों के रूप में परिवर्तित किए जाने के लिए उठाए जा रहे कदम?

3/c

**OFFICE OF THE DEPUTY CHIEF MINISTER  
GOVT. OF NCT OF DELHI  
ROOM NO. A-608, A WING  
DELHI SECRETARIAT: I.P. ESTATE  
NEW DELHI**

A Starred Question No.32 raised by Shri Somnath Bharti, Hon'ble MLA for reply on 30.07.2021 by Hon'ble Dy. Chief Minister/Minister In-charge (Services Department) has been received in this office. The said Starred Question is as under:-

“Will the Hon'ble Deputy Chief Minister be please to state:

- a) Details of the vacancies in different post in the Departments of Delhi;
- b) Steps being taken to fill up these vacancies;
- c) Steps being taken to evaluate the requirements of departments to reduce or augment the necessary manpower;
- d) Whether the subject matter of Services is under the Hon'ble Lieutenant Governor or the concerned Minister;
- e) Status of the case in the Hon'ble Supreme Court in this regard; and
- f) Steps being taken to convert contract employees to regular employees in various departments of the Government?

A briefing notice dated 23/7/2021 was issued wherein Secretary (Services) was requested to attend briefing regarding Starred Question No.32 for reply on 30.07.2021 raised by Shri Somnath Bharti, Hon'ble MLA.

In response to the briefing notice, the Services Department vide letter No.F.8(26)/MISC/VS/2016-S.III/1086 dated 26.07.2021 replied as under (copy enclosed):-

“In this regard, I am directed to inform that ‘Services’ is a reserved subject in terms of MHA’s notification dated 21.05.2015. Moreover, Pr. Secretary (Law, Justice & I.A) vide their office letter No.F.18(11)/LA/2018/1720-1769 dated 19.03.2018 has conveyed the legal advice “that in view of Article 239AA(3)(4) of Constitution of India read with Rule 29 of the Procedure and Conduct of Business Rules of Legislative Assembly of National Capital Territory of Delhi, legally the Speaker of Legislative Assembly cannot admit any question on any reserved subject”. Copy of letter is enclosed.”

dy.cm | 2021/197  
29/7/2021

1425  
29/7/21

In view of the foregoing position, this department cannot provide reply to the above mentioned assembly question."

Submitted for kind perusal of Hon'ble Speaker, Delhi Legislative Assembly.

4/1  
29/07/21

(PIYUSH KUMAR DOSI)  
OSD to DEPUTY CHIEF MINISTER  
29.07.2021

HON'BLE DY. CM.

Mamta  
29/07

SECRETARY, DELHI LEGISLATIVE ASSEMBLY.

Pr  
29/7/2021  
OSD to Hon'ble Speaker

3/8  
H.S. has been apprised.

Secy  
29/7

Secy (L.A.)

Pr  
29/7/2021

DS (S)

1402/40/68 + paper  
dated 29/07/2021  
U.O. NO. 155/2021

2/c

SERVICES DEPARTMENT  
GOVERNMENT OF NCT OF DELHI  
7<sup>TH</sup> LEVEL, B-WING, DELHI SECRETARIAT, NEW DELHI-110002

No.F.8(26)/MISC/VS/2016-S.III/1086

Dated:26.07.2021

To

The Secretary to Hon'ble Dy. CM,  
O/o the Dy. Chief Minister,  
Govt. of NCT of Delhi,  
Delhi Secretariat, New Delhi.

Diary No. Dy. CM/

Sec 2021/13473  
Dated: 27/07/21

Sub: Briefing notice dated 23.7.2021, Reply to the Assembly Questions of Legislative  
Assembly of National Capital Territory of Delhi by Services Department.

Sir,

This is with reference to the Briefing Notice dated 23.7.2021 vide which it has been requested attend briefing for Vidhan Sabha Starred Question No. 32 for reply on 30.7.2021 alongwith draft reply and relevant supplementary material.

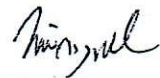
In this regard, I am directed to inform that 'Services' is a reserved subject in terms of MHA's notification dated 21.05.2015. Moreover, Pr. Secretary (Law & Justice & LA) vide their office letter No. F.18(11)/LA/2018/1720-1769 dated 19.3.2018 has conveyed the legal advice *"that in view of Article 239 AA(3)(4) of Constitution of India read with Rule 29 of the Procedure and Conduct of Business Rules of Legislative Assembly of National Capital Territory of Delhi, legally the Speaker of Legislative Assembly cannot admit any question on any reserved subject"*. Copy of the letter is enclosed.

In view of the foregoing position, this department cannot provide reply to the above mentioned assembly question.

The above position may be brought to the notice of the Hon'ble Dy. Chief Minister, Govt. of National Capital Territory of Delhi.

Encl.: As above

Yours faithfully,



(Amitabh Joshi)

Deputy Secretary (Services)

Q1/28/7/2021

1/C 192/C 68  
39/C 66/C  
Most Urgent

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI  
(DEPARTMENT OF LAW, JUSTICE & LEGISLATIVE AFFAIRS)  
8th LEVEL, C-WING, DELHI SECRETARIAT, NEW DELHI.

32-2/2018/5895  
19/03/18

F.No. 18(11)/LA-2018

Dated: 19.03.2018

The Secretary,  
Delhi Legislative Assembly,  
Govt. of NCT of Delhi  
Old Secretariat, Delhi.

Sub: U.O. No. 2(3)/17-RN/379/A-1490 dated 19.03.2018 received from Joint Secretary to Hon'ble Lt. Governor.

Sir,

Please find enclosed herewith the copy of above mentioned UO received from Joint Secretary to Hon'ble Lt. Governor informing that on the issue of questions being raised in Legislative Assembly of Delhi on matters related to 'Reserved Subjects', the following advice of Department of Legal Affairs, Government of India has been received through the Ministry of Home Affairs, Government of India.

*"As per Article 239AA (3)(a) of the constitution, the Legislative Assembly shall have power to make laws with respect to any of the matters enumerated in the State List, or in the Concurrent List except matters with respect to Entries 1, 2 and 18 of the State List and Entries 64, 65 and 66 of that List in so far as they related to the said Entries 1, 2 and 18.*

*Further as per Article 239AA(4), the responsibility of Council of Ministers of NCT of Delhi to aid and advice to Lt. Governor is restricted to matter only on which the Legislative Assembly has power to make rule. Thus on reserved subject i.e. subject mentioned in Entry 1, 2 and 18, the State Government has no power either to make law or take an executive action.*

*Rule 29 of Procedure and Conduct of Business of the Legislative Assembly of National Capital Territory of Delhi states that the subject matter of Questions must relate to a matter of administration for which the Government is responsible. Its purpose shall be to elicit information or to give suggestion of action on a matter of public importance.*

*In view of the provision contained in Article 239AA(3) and (4) read with Rule 29 of the Procedure and Conduct of Business of Legislative Assembly of National Capital Territory of Delhi, legally the Speaker of the Legislative Assembly cannot admit any Question on any Reserved Subject."*

The above legal position may kindly be brought to the notice of Hon'ble Speaker, Legislative Assembly, Delhi for kind information as requested in the aforesaid U.O.

A copy of the same is also being endorsed to all the Hon'ble Ministers and Departments for information and further necessary action.

(Anoop Kumar Mendiratta)  
Pr. Secretary (Law, Justice & LA)  
Government of National Capital Territory of Delhi

Encl: As above.

F.No. 18(11)/LA-2018 / 1720-1769

Dated: 19.03.2018

Copy forwarded to the following for information and further necessary action:-

1. Joint Secretary to Hon'ble Lt. Governor for information.
2. Pr. Secretary to Hon'ble Chief Minister, Delhi.
3. Secretaries to all the Hon'ble Ministers of Government of NCT of Delhi.
4. Staff Officer to Chief Secretary for information.
5. All the Pr. Secretaries/Secretaries/Heads of Departments of GNCTD.
6. Website of Law, Justice & LA Department.

(Anoop Kumar Mendiratta)  
Pr. Secretary (Law, Justice & LA)

  
**भारत का राजपत्र**  
**The Gazette of India**

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

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NEW DELHI, THURSDAY, MAY 21, 2015/VAISAKHA 31, 1937

गृह मंत्रालय

अधिसूचना

नई दिल्ली, 21 मई, 2015

**का.आ 1368(अ).**—संविधान के अनुच्छेद 239 में यह उपबंधित है कि प्रत्येक संघ राज्य क्षेत्र का प्रशासन राष्ट्रपति द्वारा किया जाएगा और वह अपने द्वारा ऐसे पदाभिधान सहित, जो वह विनिर्दिष्ट करे, नियुक्त किए गए प्रशासक के माध्यम से उस मात्रा तक कार्य करेगा, जितनी वह ठीक समझता है;

और, अनुच्छेद 239क में, जो 'संविधान (उनहत्तरवां संशोधन) अधिनियम, 1991' द्वारा अंतःस्थापित किया गया था, यह उपबंधित है कि दिल्ली संघ राज्य क्षेत्र को दिल्ली राष्ट्रीय राजधानी राज्य क्षेत्र कहा जाएगा और अनुच्छेद 239 के अधीन नियुक्त उसके प्रशासक का पदाभिधान उप-राज्यपाल होगा;

और, अनुच्छेद 239क के खंड (3) के उप-खंड (क) में यह कथन है कि विधान सभा को राज्य सूची की प्रविष्टि 1, प्रविष्टि 2 और प्रविष्टि 18 से तथा उस सूची की प्रविष्टि 64, प्रविष्टि 65 और प्रविष्टि 66 से, जहां तक उनका संबंध उक्त प्रविष्टि 1, प्रविष्टि 2 और प्रविष्टि 18 से है, संबंधित विषयों से भिन्न राज्य सूची में या समवर्ती सूची में प्रगणित किसी भी विषय के संबंध में, जहां तक ऐसा कोई विषय संघ राज्य क्षेत्रों को लागू है, संपूर्ण राष्ट्रीय राजधानी राज्य क्षेत्र या उसके किसी भाग के लिए विधि बनाने की शक्ति होगी; और प्रविष्टि 1 'लोक व्यवस्था' के संबंध में है, प्रविष्टि 2 'पुलिस' के संबंध में है और प्रविष्टि 18 'भूमि' के संबंध में है;

और, अनुच्छेद 239क के खंड (3) का उप-खंड (क) राज्य सूची में या समवर्ती सूची में प्रगणित विषयों को भी, जहां तक वे संघ राज्यक्षेत्र को लागू होने वाले ऐसे किसी विषय के संबंध में है, अर्हक बनाता हैं। इस उपबंध के

अधीन, राज्य सूची की प्रविष्टि 41 के प्रति निर्देश किया जा सकता है जो कि राज्य लोक सेवाओं, राज्य लोक सेवा आयोग के संबंध में है जो दिल्ली राष्ट्रीय राजधानी राज्यक्षेत्र में विद्यमान नहीं हैं;

इसके अतिरिक्त, भारतीय प्रशासनिक सेवा और भारतीय पुलिस सेवा कार्मिकों का संघ राज्य क्षेत्र काडर दिल्ली, चंडीगढ़, अंदमान और निकोबार द्वीप समूह, लक्षद्वीप, दमन और दीव, दादरा और नागर हवेली, पुडुचेरी संघ राज्य क्षेत्रों तथा अरुणाचल प्रदेश, गोवा और मिजोरम राज्यों के लिए समान है, जिसका प्रशासन केंद्रीय सरकार द्वारा गृह मंत्रालय के माध्यम से किया जाता है; और इसी प्रकार दिल्ली, अंदमान और निकोबार द्वीप समूह सिविल सेवा (दानिक्स) तथा दिल्ली, अंदमान और निकोबार द्वीप समूह पुलिस सेवा (दानिक्स) समान सेवाएं हैं जो दमन और दीव, दादरा और नागर हवेली, अंदमान और निकोबार द्वीप समूह, लक्षद्वीप संघ राज्य क्षेत्रों की दिल्ली राष्ट्रीय राजधानी राज्य क्षेत्र सहित अपेक्षा को पूरी करती हैं, जिसका प्रशासन भी केंद्रीय सरकार द्वारा गृह मंत्रालय के माध्यम से किया जाता है। इस प्रकार, यह स्पष्ट है कि दिल्ली राष्ट्रीय राजधानी राज्य क्षेत्र की अपनी स्वयं की राज्य लोक सेवाएं नहीं हैं। अतः, 'सेवाएं' इस प्रवर्ग के अंतर्गत नहीं आएंगी;

और, यह सुस्थापित है कि जहां कोई विधायी शक्ति नहीं होती है, वहां कोई कार्यपालिका शक्ति नहीं होती है, क्योंकि कार्यपालिका शक्ति विधायी शक्ति की सह-विस्तारी शक्ति है;

और, राज्य सूची की प्रविष्टि 1, प्रविष्टि 2 और प्रविष्टि 18, जो क्रमशः 'लोक व्यवस्था', 'पुलिस' और 'भूमि' के संबंध में है और उस सूची की प्रविष्टि 64, प्रविष्टि 65 और प्रविष्टि 66, जहां तक उनका संबंध प्रविष्टि 1, प्रविष्टि 2 और प्रविष्टि 18 से है, से संबंधित विषय और 'सेवाएं' भी दिल्ली राष्ट्रीय राजधानी राज्य क्षेत्र की विधान सभा के कार्य क्षेत्र के बाहर के विषय हैं और परिणामतः दिल्ली राष्ट्रीय राजधानी राज्य क्षेत्र की सरकार की उपरोक्त के संबंध में कोई कार्यपालिका शक्ति नहीं होगी और इसके अतिरिक्त, पूर्वोक्त विषयों के संबंध में शक्ति अनन्य रूप से राष्ट्रपति अथवा उनके प्रतिनिधि अर्थात् दिल्ली के उप-राज्यपाल में निहित है।

2. अतः, अब, राष्ट्रपति, अनुच्छेद 239 और अनुच्छेद 239क के खंड (3) के उप-खंड (क) में अंतर्विष्ट उपबंधों के अनुसार, इसके द्वारा यह निदेश देते हैं कि,—

- (i) उनके नियंत्रण और अगले आदेशों के अधीन रहते हुए, दिल्ली राष्ट्रीय राजधानी राज्य क्षेत्र का उप-राज्यपाल, इसमें इसके पूर्व यथाकथित 'लोक व्यवस्था', 'पुलिस', 'भूमि' और 'सेवाओं' से संबंधित विषयों के संबंध में, राष्ट्रपति द्वारा उसे समय-समय पर प्रत्यायोजित सीमा तक, केंद्रीय सरकार की शक्तियों का प्रयोग और उसके कृत्यों का निर्वहन करेगा:

परंतु दिल्ली राष्ट्रीय राजधानी राज्य क्षेत्र का उप-राज्यपाल, अपने विवेकानुसार, 'सेवाओं' के विषय के संबंध में, जहां-कहीं वह समुचित समझे, दिल्ली राष्ट्रीय राजधानी राज्य क्षेत्र के मुख्यमंत्री के विचार अभिप्राय कर सकेगा;

- (ii) तारीख 23 जुलाई, 2014 की अधिसूचना संख्यांक 14036/4/2014-दिल्ली-1 (भाग फाइल) द्वारा यथा संशोधित तारीख 8 नवंबर, 1993 की अधिसूचना संख्यांक एफ-1/21/92-गृह (पी.), स्था. 1750 में,—

(i) पैरा 2 के स्थान पर, निम्नलिखित पैरा प्रतिस्थापित किया जाएगा, अर्थात् :—

“2. यह अधिसूचना संविधान के अनुच्छेद 239कक में अंतर्विष्ट उपबंधों के अधीन रहते हुए केवल दिल्ली राष्ट्रीय राजधानी राज्य क्षेत्र के पदाधिकारियों और कर्मचारियों को लागू होगी।”;

(ii) पैरा 2 के पश्चात्, निम्नलिखित पैरा अंतःस्थापित किया जाएगा, अर्थात् :—

“3. भ्रष्टाचार निरोध शाखा पुलिस स्टेशन केंद्रीय सरकार के अधिकारियों और कर्मचारियों या जनसाधारण के किसी सदस्य के विरुद्ध अपराधों का कोई संज्ञान नहीं लेगा।”।

3. इस अधिसूचना द्वारा पूर्ववर्ती अधिसूचना सं. का.आ. 853(अ) [फा. सं. यू-11030/2/98-यू.टी.एल.], तारीख 24 सितंबर, 1998 को उन बातों के सिवाय, जो ऐसे अतिष्ठित किए जाने के पूर्व की गई हैं या जिनके किए जाने का लोप किया गया है, अतिष्ठित किया जाता है।

[फा. सं. 14036/04/2014-दिल्ली-1 (भाग फाइल)]

राकेश सिंह, संयुक्त सचिव

## MINISTRY OF HOME AFFAIRS

### NOTIFICATION

New Delhi, the 21st May, 2015

**S.O. 1368(E).**—Whereas article 239 of the Constitution provides that every Union Territory shall be administered by the President acting, to such extent as he thinks fit, through an administrator to be appointed by him with such designation as he may specify;

And whereas article 239AA inserted by ‘the Constitution (Sixty-ninth Amendment) Act, 1991’ provides that the Union Territory of Delhi shall be called the National Capital Territory of Delhi and the administrator thereof appointed under article 239 shall be designated as the Lieutenant Governor;

And whereas sub-clause (a) of clause (3) of article 239AA states that the Legislative Assembly shall have power to make laws for the whole or any part of the National Capital Territory with respect to any of the matters enumerated in the State List or in the Concurrent List in so far as any such matter is applicable to Union Territories except matters with respect to Entries 1, 2 and 18 of the State List and Entries 64, 65 and 66 of that List in so far as they relate to the said Entries 1, 2 and 18; and whereas Entry 1 relates to ‘Public Order’, Entry 2 relates to ‘Police’ and Entry 18 relates to ‘Land’.

And whereas sub-clause (a) of clause (3) of article 239AA also qualifies the matters enumerated in the State List or in the Concurrent List in so far as any such matter is applicable to Union Territories. Under this provision, a reference may be made to Entry 41 of the State List which deals with the State Public Services, State Public Service Commission which do not exist in the National Capital Territory of Delhi.

Further, the Union Territories Cadre consisting of Indian Administrative Service and Indian Police Service personnel is common to Union Territories of Delhi, Chandigarh, Andaman and Nicobar Islands, Lakshadweep, Daman and Diu, Dadra and Nagar Haveli, Puducherry and States of Arunachal Pradesh, Goa and Mizoram which is administered by the Central Government through the Ministry of Home Affairs; and similarly DANICS and DANIPS are common services catering to the requirement of the Union Territories of Daman & Diu, Dadra Nagar Haveli, Andaman and Nicobar Islands, Lakshadweep including the National Capital Territory of Delhi which is also administered by the Central Government through the Ministry of Home Affairs. As such, it is clear that the National Capital Territory of Delhi does not have its own State Public Services. Thus, ‘Services’ will fall within this category.

And whereas it is well established that where there is no legislative power, there is no executive power since executive power is co-extensive with legislative power.

And whereas matters relating to Entries 1, 2 & 18 of the State List being 'Public Order', 'Police' and 'Land' respectively and Entries 64, 65 & 66 of that list in so far as they relate to Entries 1, 2 & 18 as also 'Services' fall outside the purview of Legislative Assembly of the National Capital Territory of Delhi and consequently the Government of NCT of Delhi will have no executive power in relation to the above and further that power in relation to the aforesaid subjects vests exclusively in the President or his delegate i.e. the Lieutenant Governor of Delhi.

Now, therefore, in accordance with the provisions contained in article 239 and sub-clause (a) of clause (3) of 239AA, the President hereby directs that -

- (i) subject to his control and further orders, the Lieutenant Governor of the National Capital Territory of Delhi, shall in respect of matters connected with 'Public Order', 'Police', 'Land' and 'Services' as stated hereinabove, exercise the powers and discharge the functions of the Central Government, to the extent delegated to him from time to time by the President.

Provided that the Lieutenant Governor of the National Capital Territory of Delhi may, in his discretion, obtain the views of the Chief Minister of the National Capital Territory of Delhi in regard to the matter of 'Services' wherever he deems it appropriate.

2. In the Notification number F. 1/21/92-Home (P) Estt. 1750 dated 8th November, 1993, as amended *vide* notification dated 23rd July, 2014 bearing No. 14036/4/2014-Delhi-I (Pt. File), for paragraph 2 the following paragraph shall be substituted, namely:—

- “2. This notification shall only apply to officials and employees of the National Capital Territory of Delhi subject to the provisions contained in the article 239AA of the Constitution.”

after paragraph 2 the following paragraph shall be inserted, namely:—

- “3. The Anti-Corruption Branch Police Station shall not take any cognizance of offences against Officers, employees and functionaries of the Central Government”.

3. This Notification supersedes earlier Notification number S.O. 853(E) [F. No. U-11030/2/98-UTL] dated 24th September, 1998 except as respects things done or omitted to be done before such supersession.

[F. No. 14036/04/2014-Delhi-I (Part File)]

RAKESH SINGH, Jt. Secy.

PB of Pr. Secretary (LJ&LA)

27 MAR 2018



**Legislative Assembly**  
**National Capital Territory of Delhi**  
Old Secretariat, Delhi 110 054

Date: 26.03.2018

No.25(38)/Ques/2018/LAS-VI/Leg/6311

To  
The Principal Secretary,  
Department of Law, Justice and Legislative Affairs,  
Government of NCT of Delhi,  
New Delhi - 110002

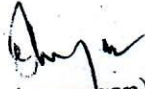
Subject: Admissibility of Questions in the Legislative Assembly of the NCT of Delhi

Sir,

This is with reference to your letter dated 19<sup>th</sup> March 2018 forwarding the letter of Joint Secretary to the Hon'ble Lieutenant Governor on the above subject. In this connection I am directed to forward herewith the text of the Ruling of the Hon'ble Speaker delivered in the Assembly today i.e. 26.03.2018 on this subject.

I am directed to request you to bring the contents of the Ruling for the knowledge and compliance of all concerned.

Yours faithfully,

  
(C. Velmurugan)  
Secretary

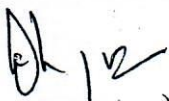
Date: 26.03.2018

Encl: As above

No.25(38)/Ques/2018/LAS-VI/Leg.

Copy for information and necessary action to:

1. Principal Secretary to the Hon'ble Lieutenant Governor, Delhi
2. Staff Officer to the Chief Secretary, Government of NCT of Delhi, Delhi.

  
(C. Velmurugan)  
Secretary

4/2018/4173  
27/3/18

27/3/18

27/3/18

**Directions and Ruling of Hon'ble Speaker on admissibility of questions related to so called 'reserved subjects':**

Hon'ble Members, the Principal Secretary (Law) has forwarded a copy of letter dated 19.03.2018 of Joint Secretary to the Lieutenant Governor regarding admissibility of questions on so called 'reserved' subjects. The letter has communicated an advice received from the Department of Legal Affairs, Government of India through the Ministry of Home Affairs. It states, inter alia, that *"in view of the provision contained in Article 239AA (3) and (4) read with Rule 29 of the Procedure and Conduct of Business of the Legislative Assembly of National Capital Territory of Delhi, legally the Speaker of the Legislative Assembly cannot admit any Question on any Reserved Subject."*

As informed by the Hon'ble Deputy Chief Minister on 19.03.2018, the Vigilance Department Officers refused to provide proper reply to Starred Questions 04 and 16 on these same grounds. I have already referred the issue to the Committee of Privileges and also directed the Chief Secretary to ensure that the replies are submitted immediately.

The Secretariat has received copies of letters from some Departments such as Services, Vigilance, Land & Building refusing to attend briefing meetings with the concerned Ministers.

I fail to understand the reason for these childish attempts to challenge the privileges of this Assembly. As pointed out by the Dy CM yesterday, this information cannot be denied even under the RTI Act. Thus information which an ordinary citizen is entitled to have, is being denied to this privileged House. Questions related to the reserved subjects have been asked and answered in this House since its inception. Trying to evade questions on vigilance matters under the garb of 'services' smacks of intent to protect the corrupt.

Rule 29 states that *"A question must relate to a matter of administration for which the Government is responsible. Its purpose shall be to elicit information or to give suggestion of action on a matter of public importance."*

First of all it should be noted that as per Rule 291 the Speaker's decision is final regarding interpretation of the Rules of Procedure. Moreover, Rule 293 clearly states that *"No decision of the Speaker in respect of allowing or disallowing of any resolution or question or in respect of any other matter, shall be questioned."*

There is a provision similar to Rule 29 in the Lok Sabha Rules. Rule 41 (2) (viii) of the Lok Sabha Rules, the Question *"shall not relate to a matter which is not primarily the concern of the Government of India."* But such questions are admitted on the discretion of the Hon'ble Speaker. I would like to quote from Kaul and Shakhdar's Practice and Procedure of Parliament – *"The discretion to allow a question which is not the primary concern of the Government of India is exercised by Speaker on the merits of each case. In such matters, the extent of public importance is the deciding factor."*

The officers should realise that legislation on reserved subjects and seeking replies on matters of public interest which directly affect the people of Delhi are two different issues. Hence I direct that the officers are duty bound to provide replies to all questions which are admitted. Any attempt from anyone, whatsoever post he may hold, to deny information to the Assembly and its Committees shall be viewed seriously. I reiterate that all the questions, replies to which have not been received from the concerned departments stand referred to the Committee of Privileges.