

**GOVERNMENT OF INDIA
MINISTRY OF HOME AFFAIRS**

**LOK SABHA
UNSTARRED QUESTION NO. 3313**

TO BE ANSWERED ON THE 06TH DECEMBER, 2016/ AGRAHAYANA 15, 1938 (SAKA)

DIRECTION OF COURTS ON AFSPA

**3313. SHRI C. MAHENDRAN:
SHRI BHOLA SINGH:**

Will the Minister of HOME AFFAIRS be pleased to state:

(a) whether any Court directions have been issued regarding Armed Forces (Special Power) Act (AFSPA), 1958;

(b) if so, the details thereof and the reaction of the Government thereto;

(c) whether the Court has judged that army and paramilitary forces cannot use excessive and retaliatory force during counter-insurgency operations in disturbed areas; and

(d) if so, the details thereof?

(e) whether there will be any ramification on the border security in view of the directions by the Courts including the Supreme Court on AFSPA; and

(f) if so, the details thereof and the reaction of the Government thereto?

ANSWER

**MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS
(SHRI KIREN RIJIJU)**

(a) to (f): The Hon'ble Supreme Court of India, in its Judgement dated 8.7.2016, passed in writ petition (Crl.) No. 129 of 2012, reiterated the view expressed by the Constitution Bench of Apex Court in Naga People's Movement of Human Rights regarding Armed Forces (Special Power) Act, 1958. It was inter-alia, concluded

that the use of excessive force or retaliatory force by the Manipur Police or the armed forces of the Union is not permissible.

There is an institutional mechanism to prevent misuse of powers under AFSPA by the Security Forces. Specific instructions have been issued to armed force personnel operating in 'disturbed area', violation of which make them liable for prosecution under the Army Act and the respective Acts of the Central Armed Police Forces. These instructions provide safeguards for human rights, safety of women and children.
