

GOVERNMENT OF INDIA
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS
(DEPARTMENT OF PERSONNEL & TRAINING)

LOK SABHA
UNSTARRED QUESTION NO. 1286
(TO BE ANSWERED ON 25.07.2018)

PREVENTION OF CORRUPTION ACT

1286. SHRI SHRIRANG APPA BARNE:
DR. PRITAM GOPINATH MUNDE:
SHRI VINAYAK BHAURAO RAUT:
SHRI ADHALRAO PATIL SHIVAJIRAO:
SHRI DHARMENDRA YADAV:
SHRI ANANDRAO ADSUL:

Will the **PRIME MINISTER** be pleased to state:

- (a) whether the Prevention of Corruption Act (PCA) is slowing down decision making as it does not confine corruption to bribery or dishonest behaviour;
- (b) if so, the details thereof and the reasons therefor;
- (c) whether the Union Government has set up a high level group to study the clauses of the aforesaid Act which are responsible for delaying the decision making and if so, the findings thereof;
- (d) whether the Union Government is considering amendment in the PCA to ensure that bonafide decisions that subsequently turn wrong are not treated as acts of corruption; and
- (e) if so, the time by which the final decision is likely to be taken in this regard?

ANSWER

**MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSIONS AND MINISTER OF STATE IN THE PRIME MINISTER'S OFFICE
(DR. JITENDRA SINGH)**

(a) to (e): The provision of section 13(1)(d)(iii) of the Prevention of Corruption Act, 1988 as it presently exists is as follows:

“13. Criminal misconduct by a public servant.

(1) A public servant is said to commit the offence of criminal misconduct,-

.....
(d) if he,----

.....
(iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest;.....”

The aforesaid provision does not carry the element of mens rea and thus does not confine such type of corruption to bribing of a public servant or any dishonest behavior by him. This raises apprehensions and fears in the mind of public servant which prima facie have the potential of impeding and slowing down decision making.

The Prevention of Corruption (Amendment) Bill, 2013, for amending the Prevention of Corruption Act, 1988, was introduced in the Rajya Sabha on 19.08.2013. The Bill after having been considered by the Department related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice, in its 69th Report and the Law Commission of India in its 254th Report, was also examined by the Select Committee of Rajya Sabha, which submitted its report on the Bill to the Rajya Sabha on 12th August, 2016.

Recommendations made by the Select Committee in its report on the Bill were considered by the Government and official amendments were moved on the Bill as reported by the Select Committee of the Rajya Sabha.

The Bill was taken up for discussion and passed by the Rajya Sabha on 19th July, 2018 during its current 246th Session. Further, it was taken up for discussion and passed by the Lok Sabha on 24th July, 2018 during its current 15th Session of the 16th Lok Sabha.
