

**GOVERNMENT OF INDIA
MINISTRY OF CORPORATE AFFAIRS
LOK SABHA**

**STARRED QUESTION No. *249
ANSWERED ON MONDAY, AUGUST 7, 2023/SRAVANA 16, 1945(SAKA)**

**WITHDRAWAL OF CASES
QUESTION**

***249 . SHRI SHRIRANG APPA BARNE :
SHRI SANJAY SADASHIVRAO MANDLIK :**

Will the Minister of Corporate Affairs be pleased to state:

- (a) whether in the first phase plan, the Government had withdrawn 14,247 prosecutions during a special drive in 2017 and if so, whether the Government proposes to withdraw 7,338 prosecutions pending before various courts in the second drive;**
- (b) if so, the details thereof and the reasons therefor alongwith the steps taken/being taken by the Government in this regard;**
- (c) whether the Government has set up any committee in this regard to undertake a thorough review of all the pending cases and if so, the details thereof;**
- (d) whether the said committee has identified the long pending prosecutions for various offences for withdrawal;**
- (e) if so, the details thereof alongwith the nature of such cases and if not, the time by which it is likely to be done; and**
- (f) the manner in which this step will unclog the courts in the country and provide growth of corporate sector?**

ANSWER

The Minister of Finance & Corporate Affairs.

(SMT. NIRMALA SITHARAMAN)

(a)to (f): A statement is laid on the Table of the House.

**STATEMENT REFERRED TO IN REPLY TO LOK SABHA
STARRED QUESTION NO. *249 FOR ANSWER ON
07.08.2023.**

(a): Yes Sir, in the process of first phase plan the Government had withdrawn 14,247 prosecutions. Now, in continuation to the earlier drive the Government proposes to withdraw 7,338 prosecutions pending before various courts, in the special Arrears Clearance Drive-II.

(b) to (f) : The ROC wise list giving the number of prosecutions proposed to be withdrawn is enclosed at Annexure-A.

The Ministry of Corporate Affairs set up a Committee in 2017 comprising of 7 Regional Directors. The Committee has to give recommendations regarding withdrawal of long standing cases, which are technical and procedural in nature and lay down broad principles to review pending prosecutions. In the year 2022 a similar Committee was set up to review pending prosecutions filed by field offices of the MCA in order to recommend further withdrawal of pending prosecution in various Courts. The main objective with which these Committees were set up was to free the Courts from dealing with offences that are procedural and technical in nature in order to ensure that Courts can concentrate on serious offences. The idea was to entrust cases of procedural and technical nature to Regulatory Authorities to handle them through inhouse mechanism, i.e. through adjudication process. The main criteria for withdrawal of cases in 2022 are as under:

A. Cases covered under either of the three categories are to be included for withdrawal of prosecution:

A.1. Where prosecutions under Companies Act, 1956 and Companies Act, 2013 are pending for more than two years against defaulting companies which otherwise are fit for action u/s 248 of the Companies Act, 2013;

A.2. All prosecutions under Companies Act, 1956 and Companies Act, 2013 are pending for at least 5 years other than those arising out of inquiries [u/s 206(1), 206(3) and 206(4)], inspections and investigations where notice remains unserved, and the offences involved are compoundable offences;

A.3. Where prosecutions under Companies Act, 1956 and Companies Act, 2013 are pending for more than 2 years and the cases are barred by limitation (limitation applies to offences where maximum term of imprisonment is up to three years only) and application for condonation of delay has been filed but the

delay has yet to be condoned by the court. Section 468 of Cr. P.C. may be referred for the period of limitation.

B. However, notwithstanding anything stated above the following companies are excluded from the ambit of withdrawal of prosecution

B.1. Companies which have earlier availed the Companies Fresh Start Scheme, 2020 (CFSS-2020), after verification of present filing status of the said companies;

B.2. Companies against whom any non-compoundable offence or action for fraud has been filed;

B.3. Companies against whom there are complaints of public cheating/ acceptance of public deposits/ fraud and 3i is ongoing or has been completed and further action is pending.

B.4. Listed companies;

B.5. Vanishing companies;

B.6. Companies that have been delisted due to non-compliance of listing regulations or listing agreement or any other statutory laws;

B.7. Companies, which have accepted public deposits which are either outstanding or the company is in default in repayment of the same;

B.8. Companies having charge which are pending for satisfaction; and

B.9. Companies registered under Section 25 of the Companies Act, 1956 or Section 8 of the Companies Act, 2013.

Instructions were issued to the Regional Directors to advise Registrar of Companies for placing withdrawal applications before concerned courts, after final review by the concerned ROC's. Action taken under these Drives I & II is expected to reduce more than 21000 cases from different courts and help unclog courts.

Annexure refer to in reply to Part - (b) to (f) of Lok Sabha

Starred Question No. *249 for answer on 07.08.2023

ANNEXURE – A

ROC-wise Break-up Data

Sl. No.	Office of	Category A1	Category A2	Category A3	Total number of cases recommended for withdrawal (3+4+5)
(1)	(2)	(3)	(4)	(5)	(6)
1.	ROC-Chennai	177	20	0	197
2.	ROC-Coimbatore	0	0	0	0
3.	ROC-Kerala	28	02	0	30
4.	ROC-Puducherry	0	06	0	6
5.	ROC-Delhi	12	11	0	23
6.	ROC-Kanpur	142	0	0	142
7.	ROC-Jammu	4	0	0	4
8.	ROC-Ahmedabad	222	7	0	229
9.	ROC-Gwalior	97	113	0	210
10.	ROC-Jaipur	0	10	0	10
11.	ROC-Bilaspur	0	10	0	10
12.	ROC-Mumbai	0	55	0	55
13.	ROC-Pune	241	0	0	241
14.	ROC-Goa	63	0	0	63
15.	ROC-West Bengal	260	4851	0	5111
16.	ROC-Cuttack	44	91	0	135
17.	ROC-Ranchi	126	0	0	126
18.	ROC-Patna	307	367	0	674
19.	ROC-Guwahati	41	31	0	72
	Total	1764	5574	0	7338