

Postponed Calling Attention tabled by Shri Mauvin Godinho, MLA.

“Anxiety in the minds of people created out of contradictory decisions of various courts in the matter of filing criminal complaints viz-a-viz dual citizenship issue. Will the Government clarify on the issue.”

Reply by Hon.ble Minister for Home:

Sir,

Several activists have filed several complaints related to dual citizenship involving some members of the Legislative Assembly, Panchayat Members as well as police officers in various police stations of Goa.

2. There are a total of 15 complaints filed in various Police Stations. Out of nine complaints filed in different police station of South Goa, Criminal case has been registered on complaint. The rest of seven complaints are still pending before various JMFC, Goa.
3. Out of three complaints filed before different police stations in North Goa, no case has been registered. Out of three complaints filed before the Crime Branch Police Station, no case has been registered.
4. Perusal of various court orders while disposing few of the petitions filed by the complainant reflect conflicting legal positions taken by different courts. In this connection, in a judgment passed by the JMFC Court, Mapusa on a complaint filed, the Court dismissed the petition on the ground that the competent authority to take cognizance of the legality or illegality of citizenship is the Government of India as per the Citizenship Rules. In a complaint of similar nature filed by another complainant before the court of JMFC, Panaji, the court passed orders for registration of a criminal case. The latest order passed by Special Judge of the CBI Court on a similar issue is bad in law because the court concerned has no jurisdiction to entertain such applications.
5. In view of the above, our considered opinion is that the CBI court has no jurisdiction to entertain any such applications and issue directions for

registration of a case. The same stands reiterated in the Supreme Court judgment in State of West Bengal vs Committee for Protection of Democratic Rights reported in 2010(3) S.C.C. page 571. In this, it is reiterated that the High Court in exercise of its jurisdiction under article 226 of the constitution can pass directions to the CBI without obtaining the consent of the concerned State Government. From this, it is clear that the High Court can exercise its jurisdiction under article 226 but not the lower courts. Such privileges are not available to the lower Courts. Therefore, they are bound by section 6 of the DSPE Act.

6. After going through all these judgments and different legal stands taken by various magistrates, I personally feel that there is a need to reorient the judicial officers so that reasoned and judicious verdicts are pronounced and the faith of the common man in the judiciary remains intact.
7. The concern of the House is shared and it is a matter of fact that some of the Orders passed under Criminal Procedure Code by even higher subordinate Officials are most distressing and disturbing more so because they run counter not only to the Law of the land but also the authentic pronouncement of the High Courts and Supreme Court. In one such matter, where a prisoner had died due to food poisoning, a Learned Magistrate directed registration of a case against the Home Minister and others. In yet another case, conflicting Judgments have been delivered by the Learned Judicial Magistrate, First Class directing registration of a case, in cases of alleged dual citizenship while yet another Learned Magistrate, in a reasoned Order and after considering the position in Law dismissed the said application under Section 156(3) of the Criminal Procedure Code. Some of these Orders are even ex parte even without waiting for or calling say of the Police.
8. The Hon'ble High Court as well as the Hon'ble Supreme Court has time and again stated that the Law and Order under the Constitution is the State subject and as such CBI cannot be directed by any Lower Court to investigate into any case. Doing so would be to cross the Constitutional limits. It is only the Hon'ble High Court or the Hon'ble Supreme Court

exercising Constitutional powers who may do so and in all other cases it mandatorily requires the consent of the State Government under Section 6 of the Delhi Special Police Establishment Act, 1946. It is disturbing that in disregard to the provisions of Law which have been held to be mandatory and in sheer disregard to the Judgments of the Hon'ble High Courts/Hon'ble Supreme Court, some orders are passed, paying scant regards to the provisions of Law. My Government cannot countenance such a position and would not be a mute spectator to such illegality.

9. While we all agree, we need a vibrant Judiciary and that Judiciary in this country has otherwise done a great job in many matters by their intervention, and at the same time a strong Judiciary helps the democracy to survive. But we cannot certainly watch the trampling of Constitutional distribution of powers. These acts are a serious matter and sharing the concern of the House, the Government will bring the same to the notice of the Hon'ble Chief Justice of India as well as the Hon'ble Chief Justice of the High Court and move for appropriate corrective measures and remedial measures. If necessary and if the exigencies of law so permit the reorientation of these Officers by the Hon'ble High Court would be requested to train them well and thereafter allow them to start judicial duties.

10. It is also observed that some of the activists whose antecedents and motives are highly questionable are blackmailing and witch-hunting by filing false cases against persons occupying high positions, merely to embarrass them or to blackmail them. Government has taken a serious note of these things happening in the State and is thinking of appropriate corrective measures in this regard. The most disturbing thing is that a Hon'ble Judge of the Hon'ble High Court is also not spared by some of these activists in making false allegations. It is high time that serious view of all these matters are taken and the same are appropriately dealt with. While my Government wholeheartedly endorses for any person including any activists to bring out a genuine cause which will sub-serve public interest but at the same time blackmailing and witch-hunting cannot be tolerated.
