



Rajeev Kapoor, IAS
Joint Secretary (AT&A)
Phone: 2309 3668



सूचना
का अधिकार

भारत सरकार
कार्मिक और प्रशिक्षण विभाग
कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय
नार्थ ब्लॉक, नई दिल्ली-110001
GOVERNMENT OF INDIA
DEPARTMENT OF PERSONNEL & TRAINING
MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSIONS
NORTH BLOCK, NEW DELHI-110001

D.O.No.JS(RTI)/691/2011
Saturday, May 21, 2011

Dear Sri Nayak,

I have received your letter dated 6th May 2011 on the subject of competence of a state legislature to annul or amend the rules framed by respective state governments under the powers delegated to them by RTI Act 2005. This issue was discussed in Shillong Convention and it was mentioned that there is a weakness in the constitutional scheme which leads to a situation where rules framed by state governments under the RTI Act may not be subject to scrutiny of respective state legislatures.

2. On that occasion, I had mentioned that state legislatures would have inherent powers to review the delegated legislation prepared by respective state government. However, in view of the detailed legal and constitutional provisions cited in your letter mentioned above and also the 20th Report of the Committee on Subordinate Legislation, Lok Sabha, which was annexed with your letter, it seems that this may not be the case in regard to state rules which are framed under Central Acts.

3. The issues raised in your letter have significant legal/constitutional ramifications and we would be seeking opinion of the Ministry of Law in this regard and would let you know of the outcome. We would also request Ministry of Law to examine the issue of laying of rules made by competent authorities before Parliament and would be taking action accordingly.

4. I am indeed grateful to you for highlighting this important legal/constitutional issue and would revert as soon as possible.

With regards,

Yours sincerely,

Rajeev Kapoor
(Rajeev Kapoor)

Shri Venkatesh Nayak
Programme Coordinator, Access to Information Programme
Commonwealth Human Rights Initiative
B-117, First Floor, Sarvodaya Enclave
New Delhi – 110 017