

Date: 7th September, 2011

You are aware of the National Commission for Minorities Act, 1992 enacted by Parliament for the protection of interests of minorities across the country. Because of the territorial limitations of the Act, the State of J&K, which has the largest percentage of national minorities' population in the country, is outside the purview of the Act. This denial of the provisions of the NCM Act 1992 to a large number of citizens who belong to the minority communities Muslim, Buddhist and Sikh has been engaging the attention of the Commission and has, indeed been a cause for concern.

As discussed by us on an earlier visit to Srinagar, this Commission had sought legal opinion from Advocate Mehmood Pracha who made some suggestions on the scope of extension of NCM Act 1992 to the State of J&K. Subsequently, this Commission has received a response from the Secretary, Department of Law, Justice and Parliamentary Affairs, Govt. of Jammu & Kashmir vide his letter no. LD (Leg) 78/79 of 18th July, 2011, which substantially agrees with the opinion of Advocate Pracha that the extension of certain laws to the State of J&K is possible with the concurrence of the State. The opinion of Shri Pracha and the J&K Law Department's letter cited above are attached for ready reference.

The Commission is encouraged to learn from the letter of 18.7.2011 that the State Govt. has indeed prepared a Bill on the analogy of the Central Law and it is only a policy decision that remains to be taken. This arises from the fact that a peculiar and unique region-wise and community-wise composition exists in the state, whereby no community is in minority in all the three major regions, which makes this a complicated issue. In my view, this seeming complexity can be

resolved through a dynamic combination of the NCM Act 1992 catering to the Muslim community, a majority in much of the State of J&K but the largest minority community at the national level, which together with Buddhist, Christian and Sikh can work toward fulfilling their national aspirations, with a State Law safeguarding the interests of the State minorities including the Hindus, particularly the Kashmiri Pandits, Buddhists, Sikhs and Christians. This Commission is encouraged by the in principle agreement with this concept, which the State Govt.'s letter of 18.7.2011 has expressed, in stating that "the State Govt. is not averse to the benevolent recommendations of the National Commission for Minorities and the benevolent policies/programmes under various schemes are being and can always be, extended to the beneficiaries in the State."

This Commission, therefore, recommends that the J&K State consider extension of NCM Act 1992 to the State of J&K. by making a recommendation to the President that an amendment be made to the NCM Act 1992 to make the Act applicable to the State of J&K, and by considering enactment of a law for the promulgation of J&K State Minorities Act along the lines of the model Act developed by this Commission and circulated to all States, a copy of which is placed below (Annexure I) for your information. A simultaneous initiative on both fronts will, I am sure, bring relief to all communities in the state that might face challenges at present at both State and national levels.

(Wajahat Habibullah)

Shri Ali Mohammad Sagar

Law Minister
Govt. of J&K
Civil Secretariat
Srinagar

Copy to:

1. Jenab Omar Abdullah, Chief Minister, J&K, Srinagar
2. Shri Salman Khurshid, Minister for Law & Justice, Shastri Bhawan, New Delhi
3. Shri P. Chidambaram, Home Minister, North Block, New Delhi - 110 001
4. Shri Surajit Mitra, Secretary, Ministry of Minority Affairs, Parayavaran Bhawan, New Delhi