

Swatantra Party Parliamentary Office

3096

53 North Avenue,
New Delhi.

Jh

February 29, 1968.

Enclosed herewith is a letter from the Minister of Parliamentary Affairs detailing the recommendations of the last Whips Conference regarding the code for regulating the relationship between the Members of Parliament and the State Legislatures and the Administration. We, on behalf of our Party, have to give our reactions to the draft code which is enclosed with the letter.

May I request you kindly to study the code and give your reactions so as to enable us to compile reactions from all our Members and send a consolidated reply to the Minister of Parliamentary Affairs.

C.C. Desai
Secretary

IMMEDIATE

MINISTER FOR
PARLIAMENTARY AFFAIRS
AND COMMUNICATIONS,
NEW DELHI.

D.O.No.F.2(2)/67-R&C

December 20, 1967.

My dear

Will you kindly refer to my letter No.F.21(24)/67-R&C dated 10th November 1967 with which I had forwarded to you a copy of the Recommendations adopted by the Sixth All India Whips' Conference held at Simla from 4th to 6th October, 1967? With the Recommendations I had also sent you a copy of the draft Code considered and approved unanimously by the Conference, for regulating the relationship between the Members of Parliament and of State Legislatures and the Administration. Another copy thereof is enclosed for facility of reference. (Appendix 1).

You must be aware that the Santhanam Committee had also made a recommendation regarding the Code of Conduct for Legislators. A copy of the note prepared by the Ministry of Home Affairs on Recommendation No. 107 of the Santhanam Committee regarding code of conduct for the legislators is also enclosed. (Appendix II). This note was circulated to the members of the committee appointed by the Whips' Conference but that committee decided not to make any changes in the draft code in the light of this note. It is, however, felt that suggestions arising out of the above Recommendation of the Santhanam Committee need also be suitably embodied in the abovementioned draft code (Appendix I) to regulate the relationship between members of Legislatures and the Administration so as to make it complete in all respects. The recommendations of the Santhanam Committee have assumed considerable importance and the public might draw an adverse inference if the recommendations are not taken into consideration in drafting the code for legislators.

I shall be grateful if you kindly examine the draft code as approved by the Sixth All India Whips' Conference as well as the note based on the Santhanam Committee's recommendation, and let me have your views/comments/suggestions at your earliest convenience.

Yours sincerely,

Sd/-

(RAM SUBHAG SINGH)

To

The Leaders of Opposition Parties
in Lok Sabha & Rajya Sabha.

A draft Code to regulate the relationship between Members of Parliament and of State Legislatures and the Administration.

...

Introduction

Members of Parliament and Members of State Legislatures occupy in our democratic set-up a very important place as accredited representatives of the people. They have important functions to perform under the Constitution and they may occasionally find it necessary to obtain information from or address suggestions to the Ministries of the Government or to the State Governments or seek interviews with officers in connection with their parliamentary and allied public duties, otherwise than through putting questions or participating in debates in the Legislatures. In this connection, certain well recognised principles and conventions to govern the relations between Members of Legislatures and Government servants have already been laid down at the Centre and in most of the States. However, on a review of the position, it has been found necessary to reiterate, and to spell out in some detail, the principles and practices that should govern the mutual relations of Members of Legislatures and Government servants.

Code for the Government servants

2. The two basic principles to be borne in mind are (i) that Government servants should show courtesy and consideration to Members of Legislatures and (ii) that while they should consider carefully or listen patiently to what the Members of Legislatures may have to say, they should always act according to their own best judgement.

3. It should be the endeavour of every officer to help Members of Legislatures to the extent possible in the discharge of their important functions under the Constitution. In cases, however, when an officer is unable to accede to the request or suggestion of a Member, the reasons for the officer's inability to do so should be courteously explained to them.

4. It is realised that the district and sub-divisional officers have very heavy public duties and responsibilities and if they are to function effectively they should be permitted to plan out their day's work with some care and adhere to the plan. An officer should feel free to set apart some hour when he can refuse to meet visitors without being considered guilty of discourtesy, lack of consideration and the like. But he should set apart two to three hours every day when anybody can see him, and within these hours, and also during other office hours in which he is to meet visitors, he must give priority to Members of Legislatures except when a visitor has come by previous appointment and a Member of Legislature has come without an appointment. In such a case, he should see the Member of Legislature immediately after he has met the visitor who had come by previous appointment. Any deviation from

an appointment made with a Member of a Legislature - or indeed with any other person must promptly be explained to the Member concerned so that the least possible inconvenience is caused to him and a fresh appointment should be fixed in consultation with him.

5. When a Member of Legislature comes to see him, an officer should rise in his seat to receive the Member and to see him off. Small gestures have symbolic value and officers should, therefore, be meticulously correct and courteous in their dealings with Members of Legislatures.

6. Similarly, seating arrangements at public functions should receive very careful attention at all times and no room should be given for any misunderstanding on this score. The position of Members of Parliament has been clearly brought out in the Warrant of Precedence approved by the President. M.Ps. appear at Article 30 above officers of the rank of full General or equivalent, Secretaries to the Government of India, etc. The instructions appended to the Warrant of Precedence also lay down that when Members of Parliament are invited en bloc to major State functions, the enclosure reserved for them should be next to the Governors, Chief Justice, Speaker of the Lok Sabha, Ambassadors, etc. A further provision in the instructions is that the Members of State Legislatures who, owing to their presence in Delhi, happen to be invited to State functions, should be assigned rank just after Members of Parliament. To avoid inconvenience to M.Ps and M.L.As who might come late, the block of seats meant for them should be kept reserved till the end of the function and should not be occupied by other persons, even though they may be vacant. The seats provided for them should be at least as comfortable and as prominently placed as those for officials. At State functions arranged by the State Government, the seating arrangements for M.Ps. and M.L.As. should be made in accordance with the position assigned to them in the Warrant of Precedence approved by the Governor.

7. Letters received from Members of Legislatures should be acknowledged promptly. All such letters should receive careful consideration and should be responded to at an appropriate level and expeditiously. Officers should furnish to Members of Legislatures, when asked for, such information or statistics relating to matters of local importance as are readily available and are not confidential, or when the information is not such that its disclosure would be likely to lead to a controversy embarrassing to Government. In doubtful cases, instructions should be taken from a higher authority before refusing the request.

8. It is desirable that a letter addressed to a Minister should be replied to by the Minister himself. Where, however, this is not convenient or practicable or the reply called for is of a routine nature, it may issue under the signature of a senior officer of the Ministry/Department, preferably the Secretary.

9. While the official dealings of Government servants with Members of Legislatures have to be regulated as stated in the previous paragraphs, it is necessary to invite the attention of Government servants to what is expected of them in their individual capacity in respect of their own grievances in the matter of conditions of service. The Government servants Conduct Rules bar any attempt to bring any political or outside influence to bear upon any superior authority to further the interests of individual Government servants. Therefore, a Government servant is not expected to approach a Member of Legislature for sponsoring his individual case.

Code for Members of Legislatures.

10. It is equally necessary for Members of Legislatures to follow certain conventions in their communications to Ministers and Officers of Government in connection with their parliamentary duties. At the Centre, it has been the practice for the Minister for Parliamentary Affairs to draw the attention of the Members of the Parliament to these conventions, which are broadly as follows:-

- (1) Members should ask for information only about matters of public or national interest in which they get themselves interested in the discharge of their public duties as Members of Parliament.
- (11) Information should not be gathered to further private interests or for use in court litigation or for giving other undue advantages to individuals against others. As already stated, the Government Servants Conduct Rules strictly bar any attempt to bring any political or outside influence to bear upon any superior authority to further the interests of individual Government servants. Therefore, normally a Government servant approaching a Member of Legislature for sponsoring his individual case runs the risk of disciplinary action. Letters received from Members of Legislatures are dealt with utmost consideration, but if Government continue to take action on cases of individuals sponsored by Members of Legislatures, they may be adopting a discriminatory course placing others who may not be fortunate enough to have such support in a position of disadvantage. In the event of any attempt on the part of any Government servant to solicit their good offices to further his individual interest in Government service, the members of Legislatures may, therefore, do well to warn him of likely consequences of his having overstepped the bounds of the Government Servants Conduct Rules.
- (111) In all matters of routine nature, written requests may be addressed to the Secretary of the Ministry/Department concerned irrespective of whether information was required on the subject dealt with in the Ministry/Department or in any of its attached or subordinate

offices. In no case should letters be addressed by name or designation to any other officers of the Ministry/Department or its attached or subordinate offices.

- (iv) For more important matters, Members may address the Minister or the Deputy Minister concerned. In regard to matters pertaining to fraud, corruption, bribery, mal-administration, nepotism, etc. in administration, letters should be addressed only to the Ministers or Deputy Ministers and copies endorsed to the Minister for Parliamentary Affairs.

11. It is obviously not desirable that requests should be made for intervention of officers in investigation of criminal cases, for issue of fire arms licenses and for grant of permits and licences to particular individuals. Nor should requests be made regarding recruitment of a particular person, or promotion or transfer of individual Government servants, or for a particular order in a disciplinary case. A number of public issues or grievances do, however, arise in the Departments and Members of Legislatures are undoubtedly entitled to take interest in administration of power or discretion. But in such cases, they should normally approach the Minister concerned rather than the local officers. Or at the most they may bring cases of injustice and the like in individual cases to the notice of the district officer or other similar officers with the request that they should look into the matter. They ought not to press or even ask for a particular decision. In such cases, the officer should listen to all points of view with patience, but he must obviously take a decision according to his own best judgment. And when he does so, it would not be fair to accuse him of partisanship or even of insensitivity to the views of an accredited representative of the people.

12. Members of Legislatures may like to bear in mind the conventions and principles outlined above in the course of their dealings with the administration both at the Centre and in the States so that a healthy and useful relationship between the Government and the Members of Legislatures may be built up.

and to see that there is ^{no} mal-administration or abuse

Appendix II

Note on Santhanam Committee's recommendation
regarding Code of Conduct for Legislators.

.....

Recommendation No.107 of the Santhanam
Committee (Split up into nine parts for the sake of convenience)
is reproduced below:-

- (1) "The integrity of Members of Parliament and of the Legislators in the States will be a great factor in creating a favourable social climate against corruption.
- (2) "It has been talked about that some Members use their good offices to obtain permits, licences and easier access to Ministers and Officials for industrialists and businessmen.
- (3) "In the case of Legislators who are in the employment of private undertakings for legitimate work, it is desirable that such legislators should declare the fact of such employment so that it may be open and known.
- (4) "Such Legislators should not approach Ministers or Officials in connection with the work of the employers and also should not participate in the discussion or voting on demands or proposals in which the undertakings or firms are interested.
- (5) "Other legislators, who are not such bona fide employees, should on no account undertake, for any valuable consideration or other personal advantage, to promote the interests of or obtain favours for any private party either in the legislature or with Government.
- (6) "It is desirable that a code of conduct for legislators embodying these and other principles should be framed by a Special Committee of parliament and Legislatures, nominated by the Speakers and Chairmen.
- (7) "The Code should be formally approved by resolutions of Parliament and the respective Legislatures and any infringement of the Code should be treated as a breach of privilege to be inquired into by the Committee of privileges.

- (8) "If a breach is established, action, including termination of membership, may be taken.
- (9) "Necessary sanctions for enforcing the Code of Conduct should also be brought into existence.

2. The opening sentence in the Santhanam Committee recommendation, viz., sub-para (1) above, does not call for any comments. It may be desirable to include it in the introductory para of the existing draft code.

3. The second sentence in the recommendation of the Santhanam Committee viz., sub-para (2) above, may be inserted in the existing draft code as the first sentence of para 11 thereof. Consequential amendments will have to be made in para 11.

4. The form in which the remaining parts of recommendation No.107 of the Santhanam Committee, viz. sub-paras (3) to (9) above should be incorporated in the draft code is for discussion. Opportunity may also be taken to discuss whether the following points may also be included in the draft Code and if so in what form:-

- (1) Information given to Members in confidence or by virtue of their being Members of Committees of parliament or State Legislatures, should not be divulged to any one nor used by them directly or indirectly in the profession in which they are engaged, such as in their capacity as editors or correspondents of newspapers or proprietors of business firms and so on.
- (2) A member should not try to secure business from Government for a firm, company or organisation with which he is directly or indirectly concerned.
- (3) A member should not give certificates which are not based on facts.
- (4) A member should not make profit out of a Government residence allotted to him by subletting the premises.
- (5) A member should not receive hospitality of any kind for any work that he desires or proposes to do from a person or organisation on whose behalf the work is to be done by him.

- (6) A member should not in his capacity as a lawyer or a legal adviser or a counsel or a solicitor appear before a Minister or an executive officer exercising quasi judicial powers.
- (7) A member should not proceed to take action on behalf of his constituents on insufficient evidence or baseless allegations.
- (8) A member should not permit himself to be used as a ready supporter of anybody's grievance or complaints without a careful enquiry to ascertain whether prima-facie there is substance in them.
- (9) A member should not endorse incorrect certificates on bills claiming amounts due to him.
- (10) A member should not elicit information from Government in an unauthorised manner by inducing a subordinate to give information which in the course of his normal functions he should not do nor encourage any such person to speak to him against his senior officials on matters of public importance and policy.
- (11) A member should not write recommendatory letter or speak to Government officials for employment or business contacts for any of his relations or other persons in whom he is directly or indirectly interested.
- (12) A member should not influence the Government officials or the Ministers in a case in which he is interested financially either directly or indirectly.

5. The existing draft code for regulating the relationship between legislators and administration, with the modifications suggested in paras 2 and 3 above may become part I of the proposed Code of Conduct for Legislators. The result of the discussion on the points mentioned in para 4 may be incorporated in the proposed Code as part II. The entire Code will be re-drafted on the basis of the discussion.