

April 9<sup>th</sup> 2010

To  
Mr V. K. Duggal, IAS (Retd),  
Member Secretary,  
The SriKrishna Committee  
Room No. 248  
Vignan Bhavan Annexe  
Maulana Azad Road  
New Delhi

Dear Sir,

This is a submission for the consideration of the Committee. It is based on a study of the Final Report of One Man Commission (SPF), Sri. J.M. Girglani, IAS ( Retd.). This was Commission set up by the State government to go into deviations from the Presidential Order governing protection for locals in Telengana in terms of government jobs. It covers the period 1975 to 2003

The report is extensive and deserves a close reading. However, the attached papers deals with some of the highlights and indicates the sections and pages where significant deviations have been discovered by Girglani

The implication of the Report is not only in the jobs lost by local amounting to at least 140,000 at least (by Girglani's calculations based on limited data) but also on how the entire governance system both political and bureaucratic have managed to vitiate the Presidential Order and render Constitutional guarantees ineffective, null and void.

We also need to bear that what little evidence there has been of action taken on this exhaustive Report indicates that very few if at all any remedial measures have been taken.

The lethargy of the bureaucracy, the indifference of the political system, the fear of assignment of culpability, the agitation of those illegal beneficiaries and the interventions of the Courts have led to an even worse situation than before the Report was released. For now with the Report, the problems have been highlighted and definite evidence on specific cases provided.

But since the Government has done nothing to rectify the illegal acts and restore the effectiveness of Presidential Order, it has destroyed what little faith and hope the Telengana people had in the ability and willingness of the State government to give them their due justice.

The Committee is requested to enquire for Government to what extent the Report and its remedial measures have been adopted by the Government and what further action the Government has taken to restore the protected posts to genuine local candidates in Telengana

It is, therefore, abundantly clear that a separate Telengana state is needed in order to implement the assurances, guarantees and entitlements, which have been acknowledged by everyone over five decades to be necessary, fair, equitable for the people of the region. It is also an essential pre-condition necessary to re-build the trust of the Telengana people in the norms of Constitutional governance, restore faith in Parliament and its solemn legally binding promises, guarantees and assurances and to re-establish the Rule of Law.

I take this opportunity to extend to the Committee appreciations of my highest consideration and request that the Committee give me an opportunity to present my analysis for a separate State for Telengana before them.

With best regards



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# Logic for a Separate Telengana State: Conclusion of a Study of the Girgliani Report

By

**Gautam Pingle**

## **Introduction**

Much has been said and written about the history of the merger of Telengana and Andhra. Much water, entirely undrinkable and polluted, has flowed down the Musi since 1956. Telengana passions - mostly suppressed, occasionally bursting out - have not disappeared.

Ministries have come and gone. Two political parties have alternated in running the Government. Development - even or uneven – has taken place. Poverty has been reduced. Castes and classes on the fringes of socio-economic development have advanced towards the center stage of society and economy due to democratic empowerment but mostly due to education. Migration - from rural to urban areas in the region and state; to other urban areas outside the state; to the Gulf, US, UK & Australia – continues and brings prosperity, hope and self-confidence to the region and its people.

Yet, the passions refuse to die down. The feelings of betrayal, of humiliation, of deprivation - even of jealousy and envy- continue to manifest themselves and grow stronger.

This situation is now beyond solution. It has not been solved for 54 years - it is hardly likely to be solved in the near or distant future in a State dominated by the elites from the bigger and richer regions whose vested interests seem more important to them than the larger interest of the state - much less the narrower and vital interests of Telengana.

## **Assurances, Safeguards and Guarantees**

The assurances and safeguards intended for Telengana are many - A unanimous Andhra Assembly Resolution (1955) , Gentleman's Agreement (1956), Eight Point Formula of the Prime Minister (1969), Supreme Court Judgment on Mulki Rules (1972), Six Point Formula of the Prime Minister (1972), Constitution 32<sup>nd</sup> Amendment to Article 371-D (1975), Presidential Order – AP Public Employment Order (1975), G.O.Ms.No.610 (1985).

These assurances were given, presumably in good faith, and confirmed by two Assemblies, a Parliament, a Supreme Court, a President and a Prime Minister and in the broad daylight of politics, media and civil society. These promises were to be implemented and enforced by the State Government. If successive Congress and Telugu Desam political governments in the State and also successive bureaucratic administrations could not solve the problem, then the solution is not within the nature of state governance. And no one in public knowledge has contended that they were implemented as contemplated by their authors and supporters.

On the other hand, the Kumar Lalith Committee (1969) concluded that its rightful share was not granted to Telengana. The Justice Bhargava Committee (1969) confirmed Lalith's findings, differing only on quantum of Telengana surpluses. The Officers' Committee under the chairmanship of K. Jayabharat Reddy (1985) found that the rightful share of Telengana in employment was not accorded. The House Committee on Implementation of GO 610 (2001) and J.M. Girglani Commission (2003) found that the GO supposed to redress the grievances of Telengana employees was not implemented even after two decades

### **The Last Thirty Years and the Current Situation**

The Girglani Commission revealed the current situation regarding these solemn assurances and guarantees agreed nearly three decades ago by all political forces in the State and Center in the shape of a Presidential Order of 1975 safeguarding Telengana interests. That this order needed validation by a Constitutional Amendment indicates the national importance of the need to protect Telengana interests in Andhra Pradesh state from being further eroded as they had been since the merger in 1956. The summary of the Report is given in the Appendix below.

Girglani's Chapter 1 also gives the scope of the Report, viz. the deviations from the Presidential Order, grievances, remedial measures and safeguards. Time frame covered by the Report was from 18th October 1975 to the 2003 and it covered the entire State. The main causes of deviations are the dynamics of the administrative system – deliberately bypassing the Presidential Order, sometimes by oblivion and ignorance of it and, throughout, the total lack of any monitoring or guiding machinery or a nodal agency to ensure its strict enforcement. The deviations are arranged in terms of 18 "Deviation Genres" delineated into 126 findings and 35 sets of remedial measure. We consider here only some of the issues out of the 126 that he examined.

The first is related to the exemption from the Presidential Order of the offices of the Heads of Department (HOD's) of 51 Departments in the State Government from the operation of the Order. The idea, sensibly, was that since the HOD's offices service the whole of the state their staffing would be statewide. As he writes:

“ Thus, the 51 Heads of Departments listed in the Annexure to G.O.P.No. 728 of 1- 11-1975, 54 in the Budget Manual, 66 in Financial Code and 78 in Fundamental Rules – got multiplied into 288 (Planning Department's List), 174 (Finance Department's List) and to 145 (GAD's List). Even the Heads of Projects are treated as HODs.... However, the Report has listed out 102 HOD offices that alone are legitimately entitled to exclusion from localization of

cadres under item (b) of Para 14 of the Presidential Order.” (See Chapter 1 in the Summary of the Report enclosed).

A Department can have only one single Head, while it may have many wings. Yet the Head of Wings were designated as Head of Departments -wings flew high, as it were, and became heads – an almost mythological exercise. The Departments of Irrigation, Roads and Building, Panchayat Raj Engineering, Health - all became, like Ravana, hydra headed. The Irrigation and Command Area Department even outdid Ravana with 16 Heads, while R&B has 5, and PR Engineering and Health 7 each!! In order to facilitate the posting of non-Telangana officers and staff, State Governments had opted to dismantle its command and control structure and set up multiple HODs. (Chapter 2)

The second is the Work Charged Establishment. This group largely consists of manual labour in a casual capacity without any tenure, perks and salaries of normal government employees. They are mainly employed in the Departments of Irrigation, Panchayat Raj and Road & Building. Their employment was exempted from the operation of the Presidential Order as they were temporarily employed and did not constitute a regular government cadre. (Chapter 7)

Yet the Girgliani Commission recorded that the Irrigation Department regularized 17,161, Road & Building 5,984, Panchayat Raj 7,860 – a total of 40,870 who were non-local (i.e., not Telengana persons) in the Telengana region. They were given permanent government employment, circumventing the spirit of the Presidential Order. Girgliani stated: “This was only the tip of the iceberg as many more non-locals were employed as Work Charged Employees in Departments which did not furnish figures to the Commission”. As Girgliani says: “Such exclusion is even more unjustifiable. These have to be brought under the Local Cadres” (Chapter 7)(emphasis added)

The third is the exemption in the Presidential Order for Gazetted employees. This was neatly exploited by including previously non-Gazetted posts in the Official Gazette with or without changing the designations of the posts. Girliani stated: “Thus by this ingenious method the local candidates were deprived of the preferential treatment under the Presidential Order By resorting to these methods the estimated number of posts that were Gazetted after 18.10.1975 (date of Order) cannot be less than a lakh of vacancies which otherwise would have been filled by local candidates.” (Chapter 8)(emphasis added)

The fourth is the elaborate and systematic procedure adopted in government polytechnics. Non-locals were appointed Part-time Junior Lecturers on temporary basis even though these temporary jobs are direct appointments and are covered by the Presidential Order. Subsequently, the Order was again violated for the second time by regularizing these temporary Part-time Junior Lecturers. Thereafter, the regularized Part-time Junior Lecturers were “transferred” to their “native districts” and given seniority as of a particular date instead of being put at the last rank thus disturbing the seniorities of those selected by the AP College Service Commission /AP Public Service Commission (Chapter 16). This is a systematic, well thought out, and purposively driven policy to vitiate the Presidential Order

Lastly, there is the neat invention of a “Free Zone”. Girgliani says,

“ There is no territorial stipulation for the organizations that are excluded from the Presidential Order. They may be located anywhere. It is just incidentally that they are located in the Hyderabad City Area, which gives us the impression that Hyderabad City is Free Zone. Therefore, the Hyderabad City or Hyderabad District should not be defined as a Zone VII or a Free Zone which is totally wrong... The Presidential Order does not mention Zone VII and therefore, there cannot be a separate cadre for Zone VII which does not exist.” (Chapter 10) (Emphasis added)

### **Extracted Comments**

Girgliani goes on and on about another 121 issues...the litany is endless, it seems. The expressions used by this experienced administrator in this Report sums up the conduct of successive administrations over nearly 30 years (extracted from Chapter 16 - Summary Conclusions) (emphasis added):

- “We could get a idea of the magnitude of deprivation suffered by the locals under this one single genre of deprivation” (i.e., HOD’s) (16.2.4)
- “ Government may devise some means by which the HOD’s will cooperate in giving information required by the Commission in matters of deviations” (16.2.5)
- “ This Rule has been mutilated out of context and misapplied for inter-zonal transfers within a Region” (16.3.0)
- “One case has come to the notice of the Commission but it could be the tip of an iceberg” (16.3.1)
- “ The persons who have been illegally benefited by the transfers should be repatriated to their respective Zones and fixed in the Zonal seniority retrospectively and their promotions reviewed accordingly ” (16.10.2)
- “Neither the general service rules nor the F.R.S. have any concept like ‘floating posts’ which have been described in the G.O.s...”(16.14.1)
- “The ‘floating posts’ order was to be deleted by the Government. But this did not happen and the violation of the Presidential Order continues from the date of this G.O. and is further aggravated ...” (16.14.2)
- “We have shown how the device of ‘other duty’ has been misused to bring persons from various Zones to Hyderabad City or other places of their choice, circumventing the need for a transfer under Para 5 (2) of the Presidential Order” (16.15.0)
- “Perhaps the government may also consider taking action against those who are responsible unless it has been permitted at the Government level itself. In the latter case, the Secretariat Department may specifically record

Governments' decision against this pernicious device (of "other duty") and communicate it to all the departments and particularly to all officers of the Irrigation and Command Area Department' (16.15.4)

- "The Work Charged Employees have not only been appointed in disregard of the Presidential Order, but are being transferred from anywhere to anywhere, regardless of their local status. This results in the seniorities of other Work Charged Employees being adversely affected apart from the violation of the Presidential Order already inherent in the system, being further compounded." (16.16.0)
- "The Commissioner has called for applications for transfers from teachers who had put in at least two years in the 'local cadre'. His interpretation was that each post itself constitutes a 'local cadre'!! Thus a Secondary Grade School Teacher was treated as a separate 'local cadre' and School Assistant in the same district as a separate "local cadre", though both posts are District cadre posts under the Presidential Order. By a peculiar interpretation and specious logic, the Commissioner insisted on this preposterous connotation of 'local cadre'. This connotation would have led to a very ridiculous situation and upset the entire scheme of the Presidential Order' (16.21.0).
- "This finding shows the far reaching consequences with regard to the Presidential Order and its implementation, when Heads of Departments take to unilateral and exotic interpretations and definitions of the basic concepts and terminology of the Presidential Order."(16.21.2)
- "No department should interpret anything in the Presidential Order on its own without clearance from GA (SPF) Department which should carefully examine the ramifications of the interpretations. The power of interpretation is a very powerful instrument that should be exercised by the highest authority, with circumspection. Otherwise a whole legislation can be brought to naught. In the legal system it is called judge-made law and only at the apex level it gets finality" (16.21.3)

## **Conclusions**

It is obvious that such a blatant disregard of the Presidential Order over three decades under different political administrations – even of different political parties - could not have been affected without the active connivance, ignorance, and initiative of the bureaucratic administration of the state. Which brings us to the point that in the two years that Girgliani worked on this job, only 52 Departments have responded to his requirements for data – so much for the writ of the Government!

The non-response (amounting to refusal) of nearly half the HOD's to the data requirements of a Commission appointed by the State government itself shows the level of utter disregard by senior officers. Almost all HOD's are All-India Cadre officers with a responsibility to conduct the business of government as per the Constitution and in conformity to the law and regulations in force. As indicated generally by the Commission and in successive instances, senior All India Cadre

officers would have necessarily been party to decisions to violate the Presidential Order.

These individual officers, who were responsible for initiating, enabling and abetting these violations, should be identified and action taken against them for this blatant abuse and violation of the Presidential Order. The misuse of their position to benefit one class of persons at the expense of another (safeguarded) class should not be condoned. If nothing else, the All India Cadre is expected to defend Constitutional authority, uphold the law and conduct business as per the rules and regulations of the Government. That these officers - senior then and even more so now though passage of time - could systematically drive a coach and horses through the Presidential Order is extraordinary example of the breakdown of civil and legal authority in the conduct of government.

If this could be done to the settled population of Telengana one can imagine what may have been done to the Scheduled Tribe and Scheduled Caste populations whose Constitution rights need to be defended, protected and enhanced by the civil administration.

It will be clear that none of the examples of deviation from the Presidential Order cited by Girglani in his Report could have been carried out without the consent and active involvement of the senior officers of the Government. It is not enough to blame vested interests – the political elite and those who benefited from such illegal jobs, transfers and promotions. They do what they can but the All India Cadre is expected to do what they must. As they did not do what was expected of them, the situation as it stands must be largely attributed to the omissions and commissions of the senior bureaucracy. Those who were expected to defend the State, instead presided over its de-legitimization and disintegration

Even a cursory reading of this contemporary report would easily enable even a generous reader to conclude that the administration of the state had broken down and that there was a need for intervention by the Union Government in order to correct violations of, and implement, the Presidential Order and to correct the effect of such illegal actions, specious interpretations and deliberate obfuscations.

We need to bear in mind that this Report was commissioned by the Telugu Desam Government and has been accepted by the succeeding Congress Government. A House Committee of the Legislature and a Group of Ministers has extensively discussed it. There is, therefore, nothing controversial about its veracity. These have confirmed the popular conviction that Telengana interests cannot be safeguarded, much less advanced, in the current structure of governance in the State.

The figure for Telengana share of government jobs misallocated to non-Telengana persons varies from 1,50,000 to 2,00,000. Total government jobs in the state are estimated at 12 lakhs, of which Telengana should get a share of at least 4 lakhs. A loss of 38 % to 50% of its entitlement to secure, full time, pensionable jobs would impact not only on Telengana incomes but also in alienation that the usual confrontation with non-locals in government employment brings.

Girliani hesitated to give overall figures due to lack of data from all the HOD's. But as he reported, out of the 51 Departments, three alone accounted for some 41,000 Telengana local jobs of a manual nature given to non-local on a temporary basis and regularized. In the Gazetted genre of deviation, he estimated the total irregular appointments of non-locals at 1,00,000!!

Whatever the real number it is evident that not only were jobs diverted but also whole process of diversion has undermined the legitimacy, integrity and credibility of successive political and bureaucratic administrations over the last thirty years. The final conclusion seems to be that "enough is enough" and that the trust in the current governance structure among the people of Telengana seems to have reached rock bottom. It is said all over the world that: "all politics is local". In Telengana this saying seems to have been stood on its head and that here "all politics in non-local"!

We also need to bear that what little evidence there has been of action taken on this exhaustive Report indicates that very few if at all any remedial measures have been taken. The lethargy of the bureaucracy, the indifference of the political system, the fear of assignment of culpability, the agitation of those illegal beneficiaries and the interventions of the Courts have led to an even worse situation than before the Report was released. For now with the Report, the problems have been highlighted and definite evidence on specific cases provided. But since the Government has done nothing to rectify the illegal acts and restore the effectiveness of Presidential Order, it has destroyed what little faith and hope the Telengana people had in the ability and willingness of the State government to give them their due justice.

It is, therefore, abundantly clear that a separate Telengana state is needed in order to implement the assurances, guarantees and entitlements, which have been acknowledged by everyone over five decades to be necessary, fair, equitable for the people of the region. It is also an essential pre-condition necessary to re-build the trust of the Telengana people in the norms of Constitutional governance, restore faith in Parliament and its solemn legally binding promises, guarantees and assurances and to re-establish the Rule of Law.

## **Appendix**

### **Summary of the Final Report of One Man Commission (SPF), Sri. J.M. Girglani, IAS ( Retd.)**

#### **PART – 1**

#### **SECTION – A**

#### **Chapter – 1**

This Chapter clears the confusion between Six Point Formula, Presidential Order on Public Employment and G.O.Ms.No.610 G.A (SPF.A) Dept., dated 30-12-1985. Often these are being used interchangeably without knowing the difference and distinction between them. The Presidential order is based on point 3 of the Six Point Formula. The extract title of the Presidential Order is " The Andhra Pradesh Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975 ( Presidential Order) dated 18th October, 1975. This Chapter also gives the scope of the Report, Viz. the deviations from the Presidential Order, grievances, remedial measures and safeguards. Time frame of the Report is 18th October 1975 to the present day, covering the entire State. The main causes of deviations are the dynamics of the administrative system sometimes bypassing the Presidential Order, oblivion and ignorance of the Presidential Order and lack of any monitoring or guiding machinery or a nodal agency. The deviations are arranged in terms of 18 "Deviation Genres" delineated into 126 findings and 35 sets of remedial measures. The Report in the First Volume contains Part –1, main Final Report and Part-2, further and Final Report on Implementation of the aforesaid G.O.Ms.No. 610, in continuation of the Preliminary Report that had been submitted to the Government within the stipulated period of 90 days, on 6th October, 2001. Volume\_II contains the Appendices, Annexures and the proceedings issued by the Commission.

#### **Chapter 2**

This Chapter gives various findings on the deviations with regard to Heads of Departments and other excluded organizations of para-14 of the Presidential Order and G.S.R 529 (E). Most of the deviations in the Findings pertain to expansion of the scope of Heads of Departments and excluded organization to bring into their fold more and more posts to place them outside the Local Cadres. Thus, the 51 Heads of Departments listed in the Annexure to G.O.P.No. 728 of 1-11-1975, 54 in the Budget Manual, 66 in Financial Code and 78 in Fundamental Rules – got multiplied into 288 ( Planning Department's List), 174 (Finance Department's List), 145 (GAD's List). Even the Heads of Projects are treated as HODs. In a few cases, even the staff of the Regional Offices was treated as Head of Department office staff and placed outside the Local Cadres and the Presidential Order. Same was done in the case of some Institutes. The Report has listed out 102 HOD offices who alone are legitimately entitled to exclusion from localization of cadres under item (b) of Para 14 of the Presidential Order. Major Development Projects were originally kept out of the Presidential Order. On 3rd October 1985 Presidential Order was extended to them only to the extent of non-gazetted categories of staff leaving out AEEs and DEEs. Even posts not used for project works and posts in the projects where work was completed, continue to be labelled as Project Posts for keeping them out of the Local Cadres and out of the Presidential Order. All workcharged establishments of the Projects not engaged in Project Work is kept out of the local cadres. Posts under the new Projects (as for HMWS&SB) not even notified under G.S.R. 525 (E) are treated as Project posts and AEEs and DEEs are kept outside local cadres. Similarly, the fair share principle for deputations to posts in the excluded organizations laid down in G.O.P.No.728 G.A. (SPF.A) Dept., dated 1.11.1975 has been flouted. Deputation process has been very often misused.

### **Chapter – 3**

This Chapter gives some Regional Offices that were shifted from Zones-V & VI to some other zones taking away all the posts from Zones-V & VI in the process of re-organisation of the Department. In one Department the Regional Offices were abolished and the posts taken to the Head Office putting them out of the purview of the Presidential Order and Local Cadres. In I & CAD Department some circles crisscross the Zones violating the Zonal cadre limits for posting and transfers. In Drugs Control Department their Regional offices violate Zonal bounds for postings, transfers, seniorities. Some Departments effect inter-zonal transfers in violation of para 5 (2) limitations where a Region has more than one Zone within it.

### **Chapter – 4**

This Chapter deals with Urban Development Authorities. The Presidential Order has made specific provisions regarding HUDA. But other Urban Development Authorities continue to remain outside the Presidential Order and outside Local Cadres. They have to be brought under Presidential Order like HUDA. QQSUDA may be brought under G.S.R. 528 (E) for direct recruitment posts. Deputation posts may be taken from the City Cadre.

### **Chapter – 5**

This Chapter deals with Units of Appointment and Local Cadres. In some Departments there prevails some confusion regarding Units of Appointment and Local Cadres. These two should not criss- cross. There are examples of such criss-cross. Direct recruitment, seniorities etc. can be done among the units of appointment but without crossing the Local Cadre bounds. In some Departments this has not happened. Some of them have even thought that Units of Appointment are Local Cadres.

### **Chapter – 6**

This chapter deals with cross-cadre movement through transfers, deputations and posting employees "On other Duty". Transfers have been the cause of complaint particularly from Zone-IV. Government has recently banned transfers. But, this will have some social side-effects in matters of matrimony etc. The Andhra Pradesh High Court in a Judgement on Police Officers has laid down some sound principles to be observed for transfers. Essentially the High Court advises strict circumspection. This Commission has suggested some formula to offset the loss of opportunities to the Local candidates through the influx of people coming on transfer and also to contain such influx in Zone-VI and similar areas of influx. Deputations have proved to be a rather disconcerting source of deviations from the Presidential Order. The fair share principle of para 9 (B) of the aforesaid G.O.P. 728 dated 01.11.1975 has been almost completely ignored. There are indications of deputations being used as the substitute for transfers and also some undesirable motivations. In the case of Projects, deputations are resorted to even where the posts have ceased to be utilized for Project work and have become departmental posts and also where even the Projects have been completed though not notified as such. In some cases, all the rules about deputations laid down in the Fundamental Rules and the General Service Rules have been indiscriminately flouted to churn out promotions. From one post multiple promotions have been churn out promotions. From one post multiple promotions have been churned out by sending persons on deputations, filling the same post by promotion and keeping up the chain of promotions and deputations. Deputations from excluded organization to other excluded organizations have curtailed the opportunities of the local candidates which the fair share principle would have provided them. Deputations as a source of deviations need stringent vigilance. Damage done has to be set-right. "On other Duty" has also been misused as a devise for inter-cadre movement. Even irregular promotions have been given to people on other duty outside their own local cadres. Instances were found in Irrigation Department.

## **Chapter – 7**

This Chapter is devoted completely to a discussion on workcharged establishment. Right from the beginning before and after the promulgation of the Presidential Order to date, workcharged employees have been kept out of the purview of the Presidential Order for no reason at all. They are "civil posts" in all connotations of this term and the Presidential Order should have been applied to them, but this has not been done. Till 03.10.1985 Major Development Projects were kept out of the purview of the Presidential Order. But once the Presidential order was extended to these Projects there was no justification for keeping workcharged establishments outside the Presidential Order in the Projects. In the regular departments right from beginning there was no justification for such exclusion. Today, their number is 40,870. Of these 17,161 are in Irrigation, 5849 in Roads & Buildings Department, 6860 in Panchayat Raj Engineering Department and the rest in other departments. Surplus staff including a part of the workcharged establishment totalling to 21,866 has also been kept outside the Presidential Order while absorbing them in regular posts. Such exclusion is even more unjustifiable. These have to be brought under the Local Cadres.

## **Chapter – 8**

This Chapter deals with gazetting of posts and specified gazetted category. After the Presidential Order many non-gazetted posts have been gazetted thus taking them away from the purview of Presidential Order and zonal cadre and also depriving local candidates of 70% reservation. It is suggested that the Government of India's orders may be obtained that all such posts shall retain their character as zonal posts and 70% reservation for locals. This Chapter also suggests an important principle of immutability of the original local character of a post as it stood on 18.10.1975. In G.O.Ms.No.610 G.A. (SPF.A) Dept., dated 30.12.1985 (regarding Zones V & VI) and also G.O.Ms.No.564 G.A. (SPF.A) Dept., dated 05.12.1985 (regarding Zone IV) both carry an assurance for considering the inclusion of first gazetted posts in the specified gazetted category that will make them zonal posts. In fact, the third point in Six Point Formula also stipulates first or second gazetted category (as may be decided for each department), to be included in the specified gazetted category. Therefore it is obligatory to act on this stipulation. Presently, many departments first or second gazetted level stands excluded from the specified gazetted category. On the two issues in this Chapter, it is advisable to take immediate action. Immediate action is also called for to stop any further gazetting of non-gazetted posts.

## **Chapter – 9**

This Chapter deals with compassionate appointments. None of the 35 G.Os on the subject stated that in making such appointments Presidential Order should be followed or that only local candidates should be appointed to concerned local Cadres. On the other hand, some of the G.Os carry instructions to the contrary which are in clear contravention of the Presidential Order. The wrong action taken so far in this regard should be reversed and for the future proper instructions may be issued.

## **Chapter – 10**

This Chapter clarifies that City of Hyderabad which is provided for as a separate " City cadre" in respect of certain posts specified in G.S.R. 528 (E), is specifically defined in terms of Panchayats in the First Schedule to the Presidential Order. This is slightly different from the Hyderabad District to which Hyderabad District Cadre Posts belong. The Hyderabad District comes under Zone VI. City of Hyderabad is by itself the local area for District Cadre posts as well as zonal posts. A third entity, which should be distinguished from these two entities, is the Municipal Corporation of Hyderabad. Some wrong postings and promotions have been given due to this mix up. Since, many of the Panchayats in the Schedule of City of Hyderabad have

become Municipalities, it is necessary to revise the Schedule delineating the Panchayats in terms of corresponding Revenue villages. Undue benefits or deprivations arising out of the mix up may be reviewed and revised.

### **Chapter – 11**

This Chapter deals with the role of Employment Exchanges and shows that they were not expected to verify or record the local status of the candidates registering with them. Some departments doing direct recruitment or temporary appointments have relied on Employment Exchanges without themselves verifying the local status of the candidates. This has led to the charge of "bogus registrations" in Employment Exchanges. The issue of bogus certificates is also dealt with in this Chapter and it is suggested that institutional level verification of certificates of selected candidates should be done. Similarly, certificates issued by MROs should also be subjected to field verification.

### **Chapter –12**

This Chapter deals with recruitments and allotments that need on-going scrutiny. These pertain to : (1) departments and posts kept outside the purview of the Andhra Pradesh Public Service Commission and / or District Selection Committees; (2) departments with multiple wings but with integrated cadre (3) "umbrella" departments with integrated cadre (4) where a new dispensation is introduced as in case of Panchayat Secretaries. Deviations from the Presidential Order have been noticed in all such organizations, particularly in Sericulture Department. In this regard the most glaring case is that of Panchayat Raj Engineering Department who recruited directly AEEs from among Work Inspectors of their workcharged establishment from the year 1991 to 95 without applying the principle of local candidate for local cadres. These appointments have to be now set right in the manner proposed by the Commission. In Irrigation Department irregularities have come to light. There is case of 102 engineers represented by Hyderabad Engineers Association. It turned out to be pending appeal against initial allotment which was a justified appeal. But action has not been taken on this case. The SP, Karimnagar District had considered 20% to be a reservation for non-locals. The recent appointment of Panchayat Secretaries has been done under G.O.Ms.No. 369 PR&RD (Mandals.II) Dept., dated 12.12.2001. The G.O. has not stated that these appointments should follow the rule of local candidates for local cadres. It has completely overlooked the Presidential Order. The appointments are all in-service appointments. These need to be reviewed and rearranged in terms of localization of cadres.

### **Chapter –13**

This Chapter pertains to some miscellaneous deviations. The backlog of the vacancies reserved for locals in R.R. District were not reserved 100% for locals but were again subjected to 80 : 20 ratio of locals : merit candidates which was incorrect. This should be set right and shortfall made good. It was complained that ITDAs thousands of teachers recruited were non-locals. But the District Collector reported that the services of non-locals and non-tribals had been terminated. Government may check up all these facts. In Government hospitals ANMs allotted by Andhra Pradesh Public Service Commission were non-locals for want of local candidates. The Director of Health informed that more training facilities have been created for nurses in the State. College Service Commission erroneously treated Junior Lecturers as zonal posts and also applied 60% reservation, even after they had been gazetted. The 'benevolent' error was continued by APPSC. It may be regularized through the general order suggested regarding all newly gazetted posts in Chapter – 8. There has been contravention of the Presidential Order in the year 1985 by recruitment of non-locals to three model residential polytechnics in the Scheduled areas. The Commissioner of Sericulture has also committed such contraventions. All these contraventions have to be reversed and set right.

## **Chapter –14**

This Chapter deals with mechanism to ensure implementation and monitoring of Presidential Order. It is suggested that first and foremost, two fundamental safeguards should be declared unequivocally. First, and the most important is principle of immutability local character of a post as it stood on 18.10.1975. Second, the scope of the Presidential Order as originally promulgated should not be changed. The framework of safeguards is elaborately described in this Chapter. The immediate and impact measures suggested are : (1) to halt recruitment and promotions to the posts up to specified gazetted categories level in the present offices of the HODs until the rectification suggested in Chapter – 2 is carried out and also to halt further gazetting of posts, further compassionate appointments and further absorption/redeployment of surplus staff and further deputations – till remedial measures suggested for these matters are carried out. (2) taking immediate prospective action under the 35 sets of "Remedial Action" in the Report. (3) taking immediate action for the deletion of item (e) of Para 14 of the Presidential Order , and G.S.R. 525 (E), so as to bring the Projects totally under the Presidential Order. (4) to set right the maladies indicated in various findings before resuming the normal process of recruitments, promotions etc. (5) taking immediate redressal action on the individual petitions as per proceedings in Vol. II of this report. (6) appointment of appropriate Implementation and Monitoring Body to initiate action on the Report. (7) providing for certain entries in Service Registers to guard against future deviations. (8) providing for certain particulars to be stipulated in all appointment orders. Long term measures (1) a House Committee (2) A Cabinet Sub Committee and (3) an autonomous Implementation and Monitoring Authority (IMA) and making G.A (SPF) Department the nodal and guiding agency. (4) A Complete training programme for all levels (5) Opening of a website (6) making copies of the Final Report available to all Secretariat Departments, HODs and Collectors as a guidelines book.

## **Chapter –15**

This Chapter is the conspectus. The Commission has mooted the idea of persuading some of the big Corporations to adopt the principles of the Presidential Order through their own Board resolutions as was done by APDDCF Ltd. The main point in this is with regard to retrospective action on the findings. The consensus route as followed in Karnataka could be thought about to avoid unending and long winding litigations. No one can say who lost how much and who gained how much till the departments work out these factors in respect of each finding.

### **Section – B**

#### **Report on implementation of G.O.Ms.No.610 G.A. (SPF.A) Dept., dated 30.12.1985.**

##### **Para 5 (1)**

This Part is in continuation of the Preliminary Report on the subject. Statistically even the figures of locals and non-locals collected by the department of planning show percentage of non-locals in zones V and VI ranging between 3.42% and 11.63%. Hyderabad District shows just below 20%. The question is not the number of non- locals or the percentage but how many of the non-locals are there in violation of the Presidential Order. For this, one has to go to the Main Final Report, which has brought out all the deviations and leakages from the Presidential Order. The gigantic task of working out the actual number of the locals deprived through deviations under each of the 126 findings under the 18 deviation genres, in each particular local area (district or zone, as the case may be) and those who benefited in each particular district or zone, has necessarily to be carried out by the concerned departments.

##### **Para 5 (2)**

The commitment of the Government under this para to bring three Projects under the

Presidential Order remains partially unfulfilled as AEEs (and concomitantly DEEs) and the workcharged employees have not been brought under the Presidential Order. Even the posts of these categories not being utilized in the Projects due to completion of works still continue to be outside the purview of the Presidential Order. The immediate action proposed is to get deleted item (e) of the Para 14 of the Presidential Order along with G.S.R. 525 (E), so that the Projects will be fully under the Presidential Order. The retrospective effect to 1983 was not given. It appears to be of no consequence even if it is given.

**Para 5 (3) (a) & (b)**

The appeal of 102 AEEs and DEEs brought before the Commission by Hyderabad Engineers Association is pending and the department has also found it to be tenable. Immediate orders seem to be called for.

**Para 5 (4)**

The demand for bringing all the first gazetted posts under the Presidential Order under specified gazetted categories (Third Schedule) is justified, as it is a commitment under Point-3 of the Six Point Formula. The gazetting of posts after 18.10.1975 should be stopped and those gazetted should be restored their original local zonal status and 70% reservation for local candidates by obtaining Government of India's orders to this effect. Immutability of the local status of a post as of 18-10-1975 has to be strictly observed.

**Para 5 (5)**

The Government's commitment in this para is only a reiteration of para 9 (B) of G.O.P. 728 dated 01.11.1975. The Commission has observed that this has been by and large observed in the breach.

**Para 5 (6)**

Government has issued orders from time to time to regulate the inter-cadre transfers but they still tend to be quite large in number. The Government has now banned such transfers. The A.P. High Court has laid down very sound principles to be observed for transfers. In the main Final Report (Part – 1) in Chapter – 6 this Commission has given some practical suggestion that could mitigate the grievance on account of transfers.

**Para 5 (7)**

The most concrete and glaring case is that of 694 AEEs taken by Panchayat Raj Engineering Department without following the local candidate and local cadre rules. This should be set right as proposed by the Commission in Chapter – 12 of the main Final Report (Part– 1). Also the cases of Sericulture Department may be set-right.

**Para 5 (8)**

No cases have come to light under this para.

**Para 5 (9)**

It is not possible under the Presidential Order to take non- local of the same zone or multi zone in a particular local cadre. The principle of immutability of the Presidential Order will ensure proper implementation of the Presidential Order.

**Para 5 (10)**

There are very few persons now who were employed from other zones for want of trained personnel. These are mainly nurses. Training facilities for nurses have been augmented.

**Para 5 (11)**

There are no cases under this para.

**Para 5 (12) (a)**

This sub-para is already complied with.

**Para 5 (12) (b)**

The Supreme Court judgement was received. This para stands complied with.

**Para 5 (13)**

The facts in this para were not correct and this was communicated to TNGOs Association for their comments but they too have not refuted the official version. This para needs no further action.

**Para 5 (14)**

In its Preliminary Report the Commission had recommended action to be taken on this para. The latest report of the Department of the Public Health Engineering given to the House Committee (of which this Commission has obtained a copy) seems to be rather misleading on the very face of it. It appears that no action has been taken as yet on the Commission's finding in this regard, in the Preliminary Report. Conclusion It may be stated that implementation of G.O.Ms.No.610 with regard to para 5 (1) would mean remedial action on the various findings in the main Final Report (part –1). To the extent that zones V and VI are affected such action would mean implementation of this para. Implementation of sub-paras 7 to 13 of Para 5 is either completed or does not arise. Sub-Paras 2 to 6 of Para 5 are not confined to zones V and VI alone. But are a part of the deviations contained in the Main Final Report, in which all the zones and all the districts are involved. Implementation of these sub-paras would be a part of the implementation of the main Final Report. Who are the losers and who are the beneficiaries ? Until each findings is taken up for remedial action no one can say which are the local areas (districts/zones) whose local candidates have been the losers/gainers. One thing is certain that Zones V and VI are not the gainers, but the losers. The deviations in Chapter-1 of the main Final Report and also in Chapter – 6 have adversely affected Zone VI.

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## **PART – 2**

### **Chapter –16**

#### **Heads of Departments (HODS)**

Finding No. 23-A : A sampling of 17 Head of Department Offices shows that LDC level and upwards, District Cadre and Zonal Cadre posts approximately 50% only are held by locals. By extrapolation, Heads of Departments which do not qualify for HOD status under Presidential Order have deprived locals of their reservation at 80% / 70%.

#### **Regional Offices :**

Finding No.40-A : The provision under Para 5 (2) (b) of the Presidential Order, incorporated in AP Ministerial Service Rules as Rule 16 – A, has been mutilated out of context and mis-applied for inter-zonal transfers within a Region. It does not permit inter-cadre transfers either between districts or between Zones even within a Region. The Rule is only to facilitate transfers between the Regional Office and the subordinate offices and vice versa.

#### **Unit of Appointment / Local Cadre**

Finding No.47-A : Promotions were given to the Village Development Officers, Grade-II to the posts of Village Development Officers, Grade-I (both zonal posts) with district as a unit, not the Zone as contemplated under the Presidential Order.

#### **Cross Cadre Movement**

Finding No.48-A/ 48-B/ 48-C : Initial appointment and later regularization of Part-time Lecturers was made without observing the Presidential Order with regard to local area or reservation of local candidates.

Finding No.51-A : Inter zonal transfers of Town Planning Officers by the Director of Town and Country Planning without the permission of the Government in violation of Para 5(2) of the Presidential Order have been brought to the notice of Government.

Finding No. 51-B : In the department of Treasuries and Accounts persons were transferred from Zones to the Head of Department office when the rules have no provision for such transfers as per Para 5(2) (a) of the Presidential Order in violation of the Presidential Order.

#### **Deputations and Fair Share Principle**

Finding No.68-A/68-B : In violation of Presidential Order, posts are transferred from local cadres to HOD officers and utilized there (1) In the Information and Public Relations Department (2) In Co- operative Department where posts of Cooperative Sub-Registrars are being utilized in HOD office.

#### **On Other Duty (OD)**

Finding No. 73-A : Five posts of Lecturers in the Collegiate Cell of the SCERT (a State Level Office as per GSR 527), were treated as "Floating posts" in G.O.Ms.No. 572, Education, dated 24.05.1976 in deviation of the Presidential Order., Finding No. 73-B : Division IV of Special Design Circle of Irrigation & CAD Department, located in the City was misused for bringing people from other Zones to the City "on other duty" and kept there in violation of the Presidential Order.

#### **Work Charged Establishment**

Finding No.86-A : Work-charged employees have not only been appointed in disregard of the Presidential Order but also continued to be treated as out-side the Presidential Order. They are being transferred from anywhere to anywhere, regardless of their local status.

### **Gazetting of Posts and Specified Gazetted Category**

Finding No.97-A : The post of Horticulture Officer, originally Assistant Agriculture Officer, became Horticulture Officer on bifurcation of Agriculture Department. Hence Horticulture Officer post should also be brought under the 60% reservation along with the posts specified in Para 8 (3) of the Presidential Order, retrospectively. Finding No.97-B : Some posts that were non-gazetted on 18-10-75 and were gazetted thereafter, continue to be treated as Zonal posts and also with reservation of 70% in direct recruitment. However, to legalize their immutable status amendments are to be made to Para 2 and Para 8 of the Presidential Order, duly obtaining orders of Government of India.

### **Compassionate Appointments**

Finding No.102-A : Compassionate Appointment on medical invalidation, are also a direct recruitment. The Presidential Order should apply to them as to all direct recruitments.

### **Miscellaneous Deviations**

Finding No.126-A : Misinterpretation of the \_expression "local cadre" had occurred in School Education. This connotation has been set right by the Government on a reference from this Commission.

### **Post of Associate Lecturer in Polytechnics**

Finding No.126-B/ 126-C : The post of Associate Lecturer created to replace two non-gazetted categories, should continue to enjoy the Zonal status as well as 70% reservation for locals regardless of being gazetted and regardless of later re-designation as Lecturer, as per the principle of immutability of a post under Presidential Order. The original post of 'Lecturer' having been redesignated as "Senior Lecturer" in 1998 should be included in Third Schedule by the new designation retrospectively since that date. Government of India's orders are to be obtained in this regard.

Finding No.126-D : Where a new Organization come under the purview of the Presidential Order for the first time, local cadres should be formed following the procedure laid down under Para 3 and Para 4(2) of the Presidential Order. Finding No.126-E/ 126-F : Many Departments have no Service Rules still—viz., Civil Supplies Department, Treasuries and Accounts Department, State Audit Department and some other Departments. Service Rules have not yet been revised on the basis of the recommendations of the One Man Commission of Sri Sundaresan, IAS (Retd.), which should be expedited through a special drive.

**J.M. GIRGLANI, IAS (Retd.)**

ONE MAN COMMISSION (S.P.F)

Hyderabad

Dated : 21st Sept. 2004