

# **OFFICE OF THE LEADER OF OPPOSITION**

**Gujarat Vidhansabha, Gandhinagar.**

**Press Note**

**03<sup>rd</sup> September, 2011**

**A delegation of Congress MP's, MLA's and members of core committee will meet the H. E. President of India on September 6 at 11:00 am.** They will present before the President facts and legal provisions relating to the appointment of Lokayukta in Gujarat as a systematic misinformation campaign has been launched by BJP on the issue.

Gujarat Chief Minister had been stalling the appointment of Lokayukta in Gujarat for more than seven years. In fact in the past Justice D H Shukla (1988-93), Justice I C Bhatt (1993-98) and Justice S M Soni (1998-2003) were appointed by the Governor with his own signature and warrant. No Cabinet Resolution was given to the Governor by way of suggestion or assistance in this regard.

**Congress delegation will draw the attention of the President to some of these following important issues.**

- 1. Sundarsinhji Bhandari who was Governor during BJP rule had made it clear to the then Leader of Opposition, Amarsinh Chaudhary that the name suggested by the Chief Justice was final and no change can be made in this.**
- 2. In the all party meeting formed to frame Lokayukta Act the BJP leader Makrand Desai and BJP leader at the time of adoption of the Lokayukta Bill in Gujarat Assembly in 1986, Suresh Mehta, both had asserted that the power to appoint Lokayukta should remain with the Governor only.**
- 3. It is very clear from the Lokayukta Act and its section 3 that Governor has to appoint Lokayukta.**
- 4. Chief Minister does not want a neutral and unbiased Lokayukta. He was against even the name of Justice S D Dave. CM wants Lokayukta of his choice and when it was not possible he made all efforts to stall the appointment.**
- 5. Justice R A Mehta is known as honest and upright person. Anna Hazare proved his being honest by staying at his place.**
- 6. The Act does not allow CM to interfere in the appointment in any manner.**
- 7. It is a blatant lie that LOP has not cooperated. In both the cases, Justice S D Dave and Justice R A Mehta, there was a consultation with the Governor. CM was informed that LOP has given his consent to the name of these judges with express views that CM is not to be consulted in this matter. Still if the CM thinks that he has to be consulted, he should take the letter as the consent of the LOP and we are willing to remain present as LOP wherever needed.**
- 8. If the Governor has to act on the advice of the Cabinet then why did the CM not send Cabinet Resolution about these names to the Governor?**

9. Why did Modi make amendment to change section 3 by a provision of major role of CM in the appointment of Lokayukta when the process of appointment was almost over?
10. Five judge bench judgment of SC is applicable in this case. In the judgment in reported judgment (2004) 8 page number 788 the bench has dealt in detail with the discretionary powers of the Government and also explained the concept of Article 163 of the Constitution. Till the date the Chief Justice has suggested only one name and that has been accepted.
11. Supreme Court has held that the name suggested by the CJ was a binding to council of ministers and the government (2009-7 SCC Page 1). Despite this CM opposed the name of Justice S D Dave and dragged on a controversy and ultimately Justice Dave had to request for the recall of his name. Similarly efforts of CM to oppose the name of Justice R A Mehta were illegal.
12. The Chief Minister of Gujarat is involved in corruption of crores of rupees and even a neutral agency like Comptroller and Auditor General (CAG) has detected corruption and faulty administration of Rs.26,651 crore.
13. The BJP talks about a strong Lokpal at the centre while in Gujarat it wants a Lokayukta as per the CM's wishes.
14. The Chief Minister of Gujarat is openly violating constitutional and legal provisions.
15. There is a provision of appointing two members in Human Rights Commission and even High Court has pointed it out. Still human rights commission members have not been appointed for last many years.
16. The post of RTI Commissioner is vacant. More than 10,000 appeals are pending in the RTI Commissioner office still the Chief Minister is not appointing Commissioner or any additional authorities.
17. It has been a legislative tradition in Gujarat that the deputy Speaker post should go to the Congress but since last 10 years the post is vacant.

A detailed memorandum consisting of the above points and other issues will be submitted to the Honourable President Smt. Pratibha Patil by a team of senior Congress leaders consisting of leader of opposition Shaktisinh Gohil, GPCC President Arjun Modhawadhia, General Secretary of AICC Mohan Prakash under the leadership of campaign committee chairman Shankersinh Vaghela on 6-9-2011, Tuesday at 11.00 am in Rasthrapati Bhavan.

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To,  
The Editor,

Hon'ble Leader of Opposition has requested to kindly publish this press note in your esteemed newspaper.

**(J. J. Rasanía)**  
Personal Assistant