

APPENDIX-FORM

(See Rule 3)

(Application for Information under Right to Information Act 2005)

To
The Central Public Information Officer,
President's Secretariat, Rashtrapati Bhawan
New Delhi - 110 004.

- 1) Full Name of the applicant: Adv. D.B. Binu
- 2) Address: (General Secretary, Human Rights Defense Forum) Providence Road, Kochi-18 ; Kerala ,Mob: 9895135081.
- 3) Particulars of information required: Please provide certified copies of the information and documents in public interest with file notes and correspondence file U/S 6(1), 6(3) of the RTI Act on queries regarding The assent of the President of India and implementation of the Plachimada Coca-Cola Victims' Relief and Compensation Claims Special Tribunal Bill, 2011 etc and other related documents.

- A. Please provide the certified copy of the document which shows the procedures adopted by the President of India /Central Government in relation with a bill passed by a state legislature presented to the President of India the assent.
- B. Has the President of India / Central Government/ Ministry of Home Affairs, Government of India; received or returned or considered the Plachimada Coca-Cola Victims' Relief and Compensation Claims Special Tribunal Bill, 2011 ? If so, please provide following information ;
 - I. Date on which Bill was received
 - II. Document which shows the present status of the Bill
 - III. Documents which show the details of communication with ministries in relation with giving assent to the above said bill.
 - IV. Documents which show the details of clarifications or objections if any submitted by the Ministries of Union of India in relation with the bill.
- C. Has this office received any legal opinion in relation with giving assent to the Bill? If yes please furnish the copies of the legal opinions.
- D. Has this office received any complaint/objection against giving assent to this bill?
- E. Please furnish the letter/legal opinion sent by the counsels of Hindustan Coca-Cola Beverages Pvt Ltd, requesting not to give assent to the above said bill.
- F. Please furnish the copy of the document which shows the assent if given, by the President of India and present status of the bill..
- G.. Please provide the file notings on movement of this RTI application.

If the information sought for is held by another Public Authority, or the subject matter of the information required is more closely connected with the functions of another public authority, this Application or such part of this application may be forwarded to that Public Authority as required under Section.6 (3) of the RTI Act .

Date:10 -05- 2012

Place: Kochi

Enclosure: Demand Draft Rs10\ No! 950804,

(SIGNATURE OF THE APPLICANT)  Enclosure:



RIGHT TO
INFORMATION

No.319/RTI/05/12-13
राष्ट्रपति सचिवालय
PRESIDENT'S SECRETARIAT
R.T.I. SECTION

राष्ट्रपति भवन, नई दिल्ली-110004
Rashtrapati Bhavan, New Delhi-110004.

14 June 2012

To
Shri D.B. Binu
Providence Road, Ernakulam
Kochi-682018, Kerala.

Sir,

Kindly refer to the letter of this Secretariat of even number dated 18 May 2012.

It is informed that:-

Q.No.	Reply
A.	You are requested to approach the Ministry of Home Affairs, North Block, New Delhi, Government of India, to whom your said RTI application has already been transferred.
B.	This Bill has not been received in this Secretariat. ✓
B-(ItoIV) C & F.	In view of above 'B' reply, question does not arise:
D.	All related complaints/objections as received from time to time were forwarded to the Ministry of Home Affairs. Photocopies of forwarding notes are enclosed (Annexure 'A').
E.	The related letter/legal opinion as received from the Cocacola India Pvt. Ltd. Alongwith its enclosures was forwarded to the Ministry of Home Affairs. Photocopy of forwarding note is enclosed (Annexure 'B').

An appeal, if any, against this reply may be made to the Appellate Authority of this Secretariat, at under the mentioned address within 30 days of the receipt of this letter:- Smt. Rasika Chaube, J S & FA and Appellate Authority President's Secretariat, Rashtrapati Bhavan, New Delhi-110004.

Yours faithfully

(Saugabh Vijay)

Central Public Information Officer

L No 14 of 2011 Leg III
 Government of India
 Ministry of Law and Justice
 Legislative Department

New Delhi, the 9th January, 2012.

OFFICE MEMORANDUM

Subject:- The Plachimada Coca-Cola Victims Compensation Claims Special Tribunal Bill, 2011.

The undersigned is directed to refer to the Ministry of Home Affairs O. M. No. 17/12/2011-Judl.& PP dated the 13th April, 2011 on the subject cited above and to state that this Department has no objection to the assent of the President being given to the Bill under reference.

2. However, it may be noted that the following deficiency of drafting nature may be rectified-

In clause 16 relating to appeal, it is observed that the right to file appeal has been given only to Government or any person aggrieved by the decision of the Tribunal. It is seen that the term "person" has been defined as under:-

"Person" means a resident of Perumatty or Pattancherry Panchayats or such other Panchayats as may be specified by the Government in this behalf;

Further, the term "Company" has been defined as under:

"Company" means Hindustan Coca-Cola Beverages Private Limited registered under the company's Act, 1956(1 of 1956);

In view of specific definitions of "person" and "Company", it appears that the Company, Hindustan Coca-Cola Beverages Private Limited, which is required to pay compensation to the victims under the said Act is, consciously or unconsciously, deprived of the right to file appeal. The principles of natural justice require that the company also should have right to prefer appeal on the ground of excessive or exorbitant determination of compensation. Therefore, Government of Kerala may reconsider revising sub-clause (1) of clause 16 so as to include "Company" within the ambit of sub-clause (1) of clause 16.

3. The Department of Legal Affairs may be consulted to ascertain the constitutional and legal validity of the Bill more particularly with regard to clause 16 and item (i) of clause 2 of the Bill under reference.

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 (Y.Srinivasa Rao)
 Assistant Legislative Counsel
 Ph. 23382923

Ministry of Home Affairs,
 (Kind Attn: Shri Sanjoy Mitra, Under Secretary),
 Jaisalmer House, Man Singh Road, New Delhi-11.

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No.17(17)/2011 PL

भारत सरकार / Government of India

पर्यावरण एवं वन मंत्रालय / Ministry of Environment and Forests

नीति एवं विधि अनुभाग/Policy and Law Section

पर्यावरण भवन, सी.जी.ओ. कॉम्प्लेक्स,
Paryavaran Bhavan, CGO Complex,
लोधी रोड, नई दिल्ली /Lodhi Road, New Delhi-03

Dated: 16.4.2012

OFFICE MEMORANDUM

Subject: The Plachimada Coca-cola Victims Compensation Claims Special Tribunal, Bill, 2011 – Comments on the Bill regarding.

The undersigned is directed to refer to this Ministry's DO letter of even number dated 11th April, 2012 from Shri Surjit Singh, Joint Secretary on the subject mentioned above. The comments of this Ministry on the aforementioned Bill are as under:

The Parliament, in exercise of its exclusive power to enact legislation under Union List of the VII Schedule of the Constitution of India, has passed the National Green Tribunal Act, 2010 under Article 253 of the Constitution of India. The said Act has been enacted by the Parliament for the establishment of "the National Green Tribunal" for the effective and expeditious disposal of cases relating to environmental protection and conservation of forests and other natural resources including enforcement of any legal right relating to environment and giving relief and compensation for damages to persons and property and for matters connected therewith or incidental thereto.

Certain provisions of the Plachimada Coca-cola Victims Compensation Claims Special Tribunal Bill as passed by the legislature of Kerala appears to be repugnant to the provisions of the Environment (Protection) Act, 1986, Water (Prevention and Control of Pollution) Act, 1981 and provisions of National Green Tribunal Act, 2010 (Central Act 19 of 2010).

As per clause (2) of Article 254 of the Constitution of India, where a law made by the Legislature of State with respect to one of the matters enumerated in the Concurrent List (Entry 11-A and 46 as mentioned in the State Bill) contain any provision repugnant to the provisions of an earlier law made by the Parliament or an existing law with respect to that matter, then the law so made by the legislature of such a State shall prevail in that

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No.17(17)/2011 PL

भारत सरकार / Government of India

पर्यावरण एवं वन मंत्रालय / Ministry of Environment and Forests

नीति एवं विधि अनुभाग/Policy and Law Section

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State, if it has been reserved for the consideration of the President and has received his assent.

The victims / aggrieved persons, covered under the proposed Bill, can always approach the National Green Tribunal established under the National Green Tribunal Act, 2010 (an Act passed by the parliament under Article 253 of the Constitution of India) for providing relief and compensation.



The proposed legislation, if passed by the State legislature is likely to come into collision with a law already made by the parliament i.e. the National Green Tribunal Act, 2010, if assent is accorded by the President of India under article 254 (2) to the proposed legislation because in that situation State Act shall prevail.

It is mentioned that the provisions of the proposed Bill run counter to the National Green Tribunal Act, 2010, (NGT), passed by the Parliament. Section 14,15, and 16 of the NGT Act, provides the jurisdiction powers of the NGT to settle disputes, provide relief, compensation and restitution and the appellate jurisdiction. Further the scope and ambit of the NGT Act, 2010 is much wider than the proposed Bill.

- 2. This issues with the approval of Hon'ble Minister for State for Environment and Forests (Independent Charge).

(Vivek Wadekar)
Director
Tele.No.24363013

Ministry of Home Affairs
[Shri Satpal Chouhan, Joint Secretary (C&PG)]
North Block, New Delhi-110001.
Telefax No.23092392