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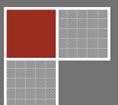
SECRET

Report of the Technical Expert

on

The Implementation of the Steps Flowing
from the Political, Constitutional, Judicial
and Administrative Events that took place
between 1947 and 2010, in the area of
Reservation in Public Employment for the
People of the Telangana Region in the
State of Andhra Pradesh

Mukesh Kacker
(IAS)



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Presented to

The Committee for Consultation on the Situation in Andhra Pradesh

Foreword

It was indeed a unique opportunity to write the factual history of a particular period and also attempt an analytical critique of that history at the same time. This process required the play of two different faculties of mind and two different approaches. While the recording of events in their correct chronological sequence is a function of research and diligence, writing an analytical critique of those events requires perspective and the capacity to present the big picture, to separate the grain from the chaff. This was essential as the history of the issue of reservation on the basis of residential qualification in the Telangana region is replete with political agreements and formulae, constitutional provisions, legislative enactments, judicial orders, reports of Commissions and hundreds of government orders and instructions. It is easy to lose sight of the woods in the maze of these trees. An effort has been made to produce such a report which the CCSAP can use without feeling burdened with unnecessary detail.

A few words in the nature of a disclaimer need to be put in here. The Telangana issue is an existing problem with its roots in the past. A historical critique of an existing problem has to point out the gaps and oversights in policy and implementation at various points in time. To pretend that there were no such gaps and oversights would be foolish for the author, for, in that case the problem would not have been there in the first place. **However, it would be incorrect to construe this analytical critique as a criticism of particular governments and institutions or of specific individuals. This is a non-political and non-partisan critique intended to enable the CCSAP to consider those issues that could have a bearing on finding a workable solution to the problem. This is not a fault finding exercise. Should the report give such an impression at any place, it may be construed as the inability of the author to convey the correct nuance.**

I am grateful to the CCSAP, particularly to its Member-Secretary, Shri Vinod Kumar Duggal, for reposing faith in me and entrusting this study to me. I am thankful to Shri Ravi Dhingra, Senior Consultant, CCSAP, and to Shri Shashi Prakash, Special Secretary, Inter-State Council, for their help in securing the relevant material for this study. Thanks are also due to Shri Rajiv Sharma, Director General, Centre for Good Governance, Government of Andhra Pradesh, for coordinating with the Government of Andhra Pradesh for making the relevant material available to me. Finally, I must also thank Dr. Navneet Sharma, whom I used as a sounding board for my thoughts and whose word-processing skills came in handy in formatting the report in a presentable form.

New Delhi
30.09.2010

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CHAPTER 1

Introduction and scope of the Report

1. Introduction

The present day State of Andhra Pradesh consists of the coastal Andhra¹, Telangana² and Rayalaseema³ regions. However, before independence the Andhra and Rayalaseema regions were part of the Madras Presidency whereas the Telangana region was a part of the erstwhile State of Hyderabad ruled by Asaf Jahi Nizam VII. In order to understand the reasons behind the long standing demand of the Telangana people for a separate state, it is imperative to trace the history of the creation of the existing State of Andhra Pradesh.

1.1 Historical Background

The creation of the unified State of Andhra Pradesh happened in phases. Given below is a brief historical background of events that eventually led to the creation of the present day State of Andhra Pradesh.

1.1.1 Creation of the State of Hyderabad

At the time of India attaining independence in 1947, the Nizam was a British protégé on the throne of the Princely State of Hyderabad, which then comprised more than 16 million subjects. The Nizam nurtured political ambitions of having a separate kingdom for himself within the British Commonwealth. However, when the British rejected his proposal, he shifted tack and wanted to be a part of Pakistan. It is not necessary here to detail the chain of events that led to an Indian “police action” which resulted into the merger of Hyderabad with the Republic of India. On September 17, 1948, in a military operation code-named as ‘operation polo’, the erstwhile Princely State of Hyderabad was merged with the Indian Union and a separate State of Hyderabad

ON SEPTEMBER 17, 1948, IN A MILITARY OPERATION CODE-NAMED AS ‘OPERATION POLO’, THE ERSTWHILE PRINCELY STATE OF HYDERABAD WAS MERGED WITH THE INDIAN UNION AND A SEPARATE STATE OF HYDERABAD WAS CREATED. THE NEWLY CREATED STATE WITNESSED ITS FIRST LEGISLATIVE ASSEMBLY ELECTIONS IN THE YEAR 1952.

¹ It consists of the districts of Guntur, Krishna, East Godavari, West Godavari, Visakhapatnam, Vizianagaram, Srikakulam, Prakasam and Nellore.

² It consists of the districts of Adilabad, Karimnagar, Nizamabad, Medak, Warangal, Khammam, Hyderabad, Rangareddy, Nalgonda, and Mahaboobnagar.

³ It consists of the districts of Kurnool, Kadapa (formerly known as 'Cuddapah'), Anantapur, Chittoor, parts of Prakasam and Nellore..

was created. The newly created State witnessed its first legislative assembly elections in the year 1952.

1.1.2 Formation of the Andhra State

Simultaneously, a demand for a separate state for the Telugu speaking people was being voiced by the leaders from the Andhra region which was then a part of the Madras Presidency. The districts forming part of the coastal Andhra region put forward their case for a separate state on the grounds of domination of Tamils in employment and industry and possible neglect of the Andhra area. The Dar Commission of 1948 appointed by the Government of India recommended against the creation of the States on linguistic basis. This report of the Commission created an adverse reaction in the Andhra region that prompted the Congress leaders to pacify the ruffled feelings of the people of the Andhra region. This led to the creation of an unofficial Committee, consisting of Jawaharlal Nehru, Vallabhbhai Patel and Pattabhi Sitaramaiah, popularly known as the J.V.P. Committee that submitted its report to the Working Committee of the Indian National Congress in April, 1949, recommending postponement of the proposal of creation of states on linguistic basis by a few years. However, it suggested that an Andhra Province could be formed provided the people of the Andhra region gave up their claim to the city of Madras (now Chennai).

After the 1952 General elections, the then Government of Madras decided to undertake the Krishna-Pennar Project which would have diverted the Krishna river waters to develop the Tamil speaking areas of the state. This decision of the Government set in a fear in the minds of the people of the Andhra region that the diversion of the Krishna river waters would adversely affect the Andhra region, and this led to a popular agitation in Andhra. The Government of India then appointed the Khosla Committee which recommended that the project should proceed only with the changes suggested by the Committee. At this juncture, Potti Sriramulu began his fast unto death on October 19, 1952 at Madras and eventually died on December 15, 1952. The news of his death led to violent agitations in the Andhra region that prompted the Government of India to announce the creation of a separate State consisting of the coastal Andhra and the Rayalaseema regions. On October 1, 1953, the Andhra State came into existence with Kurnool as its capital. *With the creation of the Andhra State, the forty year old dream of the Telugu speaking people to have a separate State of their own was partly fulfilled along with the hope for the creation of an even larger entity- Vishalandhra.*

LEADERS FROM THE *ANDHRA* REGION, WHICH WAS THEN A PART OF THE MADRAS PRESIDENCY, VOICE A DEMAND FOR A SEPARATE STATE FOR THE TELUGU SPEAKING PEOPLE.

ON OCTOBER 1, 1953, THE *ANDHRA STATE* CAME INTO EXISTENCE WITH KURNOOL AS ITS CAPITAL.

1.1.3 The States Re-organization Commission (S.R.C)

After the formation of the Andhra State on linguistic basis, demands for the creation of many states on linguistic basis were being voiced in several other parts of the country. Therefore, in December 1953, the States Re-organization Commission (SRC) was constituted by the Government of India, consisting of Justice Fazal Ali, K.M. Panikker, & H.N. Kunzru, to examine the whole question of the re-organization of the States of the Union of India. The SRC submitted its Report in 1955 and among other things analyzed the problems of the Telangana and Andhra regions and the arguments for and against the merger of two regions. It is interesting to note that the SRC Report is ambivalent with respect to the Telangana and Andhra regions. It speaks in favour of both options- creation of Vishalandhra and also separate states of Andhra and Telangana. In the end, however, it tilts in favour of a separate Telangana State, albeit with a condition.

Paras 374 and 382 of the SRC Report state, as under, with respect to the creation of Visalandhra:

374. "The creation of Vishalandhra is an ideal to which numerous individuals and public bodies, both in Andhra and Telangana, have been passionately attached over a long period of time, and unless there are strong reasons to the contrary, this sentiment is entitled to consideration."

382. "It seems to us, therefore, that there is much to be said for the formation of the larger State and that nothing should be done to impede the realisation of this goal"

On the other hand, in para 376 it states, as under, with regard to the creation of a separate Telangana state:

376. "The existing Andhra State has faced a financial problem of some magnitude ever since it was created and in comparison with Telangana the existing Andhra State has low per capita revenue. Telangana, on the other hand, is much less likely to be faced with financial embarrassment. The much higher incidence of land revenue in Telangana and an excise revenue of the order of Rs.5 crores per annum principally explain this difference. Whatever the explanation may be, some Telangana leaders seem to fear that the result of unification will be to exchange some settled sources of revenue, out of which development schemes may be financed, for financial uncertainty similar to that which Andhra is now faced. Telangana claims to be

THE SRC REPORT IS AMBIVALENT WITH RESPECT TO THE TELANGANA AND ANDHRA REGIONS. IT SPEAKS IN FAVOUR OF BOTH OPTIONS — CREATION OF VISHALANDHRA AND ALSO SEPARATE STATES OF ANDHRA AND TELANGANA. IN THE END, HOWEVER, IT TILTS IN FAVOUR OF A SEPARATE TELANGANA STATE, ALBEIT WITH A CONDITION.

progressive and from an administrative point of view, unification, it is contended, is not likely to confer any benefits on this area.”

Then, in the following para, the SRC Report speaks on the problems of integration, as under:

385. “A further point to be borne in mind is that the State of Andhra was brought into existence only recently and has still not got over the stress of transition. It has, for example, still to formulate a policy on land reforms and the problems arising from the partition from the composite State of Madras have, by no means, been tackled fully yet. Integration of Telangana with Andhra at this stage is, therefore, likely to create administrative difficulties both for Andhra and Telangana.”

Finally, it seeks to strike a compromise by recommending a separate State for the Telangana area but prefaces it with a conditionality:

386. “After taking all these factors into consideration, we have come to the conclusion that it will be in the interests of Andhra as well as Telangana if, for the present, the Telangana area is constituted into a separate State, which may be known as the Hyderabad State with provision for its unification with Andhra after the general elections likely to be held in or about 1961, if by a two-thirds majority the legislature of the residuary Hyderabad State expresses itself in favour of such unification.”

1.1.4 Formation of Unified Andhra Pradesh

The SRC Report led to intensive lobbying by the protagonists on both sides of the debate. When the issue was raised in the 174 member Hyderabad Legislative Assembly, 147 members expressed their views. Out of these 103 supported Vishalandhra, 29 supported Telangana and 15 remained neutral. The Congress High Command, influenced to a certain extent by the outcome of this debate in the Hyderabad Assembly, tilted in favour of Vishalandhra. Finally, the then Government of India, although aware of the prevailing circumstances and sentiments, went ahead with the merger of the Telangana region with the Andhra State following the “Gentlemen’s Agreement of 1956”. The said agreement provided reassurances to the people of Telangana in terms of power sharing, administrative domicile rules and distribution of expenses of various regions. Thereafter, on November 1, 1956, the Central Government established a unified State of Andhra Pradesh.

ON NOVEMBER 1, 1956, THE
CENTRAL GOVERNMENT
ESTABLISHED A UNIFIED STATE
OF ANDHRA PRADESH.

Although the Gentlemen's Agreement was executed to put to rest the concerns of the Telangana people, the practical implementation of the agreement left much to be desired which eventually led to dissatisfaction amongst them. The people of Telangana had several apprehensions about their status and position in the new state of Andhra Pradesh. They also felt that the Telangana region, while less developed economically, had a larger revenue base which would be diverted to the Andhra region. Further, the Andhra region had planned irrigation projects on the Krishna and Godavari rivers, which the people of the Telangana region felt, would not benefit Telangana proportionately even though it controlled the headwaters of the rivers. It was also feared that the people of Andhra, who had access to higher standards of education under the British Rule, would have an unfair advantage in procuring government jobs.

Despite the unification of Andhra and Telangana in the year 1956, these issues continuously remained on the boil. Due to the alleged failure in implementing the Gentlemen's Agreement and the various guarantees assured, the people of Telangana started agitating for the implementation of the safeguards as provided in the Gentlemen's Agreement and also for the formation of a separate state.

1.1.5 Setting up of the Committee for Consultation on the Situation in Andhra Pradesh

During the last sixty years, the people of Telangana have undertaken a number of movements, including the most recent one by K. Chandrasekhar Rao of Telangana Rashtra Samiti in the year 2009, to agitate their demand for a separate state. In the intervening years, various formulae were mooted, agreements and accords signed and committees formed by the State Government and the Central Government to address the root causes behind the demand for the formation of a separate Telangana state, including Prime Minister Indira Gandhi's 8-Point Formula of 1969, the 5-Point Formula of 1972 and the 6-Point Formula of 1973. It seems that none of the steps undertaken could truly address the concerns of the Telangana people. The continued demand for a separate state reached its high point on December 9, 2009, when the Government of India announced that the process for the formation of a separate Telangana state would be considered upon the introduction and passage of a separation statement by the State Assembly of Andhra Pradesh⁴. The Central Government, thereafter, in its meeting with political leaders from different parties in Andhra Pradesh said that

⁴ PIB Press Release, Report Card of Ministry of Home Affairs for December, 2009, December 31, 2009.

THE GENTLEMEN'S AGREEMENT PROVIDED REASSURANCES TO THE PEOPLE OF TELANGANA IN TERMS OF POWER SHARING, ADMINISTRATIVE DOMICILE RULES AND DISTRIBUTION OF EXPENSES OF VARIOUS REGIONS.

DESPITE THE UNIFICATION OF ANDHRA AND TELANGANA IN THE YEAR 1956, THESE ISSUES CONTINUOUSLY REMAINED ON THE BOIL.

“the agenda is to deliberate on the mechanism and lay down a road map for the consultations.”⁵

The Government of India has since constituted a Committee for Consultation on the Situation in Andhra Pradesh (CCSAP), which is a five member committee under the chairmanship of Justice B.N. Srikrishna⁶. The CCSAP has been entrusted with the task of examining the situation in the State of Andhra Pradesh with reference to the demand for a separate State of Telangana as well as the demand for maintaining the present status of a United Andhra Pradesh.

1.2 Issue Under Consideration

Amongst the various issues that the CCSAP has identified to focus upon is the important issue of implementation of the steps flowing from the Constitutional provisions (including amendments), the judgments of the Supreme Court and of the A.P. High Court and the administrative decisions taken with regard to reservation for persons belonging to the Telangana region in public employment.

1.3 Scope of the Report

This Report traces the evolution of the Constitutional, Political, Administrative and Judicial events that have taken place since independence in respect of the provisions for reservation in public employment for the people of the Telangana region and analyses the efficacy of the steps taken for addressing their concerns in this area. The Report presents a factual and historical account of how the issue of reservation in public employment for the people of the Telangana region has evolved from before independence up to the present day, from the issue of a Firman (The Mulki Rules) in 1919 by the Nizam up to the request by the Government of Andhra Pradesh to the Government of India to omit para 14(f) of the Presidential Order of 20.10.1975. It describes the events, the enactments and their provisions, political/governmental announcements/agreements and their provisions, political agitations, Constitutional Amendments, Presidential Order and its provisions, the scores of Government Orders (G.Os) issued to implement

THIS REPORT TRACES THE EVOLUTION OF THE CONSTITUTIONAL, POLITICAL, ADMINISTRATIVE AND JUDICIAL EVENTS THAT HAVE TAKEN PLACE SINCE INDEPENDENCE IN RESPECT OF THE PROVISIONS FOR RESERVATION IN PUBLIC EMPLOYMENT FOR THE PEOPLE OF THE TELANGANA REGION.

THE REPORT ALSO ANALYSES THE EFFICACY OF THE STEPS TAKEN FOR ADDRESSING THEIR CONCERNS IN THIS AREA.

⁵ PIB Press Release, Meeting of Eight Political Parties of Andhra Pradesh on Telangana Issue Begins, Chidambaram Appeals for Peace and Harmony in the State, January 05, 2010.

⁶ Ministry of Home Affairs, Notification F.No. 12012/1/2009-SR (Pt-I) of May 4, 2010.

the Presidential Order, the One Man Commission and its recommendations, the implementation of the recommendations of the One Man Commission, and judgments of the A.P. High Court and those of the Supreme Court on matters connected with this issue. The Report then goes on to analyse the effectiveness of the implementation of the steps taken and presents the big picture from the point of view of satisfaction of demands and assurances. In conclusion it integrates this analysis with the context in which the CCSAP has been formed.

1.4 Chronological Sequence of Events

Given below is a matrix that provides the chronological sequence of the major events that have taken place since the pre-independence era to the present day in respect of the issue under consideration:

YEAR	EVENT
1919	<ul style="list-style-type: none"> Mulki Rules issued in a Firman by HEH the Nizam of the erstwhile State of Hyderabad.
	<ul style="list-style-type: none"> Enactment of Hyderabad Civil Service Regulations, incorporating the Mulki Rules.
1947	<ul style="list-style-type: none"> India gains independence.
1948	<ul style="list-style-type: none"> Merger of the erstwhile State of Hyderabad with the Union of India.
1949	<ul style="list-style-type: none"> Mulki Rules re-promulgated by a Firman in the new State of Hyderabad.
1950	<ul style="list-style-type: none"> Mulki Rules continue to be in operation by virtue of Article 35(b) of the Constitution of India. Mulki Rules adapted/ amended.
1952	<ul style="list-style-type: none"> First Legislative Assembly elections in the State of Hyderabad.
1953	<ul style="list-style-type: none"> Formation of the Andhra State consisting of the Andhra and Rayalaseema regions. Formation of the States Re-organization Commission (SRC) to address the demand for creation of states on linguistic basis.

YEAR	EVENT
1955	<ul style="list-style-type: none"> • Submission of the States Re-organization Commission Report by the SRC.
1956	<ul style="list-style-type: none"> • Formation of the unified State of Andhra Pradesh consisting of the Telangana, Andhra and Rayalaseema regions on November 1, 1956. • Mulki Rules continue to be in operation by virtue of Article 35(b) of the Constitution and Section 119 of the SRC Act. • Gentlemen’s Agreement entered into between the leaders of the Andhra and Telangana regions at the time of the creation of the unified state of Andhra Pradesh to give reassurances to the people of Telangana in terms of power sharing, administrative domicile rules and distribution of expenses of various regions. • Enactment of Constitution (Seventh Amendment) Act, 1956 and insertion of Article 371(1) in the Constitution of India, providing for the constitution of Telangana Regional Committee.
1957 - 1959	<ul style="list-style-type: none"> • Enactment of the Public Employment (Requirement as to Residence) Act, 1957 and Public Employment (Requirement as to Residence) Rules, 1959.
1969	<ul style="list-style-type: none"> • Supreme Court in <i>A.V.S. Narasimha Rao & Others Vs. State of Andhra Pradesh</i>, (AIR 1970 Supreme Court 422), held that Section 3 of the Public Employment (Requirement as to Residence) Act, 1957 and Rule 3 of Public Employment (Requirement as to Residence) Rules, 1959 were ultra- vires of the Constitution. • The “Jai Telangana” Movement of 1969. • Prime Minister Indira Gandhi’s 8-Point Formula of 1969.
1972	<ul style="list-style-type: none"> • The 5-Point Formula of 1972. • Mulki Rules’ validity upheld by the Supreme Court in “<i>The Director of Industries and Commerce, Govt of AP Vs V. Venkat Reddy</i>, (AIR 1973 Supreme Court 827). • Enactment of the Mulki Rules Act, 1972.

YEAR	EVENT
	<ul style="list-style-type: none"> • The “Jai Andhra” agitation of 1972.
1973	<ul style="list-style-type: none"> • Announcement of the 6-Point Formula on September 21, 1973 and October 22, 1973 through the statements of the political leaders of the State of Andhra Pradesh. • Insertion of Article 371-D in the Constitution through the enactment of the Constitution (32nd Amendment) Act, 1973. The 32nd Amendment became effective from July 1, 1974. • Mulki Rules repealed by the Mulki Rules Repeal Act, 1973.
1974	<ul style="list-style-type: none"> • The Andhra Pradesh Educational Institutions (Regulation of Admissions) Order of 1974 that came into effect on July 1, 1974.
1975	<ul style="list-style-type: none"> • The Andhra Pradesh Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order of 1975 (“Presidential Order”) issued which came into effect from October 18, 1975.
1975-1985	<ul style="list-style-type: none"> • A series of Government Orders issued by the Government of Andhra Pradesh to facilitate the implementation of the Presidential Order.
1985 - 2001	<ul style="list-style-type: none"> • Agreement reached between the Government of Andhra Pradesh and the Telangana Non-Gazetted Officers’ Union on December 7, 1985 after alleged violations of the Presidential Order were brought to the notice of the Government by the Telangana Non-Gazetted Officers’ Union. • G.O. Ms.No.610 of December 30, 1985 issued, based on the terms of the agreement with the Telangana Non-Gazetted Officers Union, to correct the lapses in the implementation of the Presidential Order. • A series of Government Orders issued by the Government of Andhra Pradesh to implement G.O. No. 610.
2001	<ul style="list-style-type: none"> • Representations received by the State Government regarding lapses in the implementation of the 6-Point Formula, the Presidential Order and G.O. no. 610. • Recommendations on lapses discussed in the All Party Meeting

YEAR	EVENT
	<p>of June 15, 2001.</p> <ul style="list-style-type: none"> • Constitution of the One Man Commission of J. M. Girglani, I.A.S. on June 25, 2001.
2003	<ul style="list-style-type: none"> • Constitution of a House Committee by the Andhra Pradesh Legislative Assembly to suggest corrective measures for the implementation of G.O.610. • Submission of its two reports by the House Committee on March 17, 2003 and November 14, 2003.
2004	<ul style="list-style-type: none"> • Submission of the One Man Girglani Commission Report on September 30, 2004 with 126 findings under 18 deviation genres and 35 remedial suggestions. • Constitution of “Group of Ministers” to examine the recommendations of the One Man Girglani Commission vide G.O.Ms.No.219 dated August 10, 2004 and G.O. No. 328 dated October 12, 2004.
2006 - 2010	<ul style="list-style-type: none"> • Approval of the recommendations of the One Man Girglani Commission by the Government of Andhra Pradesh vide G.O. No. 548 dated October 4, 2006. • Series of Government Orders issued by the Government of Andhra Pradesh to implement the recommendations stated therein. • In its judgment dated 9th October, 2009, the Supreme Court in the matter of <i>P.V. Radha Krishna and Ors. Vs. State of A.P. and Ors.</i> ((2010)1SCC11) set aside an Andhra Pradesh High Court Full Bench order that curtailed the width and scope of the exemptions contained in Para 14(f) of the Presidential Order. • Review petition filed by the Andhra Pradesh Government against the Supreme Court order. The review petition was dismissed by the Supreme Court on March 16, 2010. • Adoption of a resolution by the Andhra Pradesh Legislative Assembly requesting the Government of India to obtain approval from the President of India to delete Para 14(f) of the Presidential Order.

YEAR	EVENT
	<ul style="list-style-type: none"><li data-bbox="576 273 1364 409">• Request for omission of Para 14(f) of the Presidential Order sent by the Chief Secretary to the Government of Andhra Pradesh to the Government of India vide its letter no. 40927/MC-1/2009-2 dated March 22, 2010.

~ X ~

CHAPTER 2

Political, Constitutional, Administrative and Legal Events Relating to Mulki Rules and the Issue of Residential Qualification in Public Employment – A Brief History

The origins of the idea and the demand for protecting the residents of the Telangana region in the matter of public employment through the instrumentality of residential qualification can be traced back to the year 1919 when a ***Firman*** (edict) was issued by HEH the Nizam of the erstwhile princely State of Hyderabad. The Mulki Rules, described hereinafter, and the residential qualification enshrined in them or in other enactments, had an extremely chequered history and during the period 1947-1975, the political, constitutional and legal events that took place were so intricately enmeshed with this issue as to leave a present day observer with mixed feelings of confusion and amusement.

2.1 The Mulki Rules (“Rules”), 1919-1959.

The Mulki Rules formed part of the Hyderabad Civil Service Regulations promulgated in obedience to HEH the Nizam’s *Firman*, dated 25th Ramzan 1337 H (corresponding to the year 1919). In the Urdu language, ‘Mulk’ means a nation and the residents are referred to as ‘Mulkis’. The Mulki Rules prescribed the policy to protect the interest of the ‘residents’ with respect to public employment. As per Appendix-N of Article 39 of these Rules,⁷ a person could be called a Mulki, if:

- By birth he was a subject of the Hyderabad State, or
- By residence in the Hyderabad State, he had been entitled to be a Mulki, or
- His father having completed 15 years of service was in the Government Service at the time of his birth, or
- She was the wife of a person who was a Mulki.

A person was considered a subject of the Hyderabad State by birth if at the time of his birth his father was a Mulki.

⁷ Appendix – N of Article 39.

THE MULKI RULES
PROMULGATED IN
OBEDIENCE TO HEH THE
NIZAM’S FIRMAN, DATED
25TH RAMZAN 1337 H
(CORRESPONDING TO THE
YEAR 1919).

MULKI RULES WERE PART
OF THE HYDERABAD CIVIL
SERVICE REGULATIONS

The other additional criteria whereby a person could be considered as a Mulki were as follows:

- A person could be called a Mulki if he was a permanent resident of the Hyderabad State for at least 15 years and had abandoned the idea of returning to the place of his residence and had obtained an affidavit to that effect on a prescribed form attested by a Magistrate.
- If a Mulki woman married a non-Mulki but continued to reside in the Hyderabad State, her rights by virtue of being a Mulki remained un-affected.
- If a Mulki woman after her marriage to a non-Mulki resided outside the Hyderabad State but after her husband's death or after seeking divorce she came back to reside in the Hyderabad State, then she would be considered a Mulki. However, her children would continue to be non-Mulkis unless otherwise permissible under the Rules.

The Taluqdars of the concerned districts were authorized to issue the Mulki certificate. An applicant could apply for a certificate in a prescribed form along with a declaration on oath that the facts stated in the application were true and correct. An applicant was required to address certain questions, some of which were as follows⁸

- Where was the applicant born?
- Where was he residing prior to his residing in the Hyderabad State?
- Place of birth and nationality of his father and grandfather.
- Place of education of the applicant's father.
- Where was the father of the applicant residing at the time of the applicant's birth and after completing 21st year of his age?

If any of the facts stated in the application were found to be false or wrong, action could be taken against the applicant that included – (a) cancellation of the Mulki certificate; and (b) cancellation of the Mulki certificates of the father or the husband of such a person. A Mulki certificate could also be cancelled if it was found that the holder of the certificate was disloyal to HEH the Nizam or to the Hyderabad Government or was directly or indirectly

⁸ Rule 7 of Appendix N of Article 39.

connected with political activities detrimental to the interest of the Hyderabad Government⁹.

The original Mulki Rules, therefore, were akin to nationality rules and were designed to benefit the original/long residing residents of the area by combining three separate criteria – birth, descent and long residence (15 years).

Historically, there is no recorded evidence that the Mulki Rules were re-promulgated when India attained independence in 1947. It is presumed that the Mulki Rules continued to be in operation when the new State of Hyderabad was formed in 1948. This is confirmed by the fact that in November 1949, the Nizam, by another Firman, confirmed the provisions relating to the Mulki Rules for purposes of appointment to a post under the Government.

The Constitution of India came into force on January 26, 1950. The Constituent Assembly while guaranteeing fundamental rights in the matter of employment under the State, took notice of the disparity in the development of various States/regions and felt it imperative to continue a protection in the matter of employment afforded on the basis of residence within the State through any law which was in force immediately before the commencement of the Constitution. Article 35(b) of the Constitution provides for the continuance of such laws. **It follows, therefore, that the Mulki Rules which prescribed requirements as to residence in matters of public employment within the whole of Hyderabad State were saved and continued in force by Article 35(b).**

Thereafter, the Government of Hyderabad made attempts to safeguard and apply the Mulki Rules in the State of Hyderabad by suitably adapting/amending them so that they were in conformity with the requirements of Article 35(b). An explanation, as stated below, was inserted in the Appendix N of the Hyderabad Civil Service Regulations.

Explanation: the above Mulki Rules shall be read in conjunction with the clarifications contained in the following circular letters and Notification issued by the Government of Hyderabad in the General Administration Department.

⁹ Rule 9 of Appendix N of Article 39.

THE ORIGINAL MULKI RULES COMBINED THREE SEPARATE ELIGIBILITY CRITERIA – BIRTH, DESCENT AND LONG RESIDENCE (15 YEARS).

MULKI RULES RE-PROMULGATED IN 1949.

MULKI RULES CONTINUED TO BE IN OPERATION AFTER THE ADOPTION OF THE CONSTITUTION ON 26TH JANUARY, 1950, BY VIRTUE OF ARTICLE 35(b).

IN JUNE, 1950, THE GOVERNMENT OF HYDERABAD ADAPTED/AMENDED THE MULKI RULES BY DISCARDING THE BIRTH AND DESCENT CRITERIA.

One of the circular letters dated June 14, 1950 briefly stated:

...Government is now advised that the Mulki Rules are save to the extent of their inconsistency with the Constitution of India saved by Clause (b) of Article 35. It is, therefore, necessary to put out of operation the requirements laid down by the Mulki Rules to the extent that they prescribe qualifications regarding Birth and Descent...

Another circular dated September 18, 1951 stated that the Government had decided that “the period of Fifteen Years’ Residence prescribed in the existing Mulki Rules should be ‘continuous’ with the proviso that periods spent outside the State for educational or medical purposes will not count as a ‘break’ in this period of 15 years, where permanent residence has been and continues to be in Hyderabad State”

Thus, the adapted/amended Mulki Rules now did not have the birth and descent criteria and had the sole criterion of 15 years’ continuous residence in the State of Hyderabad.

In 1955, the Rajpramukh of Hyderabad framed the Hyderabad General Recruitment Rules in supersession of all previous rules and orders on the subject of prescribing, inter alia, requirement as to residence for the purpose of employment under the State Government. These rules were made under the proviso to Article 309 of the Constitution and were issued by Notification No. 279/GAD/19/G.S.R.C/52, dated 9.11.55. These rules reiterated the 15 years’ residence qualification for being eligible for appointment to a post under the State and Schedule 3 of the rules merely reproduced the rules contained in Appendix N of the Hyderabad Civil Service Regulations. Did these General Recruitment Rules supersede the Mulki Rules? The Mulki Rules were saved and continued by Article 35(b) of the Constitution when it came into force. **In view of the fact that the Mulki Rules could have been altered, modified or repealed only by the Parliament and not by any legislative authority of the State, any amendment or alteration made by any State legislative authority would be ineffective. Thus, the rules made by the Rajpramukh in 1955, although made under the proviso to Article 309, cannot be said**

THE ADAPTED/ AMENDED
MULKI RULES NOW HAD THE
SOLE CRITERION OF 15 YEARS
OF RESIDENCE.

HYDERABAD GENERAL
RECRUITMENT RULES FRAMED
IN 1955 IN SUPERSESSION OF
ALL PREVIOUS RULES.
HOWEVER, THESE RULES WERE
NOT VALID. MULKI RULES
CONTINUED AS THEY WERE.

to have been validly made. The Mulki Rules, therefore, continued as they were.

At this point, the State Re-organisation Act came into force and on 1.11.1956 the State of Andhra Pradesh came into existence with the Telangana region included in the new State. Section 119 of the State Re-organisation Act provided that any law in force immediately before the new States came into existence continued to remain in force with respect to the territories to which it applied. The effect of this provision was that the Mulki Rules continued to be in force in all three linguistic parts which went to three different States because that was the territory of the former Hyderabad State. However, even in the absence of Section 119, the Mulki Rules would have continued by force of Article 35(b) of the Constitution. **For our purpose, the Mulki Rules continued to be in operation after the State of Andhra Pradesh came into existence on 1.11.1956.**

The State of Hyderabad remained a separate State within the Union of India between 1948 and 1956 and, therefore, the issue of reservation for the residents of the State in the matter of public employment was an internal policy matter of the State during this period. It was not in the nature of an issue representing regional dissatisfaction or fear at least till 1954. **It assumed the shape of a regional issue only when the States Re-organisation Commission (SRC) started actively debating the various options relating to the re-organisation of the Telangana region and the formation of the SRC and this debate provided fresh impetus to the demand of the Andhra people for the creation of Vishalandhra. The issue now started getting voiced as an expression of regional fear or apprehension and became a political issue being debated in public domain.** The SRC submitted its report on September 30, 1955. The report spoke both about the creation of a separate State of Telangana and of the unified State of Andhra Pradesh comprising the coastal Andhra, Rayalaseema and Telangana regions. While discussing the pros and cons of creating Vishalandhra or the separate States of Andhra and Telangana, the SRC report put forth the sentiments of the Telangana people regarding education and public employment which clearly reflects that the issue of reservation in public employment was alive and being expressed by the leaders of the Telangana region. Para 378 of the SRC report stated as follows:

“One of the principal causes of opposition to Vishalandhra also seems to be the apprehension felt by the educationally backward

MULKI RULES CONTINUED TO BE IN OPERATION AFTER THE STATE OF ANDHRA PRADESH CAME INTO EXISTENCE ON 1.11.1956.

THE ISSUE OF RESERVATION IN PUBLIC EMPLOYMENT ASSUMED THE SHAPE OF A REGIONAL ISSUE ONLY WHEN THE STATES RE-ORGANISATION COMMISSION (SRC) STARTED ACTIVELY DEBATING THE VARIOUS OPTIONS RELATING TO THE RE-ORGANISATION OF THE TELANGANA REGION.

people of Telangana that they may be swamped and exploited by the more advanced people of the coastal area. In the Telangana districts outside the city of Hyderabad, education is woefully backward. The result is that a lower qualification than in Andhra is accepted for public services. The real fear of the people of Telangana is that if they join Andhra, they will be unequally placed in relation to the people of Andhra and in this partnership the major partner will derive all the advantages immediately, while Telangana itself may be converted into a colony by the enterprising coastal Andhra.”

It is also pertinent to note that the SRC also spoke about safeguards for the people of Telangana and the necessity of supervision by the Central Government over the enforcement of such safeguards. Paras 383 and 384 state as under:

“383. We understand that the leaders of the existing Andhra State may be prepared to provide adequate safeguards to protect the interests of Telangana in the event of its integration in Vishalandhra. These safeguards may take the form of a guarantee (presumably on the lines of Sri Baug Pact between Rayalseema and coastal Andhra) of opportunities for employment for Telangana in the public services of the new State at least to the extent of one-third, that is to say, roughly in the proportion of population, and an assurance that particular attention will be paid to the development plans of this area.

384. We have carefully gone into the details of the arrangements which may be made on these lines. It seems to us, however, that neither guarantees on the lines of the Sri Baug Pact nor constitutional devices, such as “Scottish devolution” in the United Kingdom, will prove workable or meet the requirements of Telangana during the period of transition. Anything short of supervision by the Central Government over the measures intended to meet the special needs of Telangana will be found ineffective, and we are not disposed to suggest any such arrangement in regard to Telangana.”

These are prophetic lines as we shall discover in this Report later. In their quest for Vishalandhra the Andhra leaders were prepared to guarantee safeguards to protect the interest of Telangana. The Congress high Command arranged a meeting of the leaders of the two regions at Delhi on February 20, 1956. The meeting resulted in an agreement over the formation of Vishalandhra by providing certain safeguards to Telangana. This agreement, which paved the way for the formation of the unified State of Andhra Pradesh on November 1, 1956, is popularly known as the ‘Gentlemen’s Agreement’.

WITH REGARD TO SAFEGUARDS FOR THE PEOPLE OF TELANGANA, THE SRC OBSERVED THAT ANYTHING SHORT OF SUPERVISION BY THE CENTRAL GOVERNMENT OVER THE MEASURES INTENDED TO MEET THE SPECIAL NEEDS OF TELANGANA WILL BE FOUND INEFFECTIVE.

2.2 The Gentlemen’s Agreement, 1956

The Gentlemen’s Agreement was meant to give assurances to the people of the Telangana region in terms of power sharing, domicile rules for reservation in public employment, education and distribution of expenses of various regions. The Gentlemen’s Agreement was executed by the following leaders belonging to both the regions:

• Andhra Region	• Telangana Region
• B. Gopala Reddy Chief Minister, Andhra State	• B. Rama Krishna Rao Chief Minister, Hyderabad State
• N. Sanjeeva Reddy	• K.V. Ranga Reddy
• G. Latchanna	• M. Chenna Reddy
• Alluri Satyanarayana Raju	• J.V. Narsinga Rao

POWER SHARING, DOMICILE RULES FOR RESERVATION IN PUBLIC EMPLOYMENT, EDUCATION AND DISTRIBUTION OF EXPENSES OF VARIOUS REGIONS WERE THE PRINCIPAL PILLARS OF THE GENTLEMEN’S AGREEMENT.

Some of the key features of the Gentlemen’s Agreement were as follows:

- One single legislative assembly to be the law making body for the entire state of Andhra Pradesh. The Governor of the state to be advised by the council of ministers, responsible to the assembly, for the administration of the entire state.
- The Telangana region to be treated as one region for certain specified matters.
- Formation of a Regional Standing Committee (“**Regional Committee**”) for the Telangana region consisting of the members of the state legislative assembly. Legislation regarding certain specified matters¹⁰ to be referred to the Regional Committee.

¹⁰ Development and economic planning within the framework of development plans of the state, local self government, public health and sanitation, local hospitals, primary and secondary education, regulation of admission to the Telangana region, sale of agricultural lands, cottage and small scale industries, agriculture, cooperative societies, markets and fairs.

For the specified matters, proposals could also be put forth by the Regional Committee.

- The State Government would generally accept the advice of the Regional Committee and in case of difference in opinion, the decision of the Governor would be final and binding.
- **For a temporary period of 5 years the Telangana region was to be considered as a unit for recruitment to sub-ordinate services. The positions were to be reserved for those people who satisfied the domicile conditions specified in the Mulki Rules.**
- The expenditure for the administration of the new state to be borne proportionately by the Andhra and Telangana regions. Any balance of income to be reserved for the development of the Telangana region. The State Government could make budgetary allocations in accordance with the terms of this agreement.
- The existing educational facilities to be reserved for students from the Telangana region. Every effort to be undertaken to improve the existing educational facilities in the Telangana region.
- The State Cabinet to consist of Ministers in the proportion of 60:40 for the Andhra and Telangana regions respectively. If the chief minister was from one region then the deputy chief minister should belong to the other region. Two out of the following five portfolios should go to Telangana – (a) Home (b) Finance (c) Revenue (d) Planning & Development, and (e) Commerce & Industry.

The Gentlemen's Agreement was agreed upon by the senior leaders of both the regions with a view to allay the fears of the people of the Telangana region and to reserve for them the benefit of securing employment on the basis of their residence. A temporary provision of five years was made whereby the Telangana region was considered as a unit as far as recruitment to subordinate services was concerned. This was reserved for people who could satisfy the domicile conditions (Mulki Rules) enshrined in the already existing Hyderabad Civil Service Regulations.

At this stage it must be mentioned that the Government of India played a positive role in giving statutory recognition to some of

the terms of the Agreement. The Parliament gave statutory recognition to the terms of the Gentlemen's Agreement by making the necessary Constitutional amendment in Article 371¹¹ of the Constitution, providing for the constitution of the **Telangana Regional Committee**. The Constitution (Seventh Amendment) Act, 1956, inter alia, substituted a new Article 371, the relevant part of which reads:

371. Special Provision with respect to the States of Andhra Pradesh, Punjab and Bombay.- (1) Notwithstanding anything in this Constitution, the President may, by order made with respect to the State of Andhra Pradesh.....provide for the constitution and functions of regional committees of the Legislative Assembly of the State, for the modifications to be made in the rules of business of the Government and in the rules of procedure of the Legislative Assembly of the State and for any special responsibility of the Governor in order to secure the proper functioning of the regional committees

The Government of India also enacted the Public Employment (Requirement as to Residence) Act, 1957 and the Public Employment (Requirement as to Residence) Rules, 1959, in pursuance of Article(s) 16(3) and 35(a) of the Constitution. This Act further reinforced and reiterated the requirement of fulfilling the residence criterion for securing public employment. The Act and the Rules came into force on March 21, 1959.

2.3 The Public Employment (Requirement as to Residence) Act, 1957 and the Public Employment (Requirement as to Residence) Rules, 1959

Article 16 of the Constitution of India (as stated herein below) provides for equality of opportunity for all citizens in the matters of employment or appointment to any office under the State¹². Sub-clause (2) of the Article specifically prohibits any discrimination on the grounds of sex, religion, race, caste, descent, place of birth, residence or any of them. The primary intention of the lawmakers was to make every office or employment open and available to every citizen of India and also to make offices or employment in one part of India open to citizens in all other parts of India. However, sub-clause (3) then makes an exception. This clause enables the Parliament to make a law in a special case prescribing any requirement as to residence within a State or

¹¹ The Constitution (Seventh Amendment) Act, 1956.

¹² Definition of "State" as per Article 12 of the Constitution.

THE CONSTITUTION (7TH AMENDMENT) ACT, 1956 ENACTED TO INSERT ARTICLE 371(1), PROVIDING FOR THE CONSTITUTION OF TELANGANA REGIONAL COMMITTEE.

THE PUBLIC EMPLOYMENT (REQUIREMENT AS TO RESIDENCE) ACT, 1957 AND THE PUBLIC EMPLOYMENT (REQUIREMENT AS TO RESIDENCE) RULES, 1959 ENACTED BY THE GOVERNMENT OF INDIA TO REINFORCE AND REITERATE THE REQUIREMENT OF FULFILLING THE RESIDENCE CRITERION FOR SECURING PUBLIC EMPLOYMENT.

ARTICLE 16(3) OF THE CONSTITUTION ENABLES THE PARLIAMENT TO MAKE A LAW PRESCRIBING ANY REQUIREMENT AS TO RESIDENCE WITHIN A STATE.

Union Territory, as a pre-condition of employment in that State or Union Territory, prior to such employment or appointment.

“Article 16 - Equality of opportunity in matters of public employment

1. There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.
2. No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.
3. Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory prior to such employment or appointment...”

Article 35 (a) of the Constitution confers the power to create residential qualification for employment exclusively upon the Parliament and denies it to the Legislatures of the States. In exercise of the powers conferred upon Parliament by virtue of Article(s) 16(3) and 35(a) of the Constitution, the Public Employment (Requirement as to Residence) Act, 1957 and the Public Employment (Requirement as to Residence) Rules, 1959 (hereinafter, collectively referred to as the “Act”) were enacted. The Act (and the Rules) came into force on March 21, 1959. The Act provided for special provisions for requirement as to residence in regard to certain classes of public employment in certain areas and to repeal the existing laws prescribing any such requirement. The relevant sections of the Act are section(s) 2 and 3 which are reproduced as follows:

“2. Repeal of existing laws prescribing requirements as to residence.

Upon the commencement of this Act, any law then in force in any State or Union Territory by virtue of clause (b) of article 35 of the Constitution prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other

ARTICLE 35 (A) OF THE CONSTITUTION CONFERS THE POWER TO CREATE RESIDENTIAL QUALIFICATION FOR EMPLOYMENT EXCLUSIVELY UPON THE PARLIAMENT AND DENIES IT TO THE LEGISLATURES OF THE STATES.

SECTION 2 OF THE PUBLIC EMPLOYMENT ACT, 1957 REPEALED THE EXISTING LAWS PRESCRIBING REQUIREMENTS AS TO RESIDENCE.

authority within, that State or Union territory, any requirement as to residence therein prior to such employment or appointment shall cease to have effect and is hereby repealed.

3. Power to make rules in respect of certain classes of public employment in certain areas.

(1) The Central Government may, by notification in the Official Gazette, make rules prescribing, in regard to appointments to-

(a) Any subordinate service or post under the State Government of Andhra Pradesh, or

(b) ...

(c) Any service or post under a local or other authority (other than a cantonment board) within the Telangana area of Andhra Pradesh or within the Union territory of Himachal Pradesh, Manipur or Tripura,

any requirement as to residence within the Telangana area or the said Union Territory, as the case may be, prior to such appointment.

(2) In this section.-

(a) "Subordinate service or post" means any service or post appointments to which are not notified in the Official Gazette but includes any service of tehsildars;

(b) "Telangana area" comprises all the territories specified in sub-section (1) of section 3 of the States Reorganisation Act, 1956 (37 of 1956)."

Rule 3 of the Public Employment (Requirement as to Residence) Rules, 1959 provided as follows:

"3. Requirement as to residence prior to appointment:

A person shall not be eligible for appointment to a post within the Telangana area under the state government of Andhra Pradesh or to a post under a local authority (other than a cantonment board) in the said area unless -

SECTION 3 OF THE PUBLIC EMPLOYMENT ACT, 1957 GRANTED THE POWER TO MAKE RULES IN RESPECT OF ANY REQUIREMENT AS TO RESIDENCE WITHIN THE TELANGANA AREA.

RULE 3 OF THE PUBLIC EMPLOYMENT RULES, 1959, LAYS DOWN THE 15 YEARS RESIDENCE REQUIREMENT FOR PUBLIC EMPLOYMENT IN TELANAGANA.

- (i) he has been continuously residing within the said area for a period of not less than fifteen years immediately preceding the prescribed date; and
- (ii) he produces before the appointing authority concerned, if so required by it, a certificate of eligibility granted under these rules;

Provided that in relation to posts in the Secretariat Departments and the offices of the Heads of Departments of the State Government of Andhra Pradesh situated in the cities of Hyderabad and Secundrabad, the requirement as to residence laid down in this rule shall apply to the filling of only the second vacancy in every unit of three vacancies which are to be filled by direct recruitment;

Provided further that any period of temporary absence from Telangana area for the purpose of prosecuting his studies or for undergoing medical treatment or any period of such temporary absence not exceeding three months for any other reason shall not be deemed to constitute a break in the continuity of such residence, but for purpose of calculating the said period of fifteen years any such period of temporary absence shall be excluded.”

Section 2 and Section 3 of the Act, in their combined operation, had, in a way, a very funny effect. It is not mentioned in the Act specifically but Section 2 of the Act had the effect of repealing the Mulki Rules that were in operation due to Article 35(b) of the Constitution. When the Act came into force in March 1959, Mulki Rules got automatically repealed. However, Section 3 of the Act (along with Rule 3 of the Rules) brought back the same requirement as to residence (of 15 years) that was enshrined in the Mulki Rules. Section 3 and all rules made thereunder were to remain in operation for 15 years, that is, till March, 1974. However, Section 3 [along with Rule 3 of the Public Employment (Requirement as to Residence) Rules, 1959] and section 2 of the Public Employment (Requirement as to Residence) Act, 1957, later became the subject matters of two judgments by the Andhra Pradesh High Court (Full Benches) and two judgments by the Supreme Court of India, between the years 1969 and 1972. These issues may have provided impetus to two opposing political agitations, namely the ‘Jai Telangana’ agitation of 1969 and the ‘Jai Andhra’ agitation of 1972.

WHEN THE ACT CAME INTO FORCE IN MARCH 1959, MULKI RULES GOT AUTOMATICALLY REPEALED. HOWEVER, SECTION 3 OF THE ACT (ALONG WITH RULE 3 OF THE RULES) BROUGHT BACK THE SAME REQUIREMENT AS TO RESIDENCE (OF 15 YEARS) THAT WAS ENSHRINED IN THE MULKI RULES.

2.4 The 'Jai Telangana' Movement

The requirement as to residence for securing public employment in the Telangana region, put in place by the Public Employment (Requirement as to Residence) Act, 1957, remained largely on paper. People from Telangana alleged that the terms of the Gentlemen's Agreement and the Public Employment (Requirement as to Residence) Act, 1957, were blatantly flouted by the State Government. One of the main causes of their dissatisfaction was that a large number of persons from the Andhra region were appointed to posts in Telangana on the pretext that qualified personnel from Telangana were not available. It was also alleged that surplus funds collected, in the form of taxes, from the Telangana region were utilized for the development of the Andhra region. This led to a political agitation of 1968-69 called the "Jai Telangana" Movement. Though the movement was started by the students of the Osmania University, soon enough it spread to other regions too. Government employees and opposition members of the State Legislative Assembly threatened to support the students by observing strikes. There were protests all over the region and people from all walks of life joined the movement. On January 22, 1969 the agitation became extremely violent resulting in huge damage to public property. In order to diffuse the situation the State government announced that Andhra personnel in the Telangana region would be repatriated by February 28, 1969. However, this effort of the government failed to generate the desired results as it was challenged before the Supreme Court. The demand for a separate Telangana state gained further momentum.

2.5 The Supreme Court Order of 1969 and the Premature End of Section 3 of the Public Employment (Requirement as to Residence) Act, 1957.

At the time when the Jai Telangana movement was at its peak, the leaders of all the political parties in the Andhra Pradesh State Legislative Assembly met on January 19, 1969 and agreed to implement the 'Telangana Safeguards' which were as follows:

- All non-domicile persons, who have been appointed either directly, by promotion or by transfer to posts reserved under the Andhra Pradesh Public employment (Requirement to Residence) Rules, 1959 for domiciles of Telangana region will be immediately relieved from service. The posts so rendered vacant will be filled by

THE STEPS TAKEN SO FAR TO ADDRESS THE CONCERNS RELATING TO SECURING PUBLIC EMPLOYMENT IN THE TELANGANA REGION REMAINED LARGELY ON PAPER.

qualified candidates possessing domicile qualifications and in cases where such candidates are not available the posts shall be left unfilled till qualified domicile candidates become available. Action on the above lines will be taken immediately.

- All non-domicile employees so relieved shall be provided employment in the Andhra region without break in service and by creating supernumerary posts, if necessary.

In order to give effect to the above safeguards, the Government of Andhra Pradesh passed an order¹³ on January 21, 1969 whereby all non-domicile persons appointed on or after November 1, 1956 to certain categories of posts reserved for the domiciles of Telangana under the Andhra Pradesh Public Employment (Requirement as to Residence) Rules, 1959, were to be relieved before February 28, 1969. All the affected persons were to be employed in the Andhra region without break in the service by creating supernumerary posts, if necessary. These supernumerary posts were to be treated as temporary addition to the strength of the office concerned and were to be adjusted against future vacancies in corresponding posts as they arose. This action of the State Government was based upon Section 3 of the Public Employment (Requirement as to Residence) Act, 1957¹⁴. The order of the State Government, dated January 21, 1969, was challenged by a few persons¹⁵ employed between December 27, 1956 and July 4, 1968 in the ministerial services of the Andhra Pradesh Government and working in various offices located in the cities of Hyderabad and Secundrabad. The petitioners filed a writ petition in the Supreme Court challenging the Act, the Rules and the proposed action of the State Government as ultra vires of the Constitution. **The Supreme Court after analysing the relevant provisions of the Constitution and the Act granted injunction on the Andhra Government order of relieving non-domicile employees employed in the Telangana region by February 28, 1969 and further declared that the Section 3 of the Public Employment (Requirement as to Residence) Act, 1957, in so far as it related to Telangana and Rule 3 of the Rules under it were ultra vires of the Constitution. The Supreme Court based its judgment on the argument that the Parliament, in exercise of**

ORDER BY GOVERNMENT OF ANDHRA PRADESH DATED JANUARY 21, 1969, TO REPATRIATE ALL NON-DOMICILE EMPLOYEES OF TELANGANA BY FEBRUARY 28, 1969.

THE ABOVE ORDER CHALLENGED BEFORE THE SUPREME COURT.

THE SUPREME COURT, ON 28.03.1969, DECLARED SECTION 3 OF THE PUBLIC EMPLOYMENT (REQUIREMENT AS TO RESIDENCE) ACT, 1957 AND RULE 3 OF THE RULES UNDER IT ULTRA VIRES OF THE CONSTITUTION, IN SO FAR AS THEY RELATED TO TELANGANA. THE 15 YEARS RESIDENCE REQUIREMENT GETS EXTINGUISHED.

¹³ G.O.Ms.36, G.A. (SR) Dept.

¹⁴ As discussed in Section 2.3 of this Chapter 2.

¹⁵ A.V.S. Narasimha Rao and Others v. the State of Andhra Pradesh, AIR 1970 SC 422.

its powers under Article(s) 35(a) and 16(3) of the Constitution, could make laws with regard to residential qualifications for the whole 'State' but not for 'parts' of the State.

The Supreme Court order, dated 28.03.1969, brought to a premature end Section 3 of the Public Employment (requirement as to Residence) Act, 1957, in so far as it related to Telangana, and Rule 3 of the Rules, which would have otherwise continued till March, 1974. It is pertinent to note that at this point in time, there existed no constitutional/legal safeguards for the residents of the Telangana region in the matter of reservation in public employment. Section 2 of the Act had automatically repealed the Mulki Rules in March, 1959, when the Act had come into operation. Now, the requirement as to residence put in place by Section 3 of the Act and Rule 3 of the Rules, had also been extinguished by the judgment of the Supreme Court. But the story did not end here. Now the question arose as to how could no safeguards prescribing residential qualification exist? This issue was examined in a series of topsy-turvy court judgments, at the end of which the Mulki Rules made a re-entry. This has been described later in 2.8.

AT THIS POINT IN TIME, THERE EXISTED NO CONSTITUTIONAL/ LEGAL SAFEGUARDS FOR THE RESIDENTS OF THE TELANGANA REGION IN THE MATTER OF RESERVATION IN PUBLIC EMPLOYMENT.

In view of the on-going movement of the Telangana people and the Supreme Court judgment declaring Section 3 of the Public Employment (Requirement as to Residence) Act, 1957, ultra- vires, the situation in Andhra Pradesh became extremely volatile. To resolve the situation, the then Prime Minister Indira Gandhi announced the 8-Point Programme in the Lok Sabha on April 11, 1969, to address the grievances of the Telangana people.

2.6 The Eight Point Programme of 1969

The 8-Point Programme proposed to develop education and employment opportunities in the Telangana region and constitute plan implementation committees including a high powered Telangana Development Committee under the chairmanship of the Chief Minister to periodically review the Telangana development programme. Point VI of the Programme, which is relevant here, stated - **“The possibility of providing for appropriate Constitutional safeguards in the matter of public employment in favour of people belonging to the Telangana region will be examined by the Government of India in consultation with a committee of Jurists¹⁶.”** In consonance with

¹⁶ Point VI of the 8-Point Formula.

this announcement, the Centre announced the appointment of two Committees:

- Committee of Jurists under former Justice K.N. Wanchoo to suggest measures for providing Constitutional safeguards for the people of the Telangana region in the matter of public employment; and
- Committee under Justice Bhargava to assess the revenue surpluses of Telangana.

However, the 8-Point Programme found no takers and receded into oblivion, without being implemented. The agitation continued for sometime causing disruption in the State. However, normalcy gradually returned to the State as the agitation lost momentum.

2.7 The Five Point Formula of 1972

After the failure of the 8-Point Programme, the Government proposed the 5-Point Formula of 1972. The key points of this formula with respect to reservation in public employment were:

- The residential qualification in the Mulki Rules will apply only for the purposes of recruitment to non-gazetted posts and posts of Tahsildars and Civil Assistant Surgeons in the Telangana region. It will also apply to such posts that were non-gazetted on November 1, 1956 but have since been made gazetted. However, in the case of composite offices such as Secretariat, the offices of the Heads of Departments and common institutions of the State Government, these rules will apply for filling the second vacancy in every unit of three direct recruitment vacancies in the non-gazetted posts.
- In order to provide adequate avenues of promotion to the Government employees working in each of the two regions, various service cadres to be regionalized up to the first or second gazetted level.

However, this Formula too was delivered still-born and failed to address the concerns of the people of the Telangana region.

THE 8-POINT PROGRAMME
FOUND NO TAKERS AND
RECEDED INTO OBLIVION,
WITHOUT BEING IMPLEMENTED.

THE 5-POINT FORMULA, TOO,
WAS DELIVERED STILL-BORN.

2.8 Mulki Rules – Now You See Them....Now You Don't! Two Full Bench A.P. High Court Orders dated 09.12.1970 and 18.02.1972, Supreme Court Order dated 03.10.1972 and the Revival of Mulki Rules.

As stated earlier in 2.5 above, the Supreme Court order dated 28.03.1969, which declared Section 3 of the Public Employment (Requirement as to Residence) Act, 1957, and Rule 3 of the Rules as ultra-vires, extinguished the 15 years' requirement as to residence. The Mulki Rules already stood repealed as a result of the operation of Section 2 of the Public Employment (Requirement as to Residence) Act, 1957, since March 1959. So, did it mean that no safeguard (of residential qualification) existed for the people of the Telangana region? This issue first became the subject matter of a number of writ petitions in the Andhra Pradesh High Court and was later raised in the Supreme Court. Interestingly, two Full Benches of the Andhra Pradesh High Court reached diametrically opposite conclusions in their respective orders, which might have created some uncertainty at that time. Finally, the Supreme Court settled the issue in its order dated 03.10.1972.

The first Full Bench High Court order, delivered on 09.12.1970, in the case of P. Lakshmana Rao Vs. State of Andhra Pradesh and others, described the issues very clearly thus: "In all these Writ Petitions, two questions of some importance are raised. The first question is whether as a result of the Supreme Court decision in A.V.S.N. Rao v. State of Andhra Pradesh, striking down Section 3 and Rule 3 made thereunder as unconstitutional, Section 2 of the Public Employment (Requirement as to Residence) Act, 1957, survives and consequently the Mulki Rules which were repealed by virtue of Section 2 continue to be repealed. Secondly, if Section 2 of the Public Employment Act is found not to be surviving after Section 3 has been found to be void, whether Mulki Rules ceased to be effective after the formation of the Andhra Pradesh State on 1.11.1956 or thereafter."

The Full Bench judgment argued that Parliament would not have ever intended to enact Section 2 alone. It was difficult to hold, the judgment noted, that Parliament could have merely intended to repeal the Mulki Rules without in any way replacing them by a re-enacted law. That was what was done when it enacted the Public Employment Act. The Full Bench said that all the sections of the Act were clearly dependent on each other and that the valid part of the Act, i.e, Section 2 could

not be separated from the invalid part of the Act, i.e, Section 3. The Act as a whole, therefore, had to be necessarily held invalid. Thus what the High Court held was that Section 2 of the Act was also invalid and in the absence of Section 2 the Mulki Rules would be deemed to have been not repealed and would continue to be in force as if the Public Employment Act had not been enacted at all. In addition, while confirming that the Mulki Rules were saved by Article 35(b) when the Constitution of India took effect, the High Court also held that the Mulki Rules continued to be in force after 1.11.1956 (the formation of the State of Andhra Pradesh) by virtue of Section 119 of the States Re-organisation Act.

The same issues came up before the Andhra Pradesh High Court in Writ Appeal no. 633 of 1970. This time the Full Bench of the High Court, in its order dated February 18, 1972, took a view diametrically opposite to that taken by the earlier Full Bench in P. Lakshmana Rao Vs. State of Andhra Pradesh. This Full Bench, by majority, held that “the Mulki Rules are not valid and operative after the formation of the State of Andhra Pradesh. In any event, they do not revive and cannot be deemed to be valid and operative in view of the decision of the Supreme Court in A.V.S. Narsimha Rao’s case. The Full Bench decision in P. Lakshmana Rao’s case is thus overruled.”

This judgment of the High Court came as a shock to the people of the Telangana region. There was outrage in the State that compelled the State Government to prefer an appeal in the Supreme Court against the ruling of the Andhra Pradesh High Court. The Supreme Court in Civil Appeal No. 993 of 1972 in the matter of “*the Director of Industries & Commerce, Government of Andhra Pradesh, Hyderabad and Another v. V. Venkata Reddy and Others*¹⁷” examined the relevant provisions of the Constitution and the Public Employment (Requirement as to Residence) Act, 1957 and reached exactly the same conclusions as those reached by the High Court Full Bench in P. Lakshmana Rao’s case. The Supreme Court set aside the judgment of the High Court Full Bench dated February 18, 1972 and held that Section 2 of the Public Employment (Requirement as to Residence) Act, 1957, was also bad insofar as it dealt with the Telangana region. By holding Section 2 of the Act (which had the effect of repealing the Mulki Rules) as bad, the Supreme Court in effect held that the Mulki Rules were valid and continued to be in force even after the enactment of the Public

¹⁷ AIR 1973 SC 827.

A FULL BENCH OF THE A.P. HIGH COURT RULED ON 09.12.1970 THAT SECTION 2 OF THE PUBLIC EMPLOYMENT ACT, 1957, WAS ALSO INVALID AND, THEREFORE, THE MULKI RULES WOULD BE DEEMED TO HAVE BEEN NOT REPEALED.

ANOTHER A.P. HIGH COURT FULL BENCH RULED ON 18.02.1970 THAT THE MULKI RULES CAN NOT BE REVIVED AND ARE NOT VALID AND OPERATIVE AFTER THE FORMATION OF THE STATE OF ANDHRA PRADESH.

THE SUPREME COURT BY ITS ORDER DATED 03.12.1972 SET ASIDE THE A.P. FULL BENCH HIGH COURT ORDER DATED 18.02.1972, CONFIRMED THE A.P. FULL BENCH HIGH COURT ORDER DATED 09.12.1970 AND STRUCK DOWN SECTION 2 OF THE PUBLIC EMPLOYMENT ACT. THE MULKI RULES DEEMED TO BE VALID EVEN AFTER THE ENACTMENT OF THE PUBLIC EMPLOYMENT ACT.

Employment (Requirement as to Residence) Act, 1957. However, the Apex Court did not delve into the ‘interpretation and applicability’ of the Mulki Rules as these questions were not raised before it.

This judgment of the Supreme Court, it is believed, led to the – (a) enactment of the Mulki Rules Act, 1972; and (b) start of the “Jai Andhra” movement for a separate state of Andhra by the people of the Andhra region.

2.9 The Mulki Rules Act, 1972

The Supreme Court judgment validating the continuance of the Mulki Rules is believed to have created a political crisis in the State and provided the people of the Andhra region with their own cause of dissatisfaction. At this point in time it does appear that their dissatisfaction was rather irrational. After all, the residential qualification of 15 years of residence in the Telangana region for securing public employment in that region had always existed, first through the Mulki Rules (as adapted/amended in 1950) and thereafter through the Public Employment (Requirement as to Residence) Act, 1957. The Supreme Court order dated 3.10.1972 merely re-introduced the same 15 years’ residential qualification (by reviving the Mulki Rules) that had been extinguished by the Supreme Court order dated 28.03.1969 (by declaring Section 3 of the Public Employment Act ultra-vires). To me, it remains a mystery as to why the Government of India felt the need to amend the Mulki Rules and restrict their applicability when all that the Supreme Court had done was to continue the essential residential qualification that the Government of India itself had put in place. Nevertheless, the un-official explanation is that the Government of India, realizing the intensity of the feelings of the people of both the Andhra and Telangana regions, tried to affect a compromise and enacted the Mulki Rules Act, 1972, amending the revived Mulki Rules.

The Act received the President’s assent on December 30, 1972 and provided for – (a) amendments to the Mulki Rules to limit their operations; (b) validation of certain appointments; and (c) repeal of the said Rules in a phased manner.¹⁸ Section 3 (1) and (2) limited the applicability of the Mulki Rules, from retrospective effect (1.11.1956) to certain specified posts only. Section 6 laid down that Mulki Rules shall continue in the twin cities of

¹⁸ As per the Preamble to the Act.

THE SUPREME COURT ORDER DATED 3.10.1972 HAD THE EFFECT OF CONFIRMING THE 15 YEARS’ RESIDENTIAL QUALIFICATION (BY REVIVING THE MULKI RULES) THAT HAD BEEN EXTINGUISHED BY THE SUPREME COURT ORDER DATED 28.03.1969.

Hyderabad-Secunderabad till 31.12.1977. Section 7 laid down that the Mulki Rules shall continue in the Telangana area, excluding the twin cities, till 31.12.1980. **However, the most vital sections of the Act are Section 3(3) and Section 4. Section 3(3) says that during the period 1.11.1956 to 30.12.1972, if any appointments were made to the non-specified posts in violation of the Mulki Rules, then such appointments will not be deemed to be illegal or void. Further, Section 4 says that during the period 1.11.1956 to 30.12.1972, the applicability of the Mulki Rules, even to the specified posts, will be deemed to be only directional in nature, and not mandatory. Therefore, any appointments made, between 1.11.1956 and 30.12.1972, in violation of the Mulki Rules, even to the specified posts will not be deemed to be illegal or void. This aspect of the Act has been discussed later in Chapter III.**

THE MOST VITAL SECTIONS OF THE MULKI RULES ACT, 1972 ARE SECTIONS 3(3) AND 4 WHICH PROVIDED LEGAL IMMUNITY TO ALL ACTS DONE IN VIOLATION OF THE MULKI RULES.

2.10 The 'Jai Andhra' Movement of 1972

The Mulki Rules Act, 1972, proved to be a poor compromise. If the Government of India thought that the provisions of the Act would appease the people of the Andhra region then its expectations were not met by their reactions. It is said that the people of the Andhra region wanted an immediate abolition of the Mulki Rules and were extremely dissatisfied with the wishy-washy approach of the Mulki Rules Act, 1972. They felt that the only way to safeguard their dignity was by severing their ties with Telangana by demanding a separate Andhra State. The resultant political agitation is known as the 'Jai Andhra' movement. This movement completely paralysed the State administration and compelled the then Chief Minister of Andhra Pradesh to resign. President's Rule was imposed on the State on January 18, 1973.

Since the Supreme Court in its order on the validity of the Mulki Rules did not express its opinion on the definition and applicability of the Mulki Rules, a series of cases came before the Andhra Pradesh High Court on this issue. Shri P. R. Rao in his book 'History and Culture of Andhra Pradesh' writes about two Andhra Pradesh High Court orders dated February 16th 1973 and July 11th 1973 respectively which gave rulings on issues related to the definition and applicability of the Mulki Rules. These judgments are not being referred to in detail as it has not been possible to access them.

There comes a time in the life of most political agitations when they lose momentum due to a host of factors – confusion regarding the main issues, confusion regarding the objectives of

the agitation, continuous whittling away of popular support due to lapse of time etc. It appears that at this stage both the Telangana and Andhra movements also lost momentum due to these factors. People wanted an end to political instability and the leaders of both the regions wanted a face-saving formula to call off the agitations. The way was thus paved for the discussion of the political leaders of both regions with the Central Government and for the announcement of the 6-Point Formula (“SPF”) through two statements on September 21, 1973 and October 22, 1973.

2.11 The 6-Point Formula

The SPF was accepted by the Andhra Congress Action Committee on October 1, 1973, and it gave up its demand for a separate state of Andhra. The key six points were as follows:

- Constitution of a Planning Board at State level as well as Sub-Committees for different backward areas;
- Preference to local candidates in admission to educational institutions and establishment of a new Central University in Hyderabad;
- **Preference to specified extent to local candidates in direct recruitment to specified posts under the State Government and organization of local cadres;**
- Constitution of Administrative Tribunal;
- Amendment of the Constitution to confer enabling powers on the President; and
- **The above approach would render the continuance of the Mulki Rules and the Regional Committee unnecessary.**

Point number 5 resulted in the Constitution (Thirty Second Amendment) Act, 1973, under which the Andhra Pradesh Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, more commonly known as the Presidential Order was issued as G.S.R. 524 (E) dated October 18, 1975. Point number 3 in the SPF formed the basis for the contents of the Presidential order.

In regard to public employment, the basic approach of the SPF was that people from different areas should have equitable employment and career prospects. The concepts of local candidates and local areas were considered to be interrelated because the SPF proposed to identify local candidates with

reference to a local area. In order to specify a local area, a district was to be construed as the lowest level. The SPF aimed to divide the State into five or six divisions with the twin cities of Hyderabad and Secundrabad including the cantonment being constituted into a separate division. The definition of a local candidate was proposed to be linked either with the area of residence of a person or the area where the person had studied to attain the qualification that qualified him for the relevant post.

2.12 The Mulki Rules Repeal Act, 1973

As agreed by political leaders under the SPF, the Mulki Rules Act, 1972, was repealed by the Mulki Rules Repeal Act, 1973, which received the President's assent on December 28, 1973. Finally, the Mulki Rules were dead.

2.13 The Constitution (Thirty-Second Amendment) Act, 1973.

In order to provide a valid constitutional basis to the SPF, the Constitution was amended by enacting the Constitution (Thirty-Second Amendment) Act, 1973, which became effective from July 1, 1974. The Amendment Act –

- (a) Amended article 371 of the Constitution by deleting clause (1) of article 371. It may be remembered here that clause (1) of article 371 had been added by the Constitution (Seventh Amendment) Act, 1957, to provide for the constitution of the Telangana Regional Committee, after the Gentlemen's Agreement of 1956. Having reached an understanding that the Regional Committee was no longer necessary, this clause was now deleted.
- (b) Inserted a new article 371-D incorporating the other points of the Six Point Formula.

2.14 Article 371-D

Article 371-D contains ten clauses. Clause (1) empowers the President to issue order(s) providing for equitable opportunities and facilities for people belonging to different parts of the State of Andhra Pradesh with respect to matters relating to public employment and education. Clause (2) lays down the aspects that may form the content of the Order(s) issued under clause (1). Clauses (3) to (9) deal with matters relating to the constitution and functioning of an Administrative Tribunal. **However, clause (9) is the most important clause of this article.**

THE MULKI RULES FINALLY CAME TO A FORMAL END WITH THE MULKI RULES REPEAL ACT, 1973.

ARTICLE 371(1), PROVIDING FOR THE CONSTITUTION OF THE TELANGANA REGIONAL COMMITTEE, DELETED BY THE CONSTITUTION (32ND AMENDMENT) ACT, 1973.

A NEW ARTICLE 371-D INSERTED.

It provides immunity to any appointment, posting, promotion or transfer made in violation of any law, then in force, providing for any requirement as to residence (read Mulki rules) in respect of such appointment, posting, promotion or transfer.

CLAUSE (9) OF ARTICLE 371-D PROVIDED CONSTITUTIONAL IMMUNITY TO ANY APPOINTMENT, POSTING, PROMOTION OR TRANSFER MADE IN VIOLATION OF ANY LAW PROVIDING RESIDENTIAL QUALIFICATION (READ MULKI RULES).

2.15 Presidential Order

Pursuant to the insertion of the Article 371-D in the Constitution, the Government of India issued “the Andhra Pradesh Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975 (**‘Presidential Order’**)” which was initially issued by Government of India Notification No. G.S.R. 524(E), dated October 18, 1975. The Presidential Order was reproduced by the Government of Andhra Pradesh vide G.O. Ms. No. 674 of October 20, 1975 and came into force at once.

The Presidential Order divided the State of Andhra Pradesh into six zones for the purposes of implementing the rules of employment in local areas¹⁹. The six zones are as follows:

¹⁹ Second Schedule of G.O.Ms. 674, dated October 20, 1975.

Zones	Local Area
Zone I	Srikakulam, Vizianagaram (1 st June, 1979) and Visakhapatnam Districts
Zone II	East Godavari, West Godavari and Krishna Districts
Zone III	Guntur, Prakasam and Nellore Districts
Zone IV	Chittoor, Cuddapah, Ananthapur and Kurnool Districts
Zone V	Adilabad, Karimnagar, Warangal and Khammam Districts
Zone VI	Hyderabad, Rangareddy (15 th August, 1978) Nizamabad, Mahboobnagar, Medak and Nalgonda Districts

Additionally, the Presidential Order also declared the city of Hyderabad as a local area for certain specified posts. Essentially, the Presidential Order provided the procedures for:

- Organization of local cadres comprising Government posts in different part of the State²⁰ – the State Government was required to organize within 27 months from the date of commencement of the Presidential Order, classes of posts in the civil services of and classes of civil posts under the State into local cadres for different parts of the State to the extent provided in the Order;
- Principles and procedures for allotment of persons to different local cadres²¹;
- Local cadre and transfer of persons from one local cadre to another and also from any local cadre to any office or establishment to which the Presidential Order does not apply or vice-versa²²;
- Specification of local areas relatable to each such local cadre²³;
- Specification of who should be considered a local candidate in relation to each local area²⁴; and
- Reservations with respect to direct recruitment in favour of local candidates of the local area relatable to such cadre²⁵.

The primary features of the Presidential Order are as follows:

²⁰ Section 3 (Organization of Local Cadres) of the Presidential Order.

²¹ Section 4 (Allotment of Persons) of the Presidential Order.

²² Section 5 (Local Cadres and Transfer of Persons) of the Presidential Order.

²³ Section 6 (Local Areas) of the Presidential Order.

²⁴ Section 7 (local Candidate) of the Presidential Order.

²⁵ Section 8 (Reservation in the matter of Direct Recruitment) of the Presidential Order.

- It primarily applies to all non-gazetted categories, unless specifically exempted. However, it also applies to certain specific gazetted categories.
- It specifically excludes from its ambit the posts in the Secretariat, offices of Heads of Departments, State level offices and institutions, major development projects and special offices or establishments and post of police officer as defined in Section 3(b) of the Hyderabad City Police Act.
- The categories of posts were organized into different local cadres for different parts of the State as follows:
 - i. District cadres for the Lower Division Clerks and other categories of posts equivalent to or lower than it;
 - ii. Zonal cadres for the other non-gazetted categories and specified gazetted categories;
 - iii. Separate cadres for the city of Hyderabad for certain posts in specified departments as notified in the notification no. GSR 528E;
 - iv. Provision made for creation of 'multi-zonal cadres' by combining one or more zones, wherever considered necessary.
- The percentage of reservation in direct recruitment was based on the level of post and was as follows:
 - i. District cadre posts in the State Government and in local authorities, the scale of which does not exceed that of the Lower Division Clerk – 80%
 - ii. Zonal cadre posts under the State Government and in local authorities, the scale of which exceeds that of the Lower Division Clerk – 70%
 - iii. Local cadre posts in the categories of Tahsildars, Assistant Executive Engineers, Assistant Agricultural Officers, Police Inspectors, Motor Vehicle Inspectors and Civil Assistant Surgeons to be reserved for local candidates in relation to the local area in respect of such cadre – 60%
 - iv. Multi-zonal posts in favour of the local candidates – 60%/70%.

The Presidential Order required the State Government to constitute committees to advise on the allotment of persons to local cadres in respect of different departments and categories of posts. The State Government vide G.O.Ms. 784, dated November 24, 1975 constituted department-wise committees, consisting of four

members, for advising on allotment of persons to local cadres for posts of different categories.

The most critical aspect of the Presidential order is the definition of 'local candidate' as given in Para 7 of the Order, specifying conditions for being considered for direct recruitment in relation to a local area. The following parameters have been stated in the Presidential Order:

THE MOST CRITICAL ASPECT OF THE PRESIDENTIAL ORDER IS THE DEFINITION OF 'LOCAL CANDIDATE', AS GIVEN IN PARA 7.

Criteria for Recruitment	Conditions for Qualifying as a Local Candidate
Scenario 1. (a) Minimum Educational Qualification prescribed	<ul style="list-style-type: none"> • If he has studied in an educational institution(s) situated in the local area for not less than four consecutive academic years ending with the year in which the candidate appeared for the relevant qualifying examination or first appeared for the relevant qualifying examination. • However, if he has not studied in any educational institution(s) in that local area during these four years, then he would be considered a local candidate if he has resided in that local area during these four years.
Scenario 1. No Minimum Educational Qualification prescribed	<ul style="list-style-type: none"> • If he has resided in that local area for a period of at least four years immediately preceding the date on which the post is notified.
If a candidate does NOT fulfill the above conditions in Scenario 1 then the following shall apply -	

Criteria for Recruitment	Conditions for Qualifying as a Local Candidate
<p>Scenario 2.</p> <p>(a) Minimum educational qualifications prescribed</p>	<p>A. If he has studied in educational institutions in the State for not less than seven consecutive academic years ending with the academic year in which the candidate first appeared for the qualifying examination, then he will be treated as a local candidate for that local area:</p> <ul style="list-style-type: none"> • Where he has studied for the maximum period out of the said period of seven years. • In case he has studied in two or more local areas for equal number of years then such local area where he has studied last in such equal periods. <p>B. If during the whole or part of the seven consecutive academic years ending with the academic year in which the candidate first appeared for the relevant qualifying examination, the candidate has not studied in the educational institutions in any local area BUT has lived in the State for the entire seven consecutive years then such a candidate will be regarded as a local candidate for such local area-</p> <ul style="list-style-type: none"> • Where he has resided for a maximum period out of the said period of seven years. • In case he has resided in two or more local areas for equal number of years then such local area where he has resided last in such equal periods.
<p>Scenario 2.</p>	<p>If he has resided in the State for at</p>

Criteria for Recruitment	Conditions for Qualifying as a Local Candidate
(b) No minimum educational qualification prescribed	<p>least seven years immediately preceding the date on which the post is notified, then he would be regarded as a local candidate of</p> <ul style="list-style-type: none"> • Such local area where he has resided for the maximum period out of the said seven years; • In case he has resided in two or more local areas for equal number of years then such local area where he has resided last in such equal periods.

This definition of ‘local candidate’ is not only complicated but extremely porous. If a person does not fulfill a particular condition for being considered as a ‘local candidate’ in relation to a particular local area, then escape clauses have been provided to enable him to be considered as a ‘local candidate’ from another condition. In addition, a ‘State’ criterion has been merged with the ‘local area’ criterion. These domicile rules contained in Para 7 of the Presidential Order now replaced the requirement as to residence contained in the Mulki Rules and the Public Employment Act, 1957. This has been further discussed in Chapter III.

2.16 The Government Orders issued Post-Presidential Order: 1975 – 1985

Once the Presidential Order came into existence, a series of instructions were issued outlining the procedures to be followed for implementing the provisions of the Presidential Order. The various orders issued related to:

1. Procedure to be followed for further recruitment;
2. Guidelines for making inter-local cadre transfer;
3. Definition of local candidate;
4. Manner of selection of local candidate;
5. Regulation of promotions;
6. Formation of allotment committees for allotment of existing government employees into different local cadres;
7. Disposal of representations against allotment;
8. Notified list of major development projects, special offices or establishments, state level offices or

THIS DEFINITION OF ‘LOCAL CANDIDATE’ NOW BECAME THE NEW REQUIREMENT AS TO RESIDENCE.

THE DEFINITION IS EXTREMELY COMPLICATED AND POROUS.

AT LEAST 49 GOVERNMENT ORDERS/ INSTRUCTIONS ISSUED BETWEEN 1975 AND 1985 TO CLARIFY/ EXPLAIN/IMPLEMENT THE PRESIDENTIAL ORDER.

institutions, categories of posts for which separate cadres had to be organized for the City of Hyderabad and posts which would not be practicable or expedient to organize into local cadres.

Given below is a table enumerating the orders issued by various departments of the State Government to implement the provisions of the Presidential Order:

S. No.	Order No.	Subject
1.	G.O.P. No. 728. G.A.(SPF.A) Dept., dated 01-11-1975	The Andhra Pradesh Public Employment (Organisation of local cadres and Regulation of Direct Recruitment) Order, 1975 - Organisation of local cadres - Instructions - Issued.
2.	G.O.P. No. 729. G.A.(SPF.A) Dept., dated 01-11-1975	The Andhra Pradesh Public Employment (Organisation of local cadres and Regulation of Direct Recruitment) Order, 1975 – Regulation of Direct Recruitment - Instructions - Issued.
3.	G.O.Ms. No. 741 G.A.(SPF.A) Dept., dated 07-11-1975	Public Services-State and Sub-ordinate Services - Interim appointment under para 13 of the Andhra Pradesh Public Employment (Organisation of local Cadre Regulation of Direct Recruitment) Order, 1975 – Adhoc Rules - Issued.
4.	G.O.Ms. No. 763 G.A.(SPF.A) Dept., dated 15-11-1975	The Andhra Pradesh Public Employment (Organisation of local cadres and Regulation of Direct Recruitment) Order, 1975 – Manner of Selection of Local Candidate Procedure - Instructions - Issued.
5.	G.O.Ms. No. 730 G.A.(SPF.A) Dept., dated 01-11-1975	Public Services State and Sub-ordinate Services – Resumption of Direct Recruitment in the light of provisions in Andhra Pradesh Public Employment (Organisation of local cadres and regulation of Direct Recruitment) Order, 1975 - Order - Issued.
6.	G.O.Ms. No. 731 G.A.(SPF.A) Dept., dated 11-11-1975	Public Services State and Sub-ordinate Services – Regulation of promotion in the light of provision in Andhra Pradesh Public Employment (Organisation of Local Cadres and Regulation of Direct Recruitment) Order, 1975 - Order - Issued.
7.	G.O.Ms. No. 784 G.A.(SPF.A) Dept., dated 24-11-1975	The Andhra Pradesh Public Employment (Organisation of Local Cadres and Regulation of Direct Recruitment) Order, 1975 – Local Cadres – Allotment of persons – Committee - Constituted.

S. No.	Order No.	Subject
8.	G.O.Ms. No. 67 G.A.(SPF.A) Dept., dated 05-02-1977	Six Point Formula, The Andhra Pradesh Public Employment (Organisation of local cadres and Regulation of Direct Recruitment) Order, 1975 – Review of Promotion mode after the commencement of the Order – Instructions on the procedure issue.
9.	G.O.Ms. No. 168 G.A.(SPF.A) Dept., dated 10-03-1977	The Andhra Pradesh Public Employment (Organisation of local Cadres and Regulation of Direct Recruitment) Amendment Order, 1977 – Republication in A.P. Gazette - Ordered.
10.	G.O.Ms. No. 186 G.A.(SPF.A) Dept., dated 18-03-1977	The Andhra Pradesh Public Employment (Organisation of Local Cadres and Regulation of Direct Recruitment) Order, 1975 – Amended definition of Local Candidates - Instruction - Issued.
11.	G.O.Ms. No. 348 G.A.(SPF.A) Dept., dated 11-05-1977	Six Point Formula - The Andhra Pradesh Public Employment (Organisation of Local Cadres and Regulation of Direct Recruitment) Order, 1975 Organisation of Multizonal Cadres in pursuance of Paragraph 3 (5) of the Order - Approval of Government of India obtained - Orders - Issued.
12.	G.O.Ms. No. 374 G.A.(SPF.A) Dept., dated 20-05-1977	Six Point Formula - The Andhra Pradesh Public Employment (Organisation of Local Cadres and Regulations of Direct Recruitment) Order, 1975 – Inter Local Cadre transfers - Orders - Issued.
13.	U.O. Note No.994/ SPF.A,77/4 G.A.(SPF.A) Dept., dated 17-06-1977	The Andhra Pradesh Public Employment (Organisation of Local Cadres and Regulation of Direct Recruitment) Order, 1975 - Alterations of Units of appointing authority etc. in the Service Rules-Orders- Issued.
14.	G.O.Ms. No. 498 G.A.(SPF.A) Dept., dated 16-07-1977	The Andhra Pradesh Public Employment (Organisation of Local Cadres and Regulation of Direct Recruitment) Third Amendment Order, 1977 - Republication in the A.P. - Gazette – Ordered.
15.	G.O.Ms. No. 541 G.A.(SPF.A) Dept., dated 08-08-1977	Six Point Formula - The Andhra Pradesh Public Employment (Organisation of Local Cadres and Regulation of Direct Recruitment) Order, 1975 Organisation of Multizonal Cadres in pursuance of Paragraph 3 (5) of the Order - Approval of Government of India obtained - Orders - Issued.
16.	G.O.Ms. No. 569	Six Point Formula - The Andhra Pradesh Public

S. No.	Order No.	Subject
	G.A.(Ser.A) Dept., dated 22-08-1977	Employment (Organisation of Local Cadres and Regulation of Direct Recruitment) Order, 1975 - Inter-Local Cadre Transfers - Orders - Issued.
17.	G.O.Ms. No. 628 G.A.(Ser.A) Dept., dated 15-09-1977	The Andhra Pradesh Public Employment (Organisation of Local Cadres and Regulation of Direct Recruitment) Order, 1975 - Alterations of Units of appointment, appointing authority etc. in the Service Rules - Amendments to Service Rules - Orders - Issued.
18.	U.O. Note No.1588/ SPF.A,77-1 (SPF.A) Dept., dated 03-10-1977	SPF-A.P.P.E. (OLC & RDR) Order, 1975 - Transfer of persons from one local cadre to another - Transfer of spouses of Govt. servants in the Public interest instructions - Issued
19.	G.O.Ms. No. 1 G.A.(Ser.A) Dept., dated 02-01-1978	Public Services - State and Subordinate Services - A.P.P.E. (OLC & RDR) Order, 1975 - Alterations of units of appointment Starting of the rotation under General Rule 22 (Rule of Special Representation) and rotation under the Spl. Rules etc. - Instructions - Issued.
20.	U.O. Note No.1933/ SPF.A/78/1 G.A. (SPF.A) Dept., dated 26-09-1978	SPF - A.P.P.E. (OLC & RDR) Order, 1975 - Consideration of representations against allotment - instructions - Issued.
21.	G.O.P No.646 Education (W), Dept. dated 10-07-1979	A.P. Educational Institutions (Regulation of Admissions) Order, 1974 - Consolidated self-contained and comprehensive instructions under the Order - Issued.
22.	G.O.Ms. No. 685 G.A.(SPF.A) Dept., dated 28-09-1979	A.P. Public Employment (Organisation of local Cadres and Regulation of Direct Recruitment) Order, 1975 - Allotment of persons - Committee Constituted - Amendment Issued.
23.	Memo No. 1926/SPF.A/79-1, G.A.(SPF.A) Dept. Dated, 23-11-1979	SPF - A.P.P.E. (OLC & RDR) Order, 1975 - Deputation of persons to Co-operative Institutions or other Corporations, etc. - Clarification - Issued.
24.	G.O. Ms. No.34, G.A. (SPF.A) Dept. Dated, 24-01-81	SPF - A.P.P.E. (OLC & RDR) Order, 1981 and Two notifications issued under the Order - Republication in the A.P. Gazette - Ordered.
25.	U.O. Note No. 757/SPF.A/81-1,	APPE. (OLC & RDR) Order, 1975 Alteration of territorial jurisdiction of any post or creation of new Department -

S. No.	Order No.	Subject
	G.A. (SPF.A) Dept. dated 4-7-1981	Gazetting of categories – Consultation with G.A. (SPF.A) Dept-Reg.
26.	U.O. Note No. 949/SPF.A/81-1, G.A. (SPF.A) Dept. dated 25-09-1981	Six Point Formula - Andhra Pradesh Public Employment (Organisation of Local Cadres and Regulation of Direct Recruitment) Order, 1975 Transfer of persons from one Local Cadre to another - Transfer of spouses of Government servants etc. in public interest - Instructions - Issued.
27.	G.O. Ms. No.539, G.A. (Ser.A) Dept. Dated, 15-10-1981	SPF - The A.P. Public Employment (OLC & RDR) Order, 1975 - Inter Local Cadres Transfer - Orders - Issued.
28.	G.O. Ms. No.98, G.A. (SPF.A) Dept. Dated, 26-02-1982	SPF - The A.P. Public Employment (OLC & RDR) Order, 1975 - Notification of certain Special Offices - Republication in A.P. Gazette - Ordered.
29.	G.O. Ms. No.327, G.A. (SPF.A) Dept. Dated, 17-06-1982	SPF - The A.P. Public Employment (OLC & RDR) Order, 1975 - Notification of certain Special Offices - Republication in A.P. Gazette - Ordered.
30.	G.O. Ms. No.412, G.A. (SPF.A) Dept. Dated, 26-08-1982	SPF - The A.P. Public Employment (OLC & RDR) Order, 1975 - Notification of certain State Level Offices - Republication in A.P. Gazette - Ordered.
31.	U.O. Note No. 1030/SPF.A/82-1, G.A. (SPF.A) Dept. dated 20-11-1982	SPF-APPE. (OLC & RDR) Order, 1975 - Transfer of persons from one local cadre to another - Transfer of Spouses of Government Servants in Public interest - Instructions - Issued.
32.	G.O. Ms. No.126, G.A. (Ser.A) Dept. Dated, 23-02-1983	Public Services-State and Subordinate Services Limited Recruitment to Local candidates – Ordered.
33.	U.O. Note No. 291/SPF.A/84-1, G.A. (SPF.A) Dept. dated 02-03-1984	APPE. (OLC & RDR) Order, 1975 - Allotments and Transfer - Regarding
34.	Memo No.952/ SPF.A/84-2, G.A.(SPF.A) Dept. Dated, 31-07-1984	SPF-Filling up of the Vacancies under Six Point Formula- Instructions-Issued.
35.	U.O. Note No.	SPF-Inter Local Cadre transfers under the provisions of

S. No.	Order No.	Subject
	1202/SPF.A/84-1, G.A. (SPF.A) Dept. dated 09-10-1984	Presidential Order-Certain Instructions - Issued.
36.	U.O. Note No. 1467/SPF.A/84-1, G.A. (SPF.A) Dept. dated 07-02-1985	SPF-Implementation of APPE. (OLC & RDR) Order, 1975 – Certain Instructions – Issued.
37.	Memo No.19/ SPF.A/85-3, G.A.(SPF.A) Dept. Dated, 26-04-1985	SPF-Inter Local Cadre transfers under the provisions of Presidential Order-Certain Instructions - Issued.
38.	G.O. Ms. No.199, G.A. (Ser.A) Dept. Dated, 03-05-1985	SPF-APPE. (OLC & RDR) Order, 1975 - Organisation of Local Cadre for new categories of Posts – Notification of the Govt. of India - Republished.
39.	G.O. Ms. No.200, G.A. (SPF.A) Dept. Dated, 03-05-1985	SPF-APPE. (OLC & RDR) Order, 1975 - Notification of certain projects as Major Development Projects - Republication in A.P. Gazette - Ordered.
40.	G.O. Ms. No.201, G.A. (SPF.A) Dept. Dated, 03-05-1985	APPE (OLC & RDR) Order, 1975 - Organisation of Local Cadres for new categories of Posts - Superintendents of Technical High Schools in Technical Education - Notification of the Govt. of India - Republished.
41.	U.O. Note No. 237/ SPF.A/85-2, G.A. (SPF.A) Dept. dated 20-05-1985	APPE (OLC & RDR) Order, 1975 - Arriving at number of posts to be reserved - Certain clarification - Issued.
42.	G.O. Ms. No.293, G.A. (SPF.A) Dept. Dated, 27-06-1985	Committee - All Party Political Committee to go into the problems of Rayalaseema and the other two regions – Re- constitution – Orders Issued.
43.	G.O. Ms. No.346, G.A. (SPF.A) Dept. Dated, 24-07-1985	SPF - APPE (OLC & RDR) Order, 1975 - Notification of Institute of Animal Reproduction, Mandapeta and Office of the Deputy Director (Animal Husbandry) Publicity and Extension, Hyderabad - Republication in the A.P. Gazette.
44.	G.O. Ms. No.455, G.A. (SPF.A) Dept. Dated, 03-10-1985	SPF - APPE (OLC & RDR) Order, 1975 - Other relating to the amendment to paragraph 14(e) of the presidential Order - Republication in the A.P. Gazette – Ordered.

S. No.	Order No.	Subject
45.	G.O. Ms. No.456, G.A. (SPF.A) Dept. Dated, 03-10-1985	SPF - APPE (OLC & RDR) Order, 1975 - Other relating to the organization of Local Cadres to the posts in Major Development Projects - Republication in the A.P. Gazette – Ordered.
46.	G.O. Ms. No.519, G.A. (SPF.A) Dept. Dated, 18-11-1985	SPF - APPE (OLC & RDR) Order, 1975 - Alleged violations in the implementation of the Presidential Order - Recommendations of the “Officers Committee” and the views of the ‘One man Commission’ thereon-Orders Issued.
47.	G.O. Ms. No.539, G.A. (SPF.A) Dept. Dated, 22-11-1985	APPE (OLC & RDR) Order, 1975 - Organization of Local Cadres - Allotment of persons - Committee Constituted - Amendment - Issued.
48.	G.O. Ms. No.564, G.A. (SPF.A) Dept. Dated, 05-12-1985	SPF - Alleged violations in the allotment of employees after 18.10.1975 - Rectification - Orders - Issued.
49.	G.O. Ms. No.610, G.A. (SPF.A) Dept. Dated, 30-12-1985	SPF - APPE (OLC & RDR) Order, 1975 – Alleged violations in the implementation of SPF in Zones V to VI - Rectification - Orders - Issued.

Of these 49 Government Orders issued to implement the Presidential Order, some of the key ones are:

2.16.1 G.O.P. No. 728 of November 1, 1975²⁶

This Government Order provides instructions with respect to organization of local cadres as stated in Paragraph 3(1) of the Presidential Order. The Government Order required the implementation of the scheme of organization of local cadres within a time frame of twelve months.

A local cadre is a cadre consisting of the posts belonging to a category in a department and located within a specific part of the State. Therefore, the concept of the local cadre was related to the concept of a unit of appointment under the service rules. The said order dealt with local cadres and city cadre for the City of Hyderabad for certain specified categories of posts notified by the Central

²⁶ The Andhra Pradesh Public Employment (Organisation of Local Cadres and Regulation of Direct Recruitment) Order, 1975 - Organisation of local cadres - Instructions - Issued.

Government²⁷. The order further provided for multi zonal cadre based on which the State Government, after taking the Central Government's approval, could organize the posts of non-gazetted categories above the level of Lower Division Clerk or any other specified gazetted category into a single cadre for two or more zones. The Government Order provided for the following actions that the various departments had to undertake to implement the provisions concerning organization of local cadres:

- (A) Identification of the categories to be localized and drawing up a scheme of localization;
- (B) Determining the cadre strength of the different local cadres;
- (C) Allotment of personnel amongst different local cadres; and
- (D) Amendment of Service Rules.

2.16.2 G.O.P. No. 729 of November 1, 1975²⁸

This Government Order was meant to ensure that a major share of the vacancies arising in certain categories of posts in different parts of the State were to be reserved for people belonging to that part of the State. The principal contents of the said order were:

- (A) Organization of local cadres comprising the Government posts in different parts of the State;
- (B) Specification of local areas relatable to each such local cadre as well as to cadres under the local authorities in different parts of the State;
- (C) Specifications regarding local candidates in relation to each local area;
- (D) Percentage of posts in each local cadre to be reserved for direct recruitment in favor of local candidates of the local area; and
- (E) The scheme of reservation in the matter of direct recruitment.

²⁷ G.S.R. No. 528(E) of October 18, 1975.

²⁸The Andhra Pradesh Public Employment (Organisation of Local Cadres and Regulation of Direct Recruitment) Order, 1975 – Regulation of Direct Recruitment - Instructions - Issued.

2.16.3 G.O. Ms. No. 784 of November 24, 1975²⁹

The State Government, vide this order, constituted various committees for advising on the allotment of persons to local cadres for gazetted and non-gazetted categories.

2.16.4 G.O. Ms. No.519 of November 18, 1985³⁰

The State Government after taking into consideration the recommendations of the 'Officers Committee'³¹ and the views of the 'One Man Commission'³² regarding non-implementation of the Presidential Order directed the Department of Secretariat to implement the following:

- (A) The initial allotments on organization of local cadres should not be reopened;
- (B) The existing policy with regard to transfers from one local cadre to another shall be continued; and
- (C) The existing policy with regard to recruitment in respect of State-wide institutions, Heads of Departments and Secretariat shall be continued and that no reservation of posts shall be made therein.

2.16.5 G.O. Ms. No. 610 of December 30, 1985³³

The Government of Andhra Pradesh issued this order to rectify the alleged violations by the Departmental Allotment Committees in allotting non-locals to Zones V and VI and for the rectification of other irregularities in the implementation of the Presidential Order. The most important assurance contained in this order is given in Para 5(1), which reads as under:

²⁹The Andhra Pradesh Public Employment (Organisation of Local Cadres and Regulation of Direct Recruitment) Order, 1975 – Local Cadres – Allotment of persons – Committee – Constituted.

³⁰ SPF - APPE (OLC & RDR) Order, 1975 - Alleged violations in the implementation of the Presidential Order - Recommendations of the "Officers Committee" and the views of the 'One man Commission' thereon-Orders Issued.

³¹ The Government vide G.O.Ms. No. 324 (G.A.) Dept., dated 01.06.1984 appointed an Officers' Committee consisting of 3 I.A.S. officers to examine lapses in implementation of the Six Point Formula.

³² The One Man Commission with Sri V. Sundaresan, I.A.S. (Retd.) was appointed to examine and recommend measures for rectification of lapses in the implementation of the SPF. This One Man Commission took into account the report of the Officers Committee and categorized its recommendations into 15 main issues.

³³ SPF - APPE (OLC & RDR) Order, 1975 - Alleged violations in the implementation of SPF in Zones V to VI - Rectification - Orders - Issued.

“The employees allotted after 18.10.1975 to Zones V and VI in violation of the zonalisation of local cadres under the Six-Point Formula will be repatriated to their respective zones by 31.03.1986 by creating supernumerary posts wherever necessary.”

2.16.6 Reason for Issuance of G.O. Ms. No. 610

The G.O. Ms. No.610 was issued pursuant to the agreement of December 7, 1985, arrived at by the Telangana Non-Gazetted Officers' Union with the Government of Andhra Pradesh. The Telangana Non-Gazetted Officers' Union in their letter, dated December 5, 1985, had brought to the notice of the State Government various violations of the Presidential Order. Some of the key ones were:

1. Violations of the Presidential Order in the allotment of 40,000 non-local employees to the Telangana region by Departmental Allotment Committees;
2. Indiscriminate inter-local cadre transfers depriving the employees of their rightful local cadre;
3. Allotment of non-locals to Zones V and VI by APPSC;
4. Production of bogus local candidate certificates by non-local candidates for securing jobs in the Telangana region.

In addition to the repatriation of non-locals, the Union demanded that the Government take the following actions:

1. Review of interim appointments/promotions as provided in Para 13 of the Presidential Order;
2. Upon repatriation of non-locals, the resultant vacancies to be filled by locals;
3. Equitable employment opportunities to be provided in the Secretariat, Offices of Heads of Departments and other State level institutions and offices;
4. Scope of localization to be widened to cover all first level gazetted posts;
5. Providing training facilities for becoming eligible for certain posts which the locals are being deprived of due to lack of training;
6. Equitable employment opportunities to be provided in the matter of employment in major development projects;
7. Extension of Six-Point Formula in relation to public employment to locals in Government corporations;

TELANGANA NON-GAZETTED
OFFICERS' UNION ALLEGED
WIDESPREAD IRREGULARITIES
IN THE IMPLEMENTATION OF
THE PRESIDENTIAL ORDER.

The State Government held wide ranging consultations and discussions with the Telangana Non-Gazetted Officers' Union and executed an agreement with them which eventually led to issuance of the G.O. Ms. No. 610.

2.17 Distinction between the 6-Point Formula, Presidential Order and G.O. Ms. No. 610

At this stage, it is important to understand the difference between '6-Point Formula', 'Presidential Order' and 'G.O. Ms. No. 610' as these three expressions are sometimes used interchangeably and erroneously considered as one and the same.

2.17.1 The 6-Point Formula

The Formula was evolved by the leaders of Andhra Pradesh in consultations with Central Leaders and declared on September 21, 1973 in order to remove "the misgivings then prevailing about the future of the State and to arrive at a settlement in the wake of the Telangana Agitation of 1969 and the Jai Andhra Agitation of 1972"³⁴.

The 6-Point Formula, inter alia, dealt with – (a) accelerated development of backward areas of the State and planned development of the State Capital³⁵; and (b) public employment³⁶. It was to address this issue of public employment that the Central Government issued the 'Presidential Order' pertaining to public employment. Therefore, any matter related to public employment in the context of the 6-Point Formula falls under only the third point of the 6-Point Formula. **Thus, the term "Six-Point Formula" should not be used interchangeably with 'Presidential Order' as the 6-Point Formula has a far wider scope than the Presidential Order on public employment, which relates to only one of the six points of the 6-Point Formula.**

THE GOVERNMENT OF
ANDHRA PRADESH SIGNED AN
AGREEMENT WITH THE UNION
ON 07.12.1985.
THEREAFTER, G.O. MS. NO.
610 WAS ISSUED ON
30.12.1985.

THE TERM "SIX-POINT
FORMULA" SHOULD NOT BE
USED INTERCHANGEABLY WITH
'PRESIDENTIAL ORDER' AS THE
6-POINT FORMULA HAS A FAR
WIDER SCOPE THAN THE
PRESIDENTIAL ORDER ON
PUBLIC EMPLOYMENT.

³⁴ Para 1.5.0 of Volume I of final report of the One Man Girglani Commission.

³⁵ Point 1 of the Six-Point Formula.

³⁶ Point 3 of the Six-Point Formula.

2.17.2 The Presidential Order

In order to implement the 6-Point Formula it was necessary to amend the Constitution. The Parliament, by enacting the Constitution (32nd Amendment) Act, inserted Article 371-D in the Constitution which read as follows:

“371-D. Special Provisions with respect to the State of Andhra Pradesh – (1) The President may by order made with respect to the State of Andhra Pradesh provide, having regard to the requirements of the State as a whole, for equitable opportunities and facilities for the people belonging to different parts of the State, in the matter of public employment and in the matter of education, and different provisions may be made for various parts of the State.” [Emphasis added]

In exercise of the powers conferred upon the President of India, the President passed two orders with respect to the State of Andhra Pradesh – (a) one related to education; and (b) the other related to public employment. The one related to public employment and a subject matter of this report was called “the Andhra Pradesh Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975” also known as the Presidential Order. This Presidential Order was incorporated by the Government of Andhra Pradesh in General Administration (SPF) Department G. O. Ms. 674, dated October 20, 1975, which reproduces the Presidential Order as embodied in G.S.R. No. 524(E), dated October 18, 1975, issued by the Ministry of Home Affairs, Government of India.

To implement the said Presidential Order on public employment, detailed instructions were issued by the Government of Andhra Pradesh in G.O.P. No. 728 of November 1, 1975. Thereafter, the Government of Andhra Pradesh appointed the One Man Commission of Sri Sunderesan, I.A.S. (Retd.) to revise all the service rules so as to bring them in conformity with the Presidential Order especially with regard to units of appointment. Most of these revised rules were issued between the years 1990-1994.

2.17.3 G.O. Ms. No. 610

This Government Order issued by the General Administration (SPF.A) Department on December 30, 1985 was not issued under the Presidential Order. It was issued by the Government of Andhra Pradesh as certain representations were made to it with regard to non-implementation of the Presidential

Order and therefore contains assurances given by the Government in this respect. This Government Order does not lay down any rules or make any amendments to the Presidential Order. The G.O. Ms. No. 610 essentially deals with the implementation of the Presidential Order. Although this G.O. deals with various assurances by which the Government intended to overcome the shortcomings in the implementation of the Presidential Order, as pointed out by the Telangana Non-Gazetted Officers Union, **it is important to note that Para 5(1) is the heart of this Order. Para 5(1) deals with Zones V and VI which comprise Telangana, the region from where the whole issue of discontentment and the feeling of discrimination in public employment had actually arisen.**

Therefore, the basic Constitutional order covering public employment is the Presidential Order and NOT the G.O. Ms. No. 610.

2.18 Post G.O. Ms. No. 610: Government Orders issued between 1985-2001

The Government of Andhra Pradesh issued a series of orders to implement the G.O.Ms.No.610, shown below in the matrix. These Government Orders dealt with various aspects of the Presidential Order such as multi-zonal cadres, inter-cadre transfers, organization of local cadres, major development projects etc.

PARA 5(1), WHICH DEALS WITH ZONES V AND VI, IS THE HEART OF G.O. MS. NO. 610.

THE GOVERNMENT OF ANDHRA PRADESH ISSUED ANOTHER 21 GOVERNMENT ORDERS TO IMPLEMENT THE PRESIDENTIAL ORDER AND G.O. MS. NO. 610 BETWEEN 1985 AND 2001.

S. No.	Order No.	Subject
1.	G.O.P. No. 456, G.A.(SPF.A) Dept. dated 05-08-1988	APPE (OLC & RDR) Order, 1975 - Declaring the Commercial Tax Printing Press at Vikarabad in Ranga Reddy District as a State Level Office - Amendment to the Notification under the Presidential Order.
2.	G.O.P. No. 458, G.A.(SPF.A) Dept. dated 05-08-1988	SPF - APPE (OLC & RDR) Order, 1975 - Organisation of Local Cadres for new categories of posts of Gazetted Administrative Officers to the District Educational Officers in the Education Department and Organisation of such Local Cadres on multi-zonal basis Local Cadres on multi-zonal basis-orders/Notification of the GOI-Re-published.
3.	G.O.Ms. No. 536, G.A.(SPF.A) Dept. dated 23-09-1988	SPF - APPE (OLC & RDR) Order, 1975 - Amendment to the Notification under the Presidential Order - Issued - Re-publication in the A.P. Gazette - Reg.
4.	G.O.Ms. No. 542, G.A.(SPF.A) Dept. dated 26-09-1988	SPF - APPE (OLC & RDR) Order, 1975 - Declaring five Residential Special Schools in 5 Districts is the State as State Level Institutions - Amendment under the Presidential Order - Notification issued - Re-publication in the A.P. Gazette - Ordered.
5.	G.O.Ms. No. 552, G.A.(SPF.A) Dept. dated 04-10-1988	APPE (OLC & RDR) Order, 1975 - Organisation of Local Cadres - Allotment of Persons - Committee, Constituted - Amendment - Issued.
6.	U.O.Note. No. 1069/ SPF.A/88-1, G.A. (SPF-A) Dept. dated 14-10-1988	SPF - APPE (OLC & RDR) Order, 1975 - Transfers of persons from one local cadre to another - Certain instruction - Issued.
7.	U.O.Note. No. 963/ SPF.A/88-1, G.A. (SPF-A) Dept. dated 21-10-1988	APPE (OLC & RDR) Order, 1975 - Inter Local Cadre Transfers - Certain Instructions - Issued.
8.	G.O.Ms. No. 23, G.A.(SPF.A) Dept. dated 19-01-1989	APPE (OLC & RDR) Order, 1975 - Organisation of Local Cadres - Allotment of Persons - Committee, Constituted - Amendment - Issued.
9.	G.O.Ms. No. 212, G.A.(SPF.A)	SPF - APPE (OLC & RDR) Order, 1975 - Declaring the Electrical Branches at Guntur and Hyderabad as special

S. No.	Order No.	Subject
	Dept. dated 17-04-1989	Establishments - Amendment under the Presidential Order - Notification issued by Government of India - Re-publication in the A.P. Gazette - Ordered.
10.	G.O.Ms. No. 615, G.A.(SPF.A) Dept. dated 02-11-1989	SPF - APPE (OLC & RDR) Order, 1975 – Notification of “Visakhapatnam Water Supply Improvement Scheme” as Major Development Project - Amendment under Presidential Order – Re-publication in the A.P. Gazetted - Ordered.
11.	G.O.Ms. No. 681, G.A.(SPF.A) Dept. dated 25-11-1989	SPF - APPE (OLC & RDR) Order, 1975 – Order of GOI on organization of the posts of Asst. Directors of Handlooms and Textiles in the Department of Handlooms and Textiles into different local cadres and Notification of the GOI, for declaring the said categories as “Specified Gazetted Category” Re-publication in the A.P. Gazetted - Ordered.
12.	G.O.Ms. No. 682, G.A.(SPF.A) Dept. dated 29-11-1989	SPF - A.P. Public Employment (OLC & RDR), Order, 1975 - Organisation of the category of Assistant Director of Handlooms and Textiles on in the Department of Handlooms and Textiles on multizonal basis in pursuance of para 3(5) of Presidential Order - Approval of GOI obtained Orders - Issued.
13.	U.O.Note. No. 555/ SPF.A/91-1, G.A. (SPF-A) Dept. dated 04-10-1991	SPF - APPE (OLC & RDR) Order, 1975 - Local Cadre transfers of Government Employees to join their spouses in public interest-Revised Instruction - Issued.
14.	G.O.Ms. No. 81, G.A.(SPF.A) Dept. dated 20-02-1992	SPF - APPE (OLC & RDR) Order, 1975 - Notification of “Cyclone Reconstruction Project assisted by World Bank” as Major Development Project - Amendment under the Presidential Order - Re-publication in the A.P. Gazette - Ordered.
15.	G.O.Ms. No. 124, G.A.(SPF.A) Dept. dated 07-03-1992	A.P.P. Employment (Organisation of Local Cadres and Regulation of Direct Recruitment) Order, 1975 - Organisation of Local Cadres - Allotment of persons - Committees - Reconstituted - Orders - Issued.
16.	G.O.Ms. No. 635, G.A.(SPF.A) Dept. dated 30-11-1993	SPF - APPE (OLC & RDR) Order, 1975 - Amendment to the Presidential Order - Notification Issued - Republication in the A.P. Gazette - Ordered.
17.	U.O.Note. No. 567, G.A. (SPF-A) Dept.	SPF - APPE (OLC & RDR) Order, 1975 - Transfers of employees from one local cadre to another local cadre on reciprocal basis - certain Instructions - Issued.

S. No.	Order No.	Subject
	dated 26-07-1996	
18.	U.O.Note. No. 540, G.A. (SPF-A) 96-1 dated 17-09-1996	SPF - APPE (OLC & RDR) Order, 1975 - Inter Local Cadre transfers under the P.O. Disposal of cases - Instructions - Issued.
19.	U.O.Note. No.18333/ SPF-A/99-1 dated 26-04-1999	SPF - APPE (OLC & RDR) Order, 1975 - Inter Local Cadre transfers under the P.O. Disposal of cases - Instructions - Issued.
20.	G.O.Ms. No.104, G.A.(SPF.A) Dept. dated 24-03-2000	SPF - APPE (OLC & RDR) Amendment Order, 2000 - Notification - Issued under the Order - Republication in the A.P. Gazette - Ordered.
21.	G.O.Ms. No.224, G.A.(SPF.A) Dept. dated 30-06-2000	SPF - APPE (OLC & RDR) Amendment Order, 2000 - Republication in the A.P. Gazette - Ordered.

However, these Government Orders issued during the span of 15 years, from 1985 to 2001, failed to bring about any change in the situation and address any of the assurances that the Government had given while issuing G.O. Ms. No. 610. This entire period was marked by aimless drift as the State Government had no mechanism in place to monitor the implementation of the provisions of G.O. Ms. No. 610.

2.19 The One Man (J.M. Girglani) Commission

Although the State Government issued the G.O. Ms. No. 610, it continued to receive representations regarding lapses in the implementation of the 6-Point Formula in so far as it related to public employment. The Government discussed the issue in an All Party Meeting on June 15, 2001 and decided to appoint a One Man Commission (Six Point Formula) under Sri J. M. Girglani, I.A.S. (Retd.) on June 25, 2001³⁷ (the “**Commission**”). The Government of Andhra Pradesh requested the Commission to submit its preliminary report with respect to the implementation of G.O. Ms. No. 610 within a period of ninety (90) days.

³⁷ Refer G.O. Ms. No. 270, General Administration (SPF.A) Department.

The G.O. Ms. No. 270, dated June 25, 2001 contained the terms of reference of this Commission whose tenure was fixed as one year. The terms of reference stated as follows:

“2. The Commission will receive representations from Associations/individuals where the injustice is done in the implementation of G.O.Ms.No. 610, General Administration (SPF.A) Department, dated 30-12-1985 and to sort out the anomalies. The Commission shall submit its report within 90 days.

3. The Commission will also take up further follow up action for the rectification of defects, anomalies and irregularities, if any, and arrive at estimates of deviation and anomalies from the Presidential Order, and also suggest remedial actions which would include a mechanism to ensure implementation and monitoring of Six Point Formula, during the subsequent period of its term.”

A preliminary report that covered a very limited ground was submitted on October 6, 2001. However, the tenure of the Commission was extended for one more year on July 22, 2002 and again extended to September 30, 2004. The Commission submitted its final report on September 30, 2004 with 126 findings under 18 deviation genres and suggested 35 remedial measures.

2.19.1 Scheme of the Report

The Report, as submitted is in three volumes.

Volume – I: divided into two sections:

Section – A deals with report on implementation of the Presidential Order on Public Services, Part – 1 (Up to 30-09-2003).

Section – B contains further and final report on implementation of G.O. Ms. No. 610, G.A.(SPF-A) Department, dated 30-12-1985, in continuation of the preliminary report submitted within the stipulated period of 90 days, on 6-10-2001.

Volume – II

Contains - Appendices, Annexures and Proceedings (relating to Volume I)

Volume – III

ONE MAN COMMISSION (J.M. GIRGLANI) CONSTITUTED ON 25.06.2001.

THE GIRGLANI COMMISSION SUBMITTED ITS FINAL REPORT ON 30.09.2004. IT HIGHLIGHTED 18 GENRES OF DEVIATION FROM THE PRESIDENTIAL ORDER.

Contains the report on implementation of the Presidential Order on Public Services, Part- 2 (From 01-10-2003 to 10-05-2004).

2.19.2 Deviations Genres

The One Man Commission highlighted 18 genres of deviations from the Presidential Order, as stated below:

[Highlighted genres in the matrix below indicate that these have been addressed by the State Government]

S.No.	Genre of Deviation	Nature of Deviation
I	Heads of Departments	The Presidential order does not define “Head of Departments”. This resulted in the emergence of new entities and changes in the departments listed in annexure to G.O.P. 728, as a result of which these departments started treating their head offices as offices of ‘Heads of Departments’ and applying the saving para 14(b) of the Presidential Order to themselves.
II	Major Development Projects	Treating Heads of Projects as Heads of Departments in gross violation of the Presidential Order.
III	Other Entries Under Para 14 and G.S.R. 529(E)	There had been various changes since the Presidential Order in various G.S.R.’s. A list of deletions, additions and modification required to be incorporated through amendments to update the various G.S.R.’s.
IV	Regional Offices	Creation of discrete units of appointments within a zone.
V	Urban Development Authorities	Different Urban Development Authorities treated as body corporate and, therefore, cannot be classified as Government departments.
VI	Unit of Appointment/Local Cadre	Confusion in Government departments regarding three different concepts: units of appointment, functional/administrative units and local cadres under the Presidential Order, due to which proposals have been presented before the Government for making all three co-terminus.
VII	Cross Cadre Movement	Deviation from the procedure as laid down in Para 5 of the Presidential Order regarding transfers led to distortion of ratio of locals to non-locals in zones V and VI. This adversely affected the promotion and

		seniorities of the locals.
VIII	Deputations and Fair Share Principle	Deputations made in complete contravention of the fundamental rules/general rules or the Presidential Order or G.O.P. 728 of 1.11.1975 (governing deputations) and in some cases in complete disregard of third party rights and interests.
IX	On Other Duty (O.D.)	The device of “on other duty” used as a substitute for transfers and deputations by certain Government departments.
X	Workcharged Establishment	Workcharged employees treated as being outside the purview of the Presidential Order which was not the correct position. Workcharged employees like all other localized cadres were covered by the provisions of the Presidential Order.
XI	Gazetting of Posts and Specified Category	The conversion of non-gazetted posts to gazetted posts after the Presidential Order. On becoming a gazetted post, a post becomes a State-wide post and loses the preference percentage of local candidates. This led to number of zonal level posts being made into gazetted posts whereby a local candidate lost preference.
XII	Compassionate Appointments	Compassionate Appointments were governed by 35 different G.O.s. Despite that, compassionate appointments were made without observing the Presidential Order regarding appointment of local candidates to local cadres in all direct recruitments.
XIII	City of Hyderabad	Misinterpretation of ‘City of Hyderabad’ as stated in the Presidential Order has led to multiple contraventions of the Presidential Order. The hazy conception about the position of the posts in Municipal Corporation of Hyderabad area, Hyderabad District and City of Hyderabad has resulted in many anomalies, mistakes and sometimes wrong and illegal orders in contravention of the Presidential Order.
XIV	Role of Employment Exchanges	Bogus registrations in employment exchanges and bogus claims made by some candidates through bogus certificates for the status of a local candidate while applying directly to District Selection Committees.

XV	Bogus Certificates	Bogus certificates used as means to violate the Presidential Order and bring in non-locals in the quota reserved for local candidates.
XVI	Rule 10(a)(i) Appointments	Appointments under Rule 10(a) of Andhra Pradesh State and Subordinate Service Rules (General Rules) were made to temporary posts directly by certain departments after the Presidential Order came into effect. These temporary posts would gradually become permanent de facto.
XVII	Recruitment/ Allotment Needing Ongoing Scrutiny	Four types of departments/categories where recruitment/allotment of recruited candidates require regular monitoring and scrutiny to ensure adherence to the Presidential Order. They are: <ul style="list-style-type: none"> • Departments and posts kept outside the purview of A.P. Public Service Commission and/or District Selection Committees; • Departments with multiple wings but integrated cadre; • “Umbrella” departments with an integrated cadre and centralized cadre management for all the offspring; • Where a new dispensation is introduced as in the case of creation of the system of Panchayat Secretaries.
XVIII	Miscellaneous Deviations	A number of miscellaneous deviations observed in various departments such as delayed release of seniority list of candidates, number of vacancies notified being taken as basis for calculating the percentage of merit and not the number actually recruited in the reserved seats for locals. Non-locals directly recruited in violation of the Presidential Order.

2.19.3 Actions Suggested

The Commission received suggestions from various sources to overcome the shortcomings in the implementation of the Presidential Order and after analyzing the sources of main deviations suggested immediate and long term measures.

A. Immediate Measures

The Commission felt that the immediate implementation of certain measures would provide a proper impetus to further action on the final report, some of which are stated below:

- (1) To set right the maladies indicated under various 'findings' before resuming the normal process of recruitments, promotions etc.;
- (2) To take immediate action for deletion of Para 14(e) of the Presidential Order and G.S.R. 525(E);
- (3) To appoint an appropriate Implementation and Monitoring body to initiate action on the report;
- (4) To provide appropriate exposure on the finer nuances and intricacies of the Presidential Order and the Commission's report to the people inducted in the Implementation and Monitoring body;
- (5) To issue immediate orders that Service Registers must depict the local status of the employees. Service Registers must record information about – local status and local cadre, name of district/zonal cadre to which an employee was first appointed, and name of the educational institution in which the employee had studied for the last seven years;

B. Long Term Measures

- (1) To set up a 'Committee of the House' to perform the vigilance role to see proper implementation of the recommendations of the report;
- (2) To create a 'Sub-Committee of the Cabinet' to keep vigil at the political executive level;
- (3) To establish an 'Implementation and Monitoring Authority (IMA)' to be headed by a person of stature and proper understanding of the Presidential Order and service matters. Everyone at the Authority must undergo intense training on the Presidential Order and the Commission's final report. The IMA would really be "a monitoring and vigilance body with very sensitive antennae, safeguarding the interests of local candidates and ensuring the implementation of the Presidential Order and this Report meticulously. It

should particularly focus on the types of deviations that have been brought out in this Report under the various genres and findings.” The IMA may receive representations regarding grievances related to the Presidential Order and dispose them off with recommendations to the Government. The IMA to submit its comprehensive report to the Cabinet Sub-Committee, as and when required.

- (4) Officers of the General Administration (SPF) Department must receive rigorous training on the Six-Point Formula including the Presidential Order, various reports, documents and the One Man Commission Report. The General Administration (SPF) Department to act as a nodal department for the implementation of the Six-Point Formula and the two Presidential Orders.
- (5) To create a website for the Presidential Order where the final report, the guidelines book with latest amendments must be available. The website must be updated regularly to inform all the actions undertaken by the Government on Commission’s final report.

The Commission further suggested that any framework of safeguards would serve no purpose unless:

- (1) the fundamental safeguards (as stated above) are provided;
- (2) awareness and complete understanding of the Presidential Order is created amongst all levels of administration;
- (3) officials of the State government at high levels must be fully conversant with all the nuances of the Presidential Order and the fundamental and general rules closely connected with the Presidential Order;
- (4) there is a system of fixing responsibility and taking disciplinary action in case of deviations from the Presidential Order; and
- (5) the people, the political leaders, the employees and their unions clearly realize three basic truths that:

- the deviations from the Presidential Order have occurred in respect of all the district and zonal cadres and are a cause of concern for the entire State;
- the suggested safeguards will be beneficial to the local candidates of the entire State in 23 districts and all the six zones;
- the Presidential Order which is a part of the Six-Point Formula is a delicate political settlement on which the integrity of the State is predicated. It should, therefore, transcend any narrow or individual interests and considerations.

2.19.4 Implementation of the Presidential Order and G.O. Ms. No. 610: the Commission's Opinion

It is important to understand as to what constitutes implementation of the Presidential Order and G.O. Ms. No. 610, according to the One Man Commission. The actual actionable points are the deviations from the Presidential Order, which the Commission has arranged under 18 genres. A look at the findings of the Commission would show that they are spread over the entire State and implementation of the remedial measures in respect of these findings is an integrated and holistic operation. Attending to the 18 genres of deviations would, therefore, constitute the implementation of the Presidential Order. In Section-B of Volume-I, the Commission has described as to what would constitute the implementation of G.O. Ms. No. 610 in particular. Here, the Commission has stated that if the Government takes action to repatriate the non-locals allotted to Zones V and VI, then it would lead to implementation of Para 5(1) of the G.O.Ms.No. 610. Actions on sub-paras 7 to 13 (both inclusive) of Para 5 of G.O. Ms.No. 610 are either complete or do not arise. Sub-paras 2 to 6 are part of the deviations of the Presidential Order which can be corrected if the remedial actions stated for 18 genres of deviations are implemented.

Thus, according to the Commission, the following would constitute the combined implementation of the Presidential Order and the G.O.Ms.No.610:

- (A) taking remedial actions on the 18 genres of deviations, and**
- (B) identifying and repatriating the non-locals allotted to zones V and VI after 18.10.1975.**

THE ONE MAN COMMISSION
MAINLY RECOMMENDED – (A)
ACTION ON THE DEVIATIONS
HIGHLIGHTED, AND (B)
REPATRIATION OF NON-
LOCALS FROM ZONE V AND VI.

2.19.5 Steps Taken to Accept the Commission's Report

Following steps were taken to accept the Commission's Report:

- To examine the recommendations of the Commission, the Government of Andhra Pradesh constituted a “**Group of Ministers (GoM)**” vide G.O. Ms. No. 219, G.A. (MC) Department, dated August 10, 2004 and G.O.Ms. No. 328, dated 12.10.2004.
- The Government constituted a Committee of Officers to consolidate the One Man Girglani Commission Report by obtaining proposals from the Secretariat and the Heads of Departments and to place their report before the GoM³⁸.
- The Officers' Committee presented its report to the GOM. The GOM after examining the report of the Officers Committee submitted its own report to the Government with recommendations. The Government accepted the report of the GOM on the final report of the OMC (SPF) vide G.O.Ms.No72, dated 4.03.2006.
- The said G.O. Ms.No.72, was kept in abeyance as per G.O. Ms. No. 116, dated March 16, 2006.
- The State Government in a meeting held on August 7, 2006 reviewed the status position on the implementation of the recommendations of the One Man Commission and decided to appoint a Committee comprising a few officials to further examine the report of the OMC. The Committee was directed to submit its report within one week of the date of the Government Order.³⁹
- The said Committee submitted its report on August 10, 2006.
- The Government examined the entire issue and “decided to implement the G.O. Ms. No. 610, G.A. (SPF.A) Dept., dated 30-12-1985 strictly in letter and spirit in accordance with the Presidential Order, 1975 and keeping in view the recommendations/suggestions detailed in the Report

³⁸ G.O. Rt. 1878, G.A.(MC) Department; dated 12.04.2005.

³⁹ G.O. Rt. No. 4173, G.A.(MC) Dept., dated 07-08-2006.

of the One Man Commission (SPF)", vide G.O.Ms.No. 548, dated 4.10.2006.⁴⁰

Since then the Government has passed a series of orders to implement the One Man Commission (SPF) Report.

The Andhra Pradesh Legislative Assembly also constituted a House Committee in the year 2003 to suggest necessary corrective measures for implementing the G.O. Ms. 610. The House Committee submitted two reports on March 17, 2003 and November 14, 2003 respectively. The recommendations of the House Committee primarily dealt with home, school education and revenue (excise) departments, which were implemented by the departments concerned. Another House Committee to monitor the implementation of G.O.Ms.No.610 was constituted under the Chairmanship of Shri Uttam Kumar Reddy, MLA.

2.20 Implementation of the One Man Commission Report

In the last four years (since 2006), the Government has undertaken various steps to implement the report of the One Man Commission (SPF). The Government issued instructions for the following:

- **Rationalizing the number of Heads of Departments from 51 to 102 vide G.O. Ms. No. 549, G.A. (MC) Dept., dated 04.10.2006.**
- **Maintaining "Fair Share Principal" while making appointments on deputation/tenure/on other duty appointments in Heads of Departments/Department of Secretariat.**
- **Updating the list of Major Development Projects/State Level Offices/Institutions and Special Offices.**
- **Streamlining the inter local cadre transfers as per the provisions of the Presidential Order restricting the percentage of non-locals to 15 in respect of district as unit of appointment and 25 in respect of zone as unit of appointment.**
- **Fixation of cadre strength taking into account the number of persons performing administrative functions alone in Heads of Departments.**

⁴⁰ G.O. Ms. No. 548, G.A. (MC) Dept., dated 04-10-2006.

- Regulation of work-charged establishment as per local status.
- Compassionate appointments to be made in accordance with the definition given to the local area/local candidate in the Presidential Order.
- The city of Hyderabad to include revenue villages instead of panchayat area as defined in the First Schedule of the Presidential Order. The revenue department to furnish details of the revenue villages which comprise the erstwhile panchayats. The Presidential Order to be amended to that extent.
- All urban development authorities from their date of creation to be under the purview of the Presidential Order.
- Clarification issued that the Presidential Order nowhere defines any “free zone”. It further clarified that the Presidential Order specifies the City of Hyderabad as one unit comprising areas as mentioned in the First Schedule thereof⁴¹.
- Status of a post as on 1975 to continue even after gazetting of that post⁴².
- Constitution of a ‘Group of Ministers’ to oversee the implementation of the G.O. Ms. No. 610 based on the recommendation of the One Man Commission (SPF).⁴³
- Constitution of an “Implementation and Monitoring Authority” to oversee the implementation of the G.O. Ms. No. 610.⁴⁴
- Repatriation of non-locals appointed in contravention of the Presidential Order to their respective local cadres to which they would have originally belonged.⁴⁵
- Maintenance of 70% reservation in direct recruitment of locals in respect of posts gazetted after 1975 to protect the interests of the locals.⁴⁶
- Appointments under compassionate grounds in a cadre to which they are not local to be given an opportunity to opt for transfer to their local cadre.

⁴¹ Circular Memo No. 97462/MC/2004-50, G.A.(MC) dept., dated 04.10.2006.

⁴² U.O. Note No. 97462/MC/2004-51, G.A. (MC) dept., dated 04.10.2006.

⁴³ G.O. Ms. No. 778, G.A. (MC) dept., dated 13.12.2006.

⁴⁴ G.O. Ms. No. 779, G.A. (MC) dept., dated 13.12.2006.

⁴⁵ G.O. Ms. No. 674, G.A. (MC-I) dept., dated 07.09.2007.

⁴⁶ G.O. Ms. No. 924, G.A. (MC-III) dept., dated 12.12.2007.

Such inter-local cadre transfers to be done in public interest.⁴⁷

- Provisions of the Presidential Order to cover all appointments made through outsourcing.⁴⁸
- Provisions of the Presidential Order to apply to Public Sector Undertakings.⁴⁹
- Bringing sub-ordinate judiciary under the purview of the Presidential Order.⁵⁰
- Proposal sent to Government of India for localization in Town Planning Department.⁵¹ However, order thereof is yet to be received.
- Request to amend the Presidential Order in order to bring APSRTC within the ambit of the Presidential Order.

Given below is a matrix of all the orders issued since 2006 by the State Government to implement the One Man commission Report:

S. No.	Order No.	Subject
1.	G.O. Ms. No. 549, G.A. (MC) dept., dated 04.10.2006	The Andhra Pradesh Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975 – Organization of Local Cadres – Instructions – Amendment – Issued.
2.	Circular Memo. No. 97462/MC/2004-50, G.A. (MC) dept., dated 04.10.2006	Public Services – Six Point Formula - The Andhra Pradesh Public Employment (Organization of local Cadres and Regulation of Direct Recruitment) Order, 1975 – Further Instructions on the implementation of the Presidential Order, 1975 and G.O. Ms. No. 610, G.A. (SPF.A) dept., dated 30.12.1985 – Issued.
3.	U.O. Note No. 97462/MC/2004-51, G.A.(MC) dept., dated 04.10.2006	Public Services – Six Point Formula - The Andhra Pradesh Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975 – Inclusion of the First Level Gazetted in the Third Schedule of the Presidential Order, 1975 and G.O. Ms. No. 610, G.A. (SPF.A) dept., dated 30.12.1985 – Regarding.

⁴⁷ G.O. Ms. No. 70, G.A. (MC-III) dept., dated 11.02.2008.

⁴⁸ Circular Memo No. 17944/668/A2/SMPC/2007, Finance(SMPC) dept., dated 06.10.2007.

⁴⁹ D.O. Letter No. 609/PE.III/AI/07, dated 01.06.2007.

⁵⁰ As per the information provided by the Secretary Law that the Andhra Pradesh High Court has given its consent to comply with the Presidential Order in the sub-ordinate judiciary.

⁵¹ Letter No. 30870/SPF-A2/08-1, dated 26.08.2008.

S. No.	Order No.	Subject
4.	U.O. Note No. 97462/MC/2004-52, G.A.(MC) dept., dated 17.11.2006	Public Services – Six Point Formula - The Andhra Pradesh Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975 – Further Instructions on the Implementation of the Presidential Order, 1975 and G.O. Ms. No. 610, G.A. (SPF.A) dept., dated 30.12.1985 and One Man Commission (SPF) recommendations – Orders – Issued – Monitoring Mechanism – Instructions - Issued.
5.	U.O. Note No. 97462/MC/2004-53, G.A.(MC) dept., dated 17.11.2006	Public Services – Six Point Formula - The Andhra Pradesh Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975 – Further Instructions on the Implementation of the Presidential Order, 1975 and G.O. Ms. No. 610, G.A. (SPF.A) dept., dated 30.12.1985 and One Man Commission (SPF) recommendations – Orders – Issued – Major Development Projects – Updation of the GSR-525(E) – Instructions - Issued.
6.	U.O. Note No. 97462/MC/2004-54, G.A.(MC) dept., dated 17.11.2006	Public Services – Six Point Formula - The Andhra Pradesh Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975 – Further Instructions on the Implementation of the Presidential Order, 1975 and G.O. Ms. No. 610, G.A. (SPF.A) dept., dated 30.12.1985 and One Man Commission (SPF) recommendations – Orders – Issued – Spl. Offices/Establishments, State Level Offices/Institutions, Certain Categories/posts – Updation of the GSRs-526(E), 527(E), 529(E) – Instructions - Issued.
7.	U.O. Note No. 97462/MC/2004-55, G.A.(MC) dept., dated 17.11.2006	Public Services – Six Point Formula - The Andhra Pradesh Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975 – Further Instructions on the Implementation of the Presidential Order, 1975 and G.O. Ms. No. 610, G.A. (SPF.A) dept., dated 30.12.1985 and One Man Commission (SPF) recommendations – Work Charged Establishments – Regarding.
8.	U.O. Note No. 97462/MC/2004-56, G.A.(MC) dept., dated 17.11.2006	Public Services – Six Point Formula - The Andhra Pradesh Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975 – Further Instructions on the Implementation of the Presidential Order, 1975 and G.O. Ms. No. 610, G.A. (SPF.A) dept., dated 30.12.1985 and One Man Commission (SPF) recommendations – Issued.

S. No.	Order No.	Subject
9.	U.O. Note No. 97462/MC/2004-57, G.A.(MC) dept., dated 17.11.2006	Public Services – Six Point Formula - The Andhra Pradesh Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975 – Further Instructions on the Implementation of the Presidential Order, 1975 and G.O. Ms. No. 610, G.A. (SPF.A) dept., dated 30.12.1985 – Findings and Remedial measures contained in the OMC (SPF) report – Follow up action – Items relating to HM & FW dept., - Orders – Issued.
10.	U.O. Note No. 97462/MC/2004-58, G.A.(MC) dept., dated 17.11.2006	Public Services – Six Point Formula - The Andhra Pradesh Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975 – Further Instructions on the Implementation of the Presidential Order, 1975 and G.O. Ms. No. 610, G.A. (SPF.A) dept., dated 30.12.1985 – Findings and Remedial measures contained in the OMC (SPF) report – Follow up action – Items relating to Higher Education Dept., - Orders – Issued.
11.	U.O. Note No. 97462/MC/2004-59, G.A.(MC) dept., dated 17.11.2006	Public Services – Six Point Formula - The Andhra Pradesh Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975 – Further Instructions on the Implementation of the Presidential Order, 1975 and G.O. Ms. No. 610, G.A. (SPF.A) dept., dated 30.12.1985 – Findings and Remedial measures contained in the OMC (SPF) report – Follow up action – Items relating to Agriculture and Cooperation Dept., - Orders – Issued.
11.	Circular Memo. No. 97462/MC/2004-60, G.A.(MC) dept., dated 17.11.2006	Public Services – Six Point Formula - The Andhra Pradesh Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975 – Further Instructions on the Implementation of the Presidential Order, 1975 and G.O. Ms. No. 610, G.A. (SPF.A) dept., dated 30.12.1985 – Findings and Remedial measures contained in the OMC (SPF) report – Follow up action – Orders – Long Term Measures and Safeguards – Issued.
12.	G.O. Ms. No. 778, G.A.(MC) dept., dated 13.12.2006	Six Point Formula – Implementation of Sri J.M. Girglani, IAS, (Retd.) One Man Commission (SPF) on G.O. Ms. No. 610, G.A. (SPF.A) Dept., Dated 30.12.1985 – Constitution of “Group of Ministers” – Orders – Issued.
13.	G.O. Ms. No. 778, G.A.(MC) dept., dated	Six Point Formula – Implementation of Sri J.M. Girglani, IAS, (Retd.) One Man Commission (SPF) on G.O. Ms. No.

S. No.	Order No.	Subject
	13.12.2006	610, G.A. (SPF.A) Dept., Dated 30.12.1985 – Constitution of “Implementation and Monitoring Authority” with officials – Orders – Issued.
14.	Circular Memo No. 97462/MC/2004-61, G.A.(MC) dept., dated 29.12.2006	Public Services – Six Point Formula - The Andhra Pradesh Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975 – Further Instructions on the Implementation of the Presidential Order, 1975 and G.O. Ms. No. 610, G.A. (SPF.A) dept., dated 30.12.1985 – Issued.
15.	Circular Memo No. 89113/MC/2006-5, G.A.(MC) dept., dated 03.01.2007	Public Services – Six Point Formula - The Andhra Pradesh Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975 – Further Instructions on the Implementation of the Presidential Order, 1975 and G.O. Ms. No. 610, G.A. (SPF.A) dept., dated 30.12.1985 – Reiteration of instructions issued on local status – Reg.
16.	Memo No. 89113/MC/2006-6, G.A.(MC) dept., dated 04.01.2007	Meetings – Regional Workshops – Implementation of G.O. 610 – Programme communicated.
17.	U.O. Note No. 89113/MC/2006-9, G.A.(MC) dept., dated 10.01.2007	Implementation of G.O. Ms. No. 610, G.A. (SPF) Deptt., dated 30.12.1985 – Information Called for – Further Instructions.
18.	Memo No. 89113/MC/2006-10, G.A.(MC) dept., dated 10.01.2007	Implementation of G.O. Ms. No. 610, G.A. (SPF) Deptt., dated 30.12.1985 – Information Called for – Further Instructions.
19.	U.O. Note No. 89113/MC/2006-11, G.A.(MC) dept., dated 10.01.2007	Implementation of G.O. Ms. No. 610, G.A. (SPF) Deptt., dated 30.12.1985 – Information Called for – Further Instructions.
20.	Circular Memo No. 89113/MC/2006-12, G.A.(MC) dept., dated 12.01.2007	Implementation of the Presidential Order and G.O. Ms. No. 610, G.A. (SPF) Deptt., dated 30.12.1985 – Entry in the Service Register of the employee about the local status – Further Instructions - Regarding.
21.	Circular Memo No. 89113/MC/2006-14, G.A.(MC) dept., dated 12.01.2007	Public Services – Six Point Formula - The Andhra Pradesh Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975 – Implementation of the Presidential Order, 1975 and G.O. Ms. No. 610, G.A. (SPF.A) dept., dated 30.12.1985 – Compilation of Information for each Unit of Appointment

S. No.	Order No.	Subject
		– Further Instructions - Issued.
22.	Circular Memo No. 89113/MC/2006-15, G.A.(MC) dept., dated 29.01.2007	Public Services – Six Point Formula - The Andhra Pradesh Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975 – Implementation of the Presidential Order, 1975 and G.O. Ms. No. 610, G.A. (SPF.A) dept., dated 30.12.1985 – City of Hyderabad is a separate unit of Appointment called as City Cadre – Reiterated.
23.	Circular Memo No. 89113/MC/2006-17, G.A.(MC) dept., dated 08.02.2007	Six Point Formula – Instructions issued on ascertaining the Local Status of individual employees – Further instructions – Issued.
24.	U.O. Note No. 97462/MC/2004-62, G.A.(MC) dept., dated 14.02.2007	Public Services – Six Point Formula - The Andhra Pradesh Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975 – Implementation of the Presidential Order, 1975 and G.O. Ms. No. 610, G.A. (SPF.A) dept., dated 30.12.1985 and One Man Commission (SPF) recommendations – Issued.
25.	G.O. Ms. No. 423, G.A.(MC) dept., dated 14.06.2007	Public Services – Six Point Formula - The Andhra Pradesh Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) Order, 1975 – Implementation of the Presidential Order, 1975 and G.O. Ms. No. 610, G.A. (SPF.A) dept., dated 30.12.1985 and One Man Commission (SPF) recommendations – Repatriation of excess Non-Locals – Orders - Cancelled.
26.	Circular Memo. No. 9543/MC/2007-7, G.A.(MC) dept., dated 21.06.2007	Presidential Order – Repatriation of Non-Locals to their respective cadres – Instructions issued – Regarding.
27.	Circular Memo. No. 9543/MC/2007-11, G.A.(MC) dept., dated 02.07.2007	Presidential Order – Repatriation of Non-Locals to their respective cadres – Further Instructions - Issued.
28.	Circular Memo. No. 9543/MC/2007-12, G.A.(MC) dept., dated 02.07.2007	Presidential Order – Repatriation of Non-Local Deputationists to local cadre posts – Further Instructions - Issued.
29.	Circular Memo. No. 9543/MC/2007-13, G.A.(MC) dept., dated 02.07.2007	Presidential Order – Review of certain direct recruitment appointments made – Further Instructions – Issued.
30.	Circular Memo. No.	Presidential Order – Repatriation of non-locals and review

S. No.	Order No.	Subject
	9543/MC/2007-14, G.A.(MC) dept., dated 03.07.2007	of appointments made over a period of time in deviation to Presidential Order – Video Conference on 05.07.2007 – Instructions issued.
31.	Circular Memo. No. 9543/MC/2007-16, G.A.(MC-I) dept., dated 17.07.2007	Monitoring Cell – GAD – Repatriation of non-locals identified – Relief of persons with immediate effect – Instructions – Issued.
32.	G.O. Ms. No. 660, G.A. (MC-I) dept., dated 31.08.2007	Implementation of G.O. 610 – Exemption from applicability of the orders pertaining to cancellation of deputation to the spouses of the defence personnel – Orders – Issued.
33.	G.O. Ms. No. 674, G.A. (MC-I) dept., dated 07.09.2007	The Andhra Pradesh Public employment (Organization of local Cadres and Regulation of Direct Recruitment) Order, 1975 – Review of appointments by direct recruitment – Further Action to be taken – Orders – Issued.
34.	G.O. Ms. No. 771, G.A. (MC-I) dept., dated 09.10.2007	The Andhra Pradesh Public employment (Organization of local Cadres and Regulation of Direct Recruitment) Order, 1975 – Organization of Local Cadres – Instructions – Amendment Issued.
35.	Circular Memo No. 9543/MC/2007-24, G.A. (MC-I) dept., dated 16.10.2007	Presidential Order, 1975(SPF) – Appointment to Various Categories of Posts in the offices of special Agencies/Corporations to implement reservation for local candidates – Instructions – Issued.
36.	G.O. Ms. No. 823, G.A. (MC-III) dept., dated 31.10.2007	Six Point Formula - The Andhra Pradesh Public employment (Organization of local Cadres and Regulation of Direct Recruitment) Order, 1975 – Spouse cases covered by repatriation after review of direct recruitments made – exemption for retention in local area where spouse is working – Orders – Issued
37.	Memo No. 17414/Ser.A/2007, G.A. (Services-A) Dept., dated 07.12.2007	Compassionate Appointments – Compassionate appointments to the deceased Government employees - The Andhra Pradesh Public employment (Organization of local Cadres and Regulation of Direct Recruitment) Order, 1975 – Further instructions on the implementation of Presidential Order, 1975 and G.O. Ms. No. 610, G.A. (SPF.A) department, dated 30.12.1985 – Further Instructions – Issued.
38.	G.O. Ms. No. 924, G.A. (MC-III) dept., dated 12.12.2007	Six Point Formula - The Andhra Pradesh Public employment (Organization of local Cadres and Regulation of Direct Recruitment) Order, 1975 – Retention of

S. No.	Order No.	Subject
		reservation to locals in respect of the posts made gazetted after 1975 - Orders – Issued.
39.	Circular Memo No. 25382/MC-III/2007-1, G.A.(MC-III) dept., dated 02.01.2008	Six Point Formula - The Andhra Pradesh Public employment (Organization of local Cadres and Regulation of Direct Recruitment) Order, 1975 – exemption from the provisions of Presidential Order in public interest under Para 5(2)(c) – Orders issued.
40.	G.O. Ms. No. 70, G.A. (MC-III) dept., dated 11.02.2008	Public Service – Employees appointed on Compassionate Appointments – Inter local cadre transfers for those who were not appointed in their local cadre – Orders – Issued.

2.20.1 Repatriation of Non-Locals

The most important aspect of implementation of recommendations of the One Man Commission was the repatriation of the non-locals. The State Government issued various directions to identify non-locals appointed in deviation of the provisions in each unit of appointment. To fulfill this mammoth task the Heads of Departments and Regional and District level officers were given training on the methodology to be followed to accomplish the task. The procedure followed was as follows:

- Firstly, local status of an employee holding a localized post was ascertained as per the procedure mentioned in the order
- The local status was entered into the service-book of the employee
- Based on the above stated procedure, for each unit of appointment and for each post in that unit of appointment, the number of non-locals employees were found;
- The Government gave the option to non-locals to opt to go back to their respective local areas. However, this option was exercised by a very insignificant number of employees;
- Since, the procedure adopted by the government did not yield the desired result, it decided to review all the appointments made across the State for all the localized posts from October 18, 1975 onwards;

- Recruitment data of a total of 5,10,234 employees was obtained by the departments for the period 1975 to 2006 and was reviewed. Based on the data collected, the following action was taken:

Number of employees identified for repatriation	18,856
Number of employees exempted under spouse grounds etc.	4,062
Number of employees for which repatriation orders issued	14,784
Number of employees expired/retired before repatriation orders issued	10
Number of employees covered by court cases mainly in Home and School Education Departments	5,107

2.20.2 Status of implementation of the Presidential Order and G.O. Ms. No. 610

When the Commission compared the 2001 Census figures with the provisional figures of locals/non-locals, it found that the percentage of non-locals in zones V and VI was negligible and far below the limit of 20%. The problem, the Commission concluded, was not at the aggregate level but at the disaggregated level. It found that at the disaggregated level most non-locals had entered in the category of teachers (School Education Department) and paramedics of the Health Department. If we look at the department-wise details of employees identified for repatriation (18,856), this preliminary conclusion by the OMC is confirmed. The maximum number of non-locals identified for repatriation was from School Education (9693) and Health (1168). We can, therefore, conclude that Para 5(1) of G.O.Ms.No.610 has been largely implemented, subject to the definition of 'local candidate' as given in Para 7 of the Presidential Order.

Further, it is apparent that the Government through various G.O.'s issued over a span of four years has addressed at least 16 genres of deviations directly out of the 18 stated in the report of the One Man Commission.

GOVERNMENT OF A. P. IDENTIFIED 18856 EMPLOYEES FOR REPATRIATION AND ISSUED ORDERS FOR 14784.

GOVERNMENT THROUGH VARIOUS G.O.'S ISSUED OVER A SPAN OF FOUR YEARS HAS ALSO ADDRESSED AT LEAST 16 GENRES OF DEVIATIONS OUT OF THE 18 STATED IN THE REPORT OF THE ONE MAN COMMISSION.

THUS, DURING 2006-2010 THE GOVERNMENT OF ANDHRA PRADESH HAS IMPLEMENTED THE RECOMMENDATIONS OF THE ONE MAN COMMISSION SUBSTANTIALLY.

2.21 The Issue of Exclusion of Certain Posts from the Presidential Order; The Supreme Court Order of 2009

Para 14 of the Presidential Order exempts certain classes of posts from the operation of the Presidential Order. It means that in respect of these posts there cannot be reservation for locals in any local area. Since most of these posts are situated in Hyderabad a feeling has taken root that the locals of Hyderabad are not being given the benefit of reservation. Although Para 14 exempts six classes of posts [14(a) to 14(f)], the issue of exemption under 14(f) relating to posts of Police Officer as defined in Section 3(b) of the Hyderabad City Police Act, 1348 F, came up before the Supreme Court, albeit indirectly, recently.

In the matter of *P.V. Radha Krishna and Ors. v. State of A.P. and Ors.* ((2010)1SCC11), the Supreme Court, while examining the service matter relating to the appointment of police officers belonging to the Hyderabad city cadre examined the sanctity of Para 14 and observed that the Presidential Order (and Para 14) had overriding effect qua other constitutional and statutory provisions.

In the instant case, Mr. P.V. Radha Krishna was appointed as a Sub-Inspector of police in Hyderabad City (Zone VII). The State Government subsequently issued a Government Order Ms. No. 349 dated 15.12.1997 (“G.O.”) whereby some Inspectors of Police in Hyderabad City Police were transferred back/repatriated to their parent cadres. The transferred police officials challenged the G.O. before the Andhra Pradesh Administrative Tribunal on the ground that the Government’s action to transfer the police officials back to ranges in which they were originally appointed was ex-facie illegal, arbitrary, and discriminatory. The argument of the applicants that Hyderabad City Police was part and parcel of Zone VI was rejected by the Administrative Tribunal, in its order dated 28.06.2001, on the grounds that separate and independent recruitment was being made in respect of post of Hyderabad city police and that Hyderabad city police was being treated as a free zone where there was independent recruitment. The applicants then challenged the order of the Tribunal by filing different writ petitions which were heard and disposed of by the Full Bench of the High Court, on 22.11.2001. On the question whether there is a separate cadre for Hyderabad City Police or the same falls in Zone VI, which includes District of Hyderabad, the Full Bench observed as under:

“As there has been no constitution of a separate cadre for the city of Hyderabad for members of the Police force in terms of para

3(6) of the Presidential Order, members of the police force allotted or recruited to Hyderabad must be construed as having been so allotted or recruited to either the District cadre of Hyderabad or zonal cadre of Zone VI....”

On the basis of the above observation, the Full Bench recorded 13 conclusions, the main three being –

- (b) “No separate cadre has been organized for the city of Hyderabad within the meaning of para 3(6) of the Presidential Order.
- (c) No recruitment to the post of a police officer as defined in section 3(b) of the Hyderabad City Police Act 1348 Fasli has been made and there is thus factually no incumbent of the post of police officer under para 14(f) of the Presidential Order.
- (d) Inspectors of Police working in the Hyderabad City Police establishments either on promotion to that post or by direct recruitment, must be considered as belonging to Zone VI in the zonal cadre.”

The High Court struck down the transfer/repatriation orders. The three conclusions reached above amounted to limiting the width and scope of the exemption contained in para 14(f) of the Presidential Order. Aggrieved by the order, Mr. P.V. Radha Krishna appealed to the Supreme Court. The Supreme Court, in its order dated 9.10.2009, found the above three conclusions reached by the Full Bench of the High Court unsustainable and set them aside. The reasoning given by the Supreme Court in its judgement is being quoted below:

“31. We shall now consider whether conclusions (b), (c) and (d) recorded by the Full Bench of the High Court are legally correct and sustainable. The observations of the Full Bench that no separate cadre has been organised and no Police Officer has been appointed under the Hyderabad Act is based on the premise that in the advertisement issued for recruitment of Police Officers and appointment orders of the appellant and other similarly situated persons, reference has not been made to Hyderabad Act. While doing so, the Full Bench omitted to take note of the fact that in terms of Section 7 of the Hyderabad Act, powers to appoint and promote Inspector, Sub-Inspector and other subordinates of the police force vests in the Commissioner of City Police Hyderabad and the said section finds specific mention in the preamble to the Special Rules framed in 1959. Rule 3 of those Rules clearly lays down that as far as Hyderabad City Police is concerned, the Commissioner of Police shall be the appointing authority of Sub-Inspectors of Police etc. and by virtue of that power, the Commissioner of Police,

Hyderabad has been making appointments on various subordinate posts including those of Sub-Inspectors. In the advertisement of 1985 pursuant to which the appellants were appointed as Sub-Inspectors, 93 posts were separately earmarked for Hyderabad city which, for the sake of convenience, was described as Zone VII or free zone. Even in the subsequent advertisements issued in 1991 and 1994, the vacancies of Sub-Inspectors were separately earmarked for Hyderabad City Police Range. The orders of appointment of the appellants were issued by the Commissioner of Police. This shows that a separate cadre has been carved out for Hyderabad City Police and recruitment to the post of Police Officer as defined in Section 3(b) of the Hyderabad Act has been made by the designated competent authority in terms of Section 7 thereof. Therefore, the Full Bench was not justified in curtailing the width and scope of the exclusion clause contained in paragraph 14(f) of the Presidential Order by holding that there is no separate cadre of Hyderabad City Police and there no incumbent of the post of Police Officers as defined in Section 3(b) of the Hyderabad Act.”

In doing so, the Supreme Court restored the primacy of the exclusion contained in para 14(f) of the Presidential Order.

At this point of time the State Government was under pressure of being seen as favouring the extension of the operation of the Presidential Order even to the posts exempted under the Order. It filed a Review Petition no. 238/241 against the above-mentioned judgment of the Supreme Court which was dismissed by the Apex court by its order dated March 16, 2010.

2.21.1 Further action taken on the Supreme Court order

Post dismissal of the review petition, the Andhra Pradesh Legislative Assembly passed a resolution on March 18, 2010, to request the Ministry of Home Affairs, Government of India to obtain the approval of the President of India to delete clause (f) of Para 14 of the Andhra Pradesh Public Employment (Organization of Local Cadres and Regulation of Direct Recruitment) order, 1975⁵². The Chief Secretary, Government of Andhra Pradesh, vide his D.O.No. 40927/MC-I/2009-2, dated 22.03.2010, has written to the Ministry of Home Affairs, Government of India to omit the provision under clause (f) of Paragraph 14 of the Presidential Order. The Chief Secretary has mentioned in this letter that this is necessary to remove

⁵² Letter No. 199/Legn./2009-5.

the misconception that Hyderabad is a free zone for recruitment to the posts in civil services.

The action taken by the Ministry of Home Affairs, as on date, is not known. Thus, the issue of deleting or continuing with the exemption contained in Para 14(f) in particular is currently before the Government of India.

CHAPTER 3

Assessment and evaluation of the success of the implementation efforts undertaken with respect to the issue under consideration

- 3.1 This Chapter attempts to answer the question whether the steps taken in the wake of the different political, constitutional, administrative and legal events that have taken place since independence up to the present day, have been implemented properly and have been successful in satisfying the demand for reservation for the residents of the Telangana region in public employment. **This Chapter presents the basic script of Chapter-2 from the analytical perspective of a political scientist/historian. It also takes a critical look at the roles played by the Government of Andhra Pradesh and the Government of India respectively. Since this is a historical critique of an existing problem, it points out the gaps and oversights in policy and implementation at various points in time. It would be incorrect to construe this analytical critique as a criticism of particular governments and institutions or of specific individuals.**
- 3.2 **In Chapter-2 we have already noted that the demand for reservation for the residents of the Telangana region in public employment was already being voiced by the people and leaders of Telengana when the States Re-organization Commission (SRC) considered the issue of re-organization of States and the unified State of Andhra Pradesh was formed.** The Gentlemen's Agreement which paved the way for the formation of the unified State of Andhra Pradesh by providing certain safeguards to Telangana also listed this issue as one of the points. After the formation of the unified State of Andhra Pradesh a predominant feeling of dissatisfaction continued to simmer when the Gentlemen's Agreement was not implemented. This feeling may have been generated because of the non-implementation of the other points of the Agreement, for example, not appointing anybody as Deputy Chief Minister from the Telangana region, but the issue of reservation in public employment also contributed to the feeling of dissatisfaction. It must be accepted that from its side the Government of India enacted the Public Employment (Requirement

as to Residence) Act, 1957, and the Public Employment (Requirement as to Residence) Rules, 1959, to reinforce the constitutional and legal basis of reservation for the residents of Telangana in public employment. But, by all accounts these provisions merely remained on paper and were not implemented. When the dissatisfaction with the violation of the terms of the Gentlemen's Agreement assumed the shape of the 'Jai Telangana' Movement in 1969, the then Chief Minister of Andhra Pradesh had to announce that all non-domicile persons, who had been appointed either directly or by promotion or by transfer, since November 1, 1956, to posts reserved under the Andhra Pradesh Public Employment (Requirement as to Residence) Rules, 1959 for the residents of the Telangana region would be repatriated by 28.02.1969. On 21.01.1969 the Government of Andhra Pradesh passed an executive order to this effect. **This was the first public and official acceptance and acknowledgement of the fact that the provisions relating to reservation in public employment had been largely violated and not implemented between 1956 and 1969.** Then, on 11.04.1969, the then Prime Minister, Smt. Indira Gandhi made a statement in the Lok Sabha announcing the Eight Point Programme for the development of Telangana. One of the points of the Eight Point Programme was that the possibility of providing for appropriate constitutional safeguards in the matter of public employment in favour of the people belonging to the Telangana region would be examined by the Government of India in consultation with a Committee of Jurists.

- 3.3 Again, three points can be logically deduced from this announcement of the Prime Minister. **Firstly, whereas the announcement by the Andhra Pradesh Chief Minister and the order dated 21.01.1969 were a public acknowledgement of the non-implementation of the provisions of reservation within the political landscape of Andhra Pradesh, the announcement by the Prime Minister, on the floor of the Lok Sabha, was a public acknowledgement of the failure of their implementation at the national level. Secondly, it showed the confusion in the minds of the policy makers and advisers who could not see the difference between providing for safeguards and their implementation. After all, no safeguard, constitutional or otherwise, could be effective if not implemented properly. The provisions of the Public Employment (Requirement as to Residence) Act, 1957, and the Public Employment (Requirement as to Residence) Rules,**

1959, were also legal safeguards with the constitutional backing of Articles 16(3) and 35(a) of the Constitution, till the Supreme Court struck down Section 3 of the Act and Rule 3 of the Rules (and the residence requirement) on 28.03.1969. The fact is that these provisions remained in force for ten years but were not implemented. Thirdly, was the announcement by the Prime Minister, that is, the Eight Point Programme, implemented and a Committee of Jurists formed? Facts suggest that the Eight Point Programme remained a non-starter from the very beginning and the Committee of Jurists (presumably under Justice K.N. Wanchoo) was never formed. **If you publicly acknowledge the cause of popular dissatisfaction and also announce a solution, but the solution remains unimplemented, then it is a double blow. The feeling of dissatisfaction, whether real or imaginary, gets doubly reinforced.**

- 3.4 The period from 1969 to 1973 was a period of great political instability in the State of Andhra Pradesh with two agitations pulling it in opposite directions. The two Full Bench Andhra Pradesh High Court decisions, on 09.12.1970 and 18.02.1972 respectively, and the two Supreme Court decisions, on 28.03.1969 and 03.10.1972 respectively, may have indirectly led to a state of uncertainty regarding the issue. In its judgment dated 28.03.1969, the Supreme Court held that Section 3 of the Public Employment (Requirement as to Residence) Act, 1957, and Rule 3 of the Public Employment (Requirement as to Residence) Rules, 1959, were ultra-vires. The effect of the judgment was to render the 15 year residence requirement null and void. However, in its order dated 03.10.1972, the Supreme Court declared Section 2 of the Act also ultra-vires. The effect of declaring Section 2 of the Act ultra-vires was tantamount to declaring the continuation of the Mulki Rules as valid. The two Andhra Pradesh High Court decisions in 1973 on the interpretation and applicability of the Mulki Rules (the Supreme Court orders did not deal with these aspects) could also have added to further uncertainty. **(It must be clarified here that orders of Courts are directed at the specific issues brought before them and are not guided by political situations or considerations. It is only as a historian and an observer, who has now the advantage of historical perspective, that these comments are being made.)** The confusion in the minds of the

PUBLICLY ACKNOWLEDGING THE CAUSE OF POPULAR DISSATISFACTION AND NOT IMPLEMENTING THE ANNOUNCED MEASURE DOUBLY REINFORCES THE FEELING OF DISSATISFACTION, REAL OR IMAGINARY.

policy makers due to the political pulls in two opposite directions as well as because of these diverse court judgments, can be easily seen today as they first attempted some strange compromise in the Mulki Rules Act, 1972, and then abolished the Mulki Rules altogether by the Mulki Rules Repeal Act 1973. **In fact, the Mulki Rules Act, 1972, was a rather clumsy attempt at creating a credible compromise and an impression that the Mulki Rules were alive to some extent. The reality is that Sections 3 and 4 of the Act validated all acts done in contravention of the Mulki Rules thus far and, therefore, literally invalidated the Mulki Rules. The Mulki Rules Repeal Act, 1973, merely put the seal of finality on this. It is, therefore, easy to draw the conclusion that not only was no progress made in the direction of satisfaction of expectations during this period but the legislations put in place had the undesirable effect of providing a legal cover to acts done in violation of the Mulki Rules.**

- 3.5 During 1973 to 1975 the new constitutional safeguards were put in place through the Six Point Formula, the 32nd Constitutional Amendment Act, Article 371-D and the Presidential Order dated 20.10.1975. As has been described in Chapter 2 in detail, the Presidential Order laid down a scheme of organization of local cadres, principles and procedures for allotment of persons to local cadres and also gave the new definition of a 'local' to whom the benefit of reservation in direct recruitment was to be provided. The State thought that with the issue of the Presidential Order, the dissatisfaction on the issue of reservation in public employment for the residents of Telangana would be brought to an end. However, the success of legislation or of an executive order lies (partly) in its implementation. Though the Government of Andhra Pradesh issued at least 49 Government orders (G.Os) between 1975 and 1985 to facilitate the implementation of the Presidential Order, the plain fact is that there were wide-spread irregularities and violations in its implementation. **The Agreement that the Government of Andhra Pradesh entered into with the Telangana Non-Gazetted Officers Union on 07.12.1985 and the subsequent issue of G.O.Ms. No. 610 dated 30.12.1985 for the rectification of irregularities in the implementation of the Presidential Order, were yet another public acknowledgement of the fact that the issue had been treated casually by the State Government apparatus.**

3.6 Evolution of the criterion of “requirement as to residence” in public employment for the people of the Telangana region.

- (A) At this stage it would be worthwhile to understand the evolution of the residence criterion in public employment over time and to see how it has affected the satisfaction levels. A good starting point would be to understand the basic difference between a ‘native’ and a ‘local’. A ‘native’ is an original and/or a long residing resident of an area whereas a ‘local’ is one who has acquired current domicile status. The original Mulki Rules combined the ‘birth’, ‘descent’ and ‘long residing’ (15 years) criteria and were, therefore, designed to benefit the original/long residing residents of the Hyderabad State rather than those who were merely current residents of the State. In June, 1950, The Government of Andhra Pradesh adapted/amended the Mulki Rules and the ‘birth’ and ‘descent’ criteria were discarded. Hence, from June, 1950, the Mulki Rules had a single defining criterion for securing public employment – continuous residence in the State of Hyderabad for 15 years. As has been discussed in Chapter 2, the Mulki Rules (as adapted/amended in June, 1950) continued to be in operation after the formation of the State of Andhra Pradesh on 1.11.1956.
- (B) The Public Employment (Requirement as to Residence) Act, 1957, and the Public Employment (Requirement as to Residence) Rules, 1959, brought in a new regime of safeguards. Section 2 of the Act repealed the Mulki Rules (till they were declared valid later by the Supreme Court on 3.10.72) while Section 3 of the Act and Rule 3 of the Rules re-introduced the long residing criterion – 15 years immediately preceding the prescribed date. In reality, therefore, there was no change in the actual criterion. The change was in the force behind the two sets of laws. The force behind the Mulki Rules was the validation of their continuation by Article

35(b) of the Constitution and also Section 119 of the States Re-organisation Act. The force behind the Public Employment Act, 1957, was its enactment by the Parliament under Article(s) 16(3) and 35(a) of the Constitution.

- (C) Thereafter, almost imperceptibly, there was a subtle shift in emphasis. While political announcements of safeguards did speak of reservation in employment for the residents of the Telangana region, the emphasis had shifted from natives by ‘birth’ or long-residing residents to ‘locals’ with current domicile status. The 15 years’ residence criterion laid down by the Public Employment (Requirement as to Residence) Act, 1957, and the Public Employment (Requirement as to Residence) Rules, 1959, itself came to an end with the Supreme Court declaring Section 3 of the Act and Rule 3 of the Rules as ultra-vires on 28.03.1969. The ‘long-residing’ criterion as enshrined in the Mulki Rules, made a brief re-entry with the Supreme Court announcing the Mulki Rules as valid by its judgment dated 03.10.1972. (There were, thus, no constitutional or legal safeguards in existence pertaining to reservation on the basis of residence between 28.03.1969 and 3.10.1972. Sure, the Supreme Court judgment of 3.10.1972 brought them back as if they had always been there but in reality no action on the thus revived Mulki Rules could have been taken retrospectively between 28.03.1969 and 3.10.1972.) However, the Mulki Rules Act, 1972, and Mulki Rules Repeal Act 1973 brought down the curtains on the Mulki Rules and thus finally ended the 15 years’ residence criterion. When the Six Point Formula was announced in 1973, the language of political discourse had already shifted from ‘residents’ to ‘locals’ – “preference to a specified extent to local candidates in the matter of direct recruitment and organization of local cadres”. Article 371-D that followed the Six Points Formula not only gave constitutional status to this language but also confirmed what Sections 3 and 4 of the Mulki Rules Act, 1972, had laid down – providing

immunity to any appointment, posting, promotion or transfer of any person made in violation of the Mulki Rules from before coming into being of the State of Andhra Pradesh to the commencement of the 32nd Amendment Act. [(Article 371(9))]

- (D) The biggest dilution was made by the definition of “local candidate” in Para 7 of the Presidential Order dated 20.10.1975. This definition lays to rest the concept of the original/long residing resident and introduces the new concept of local candidate, which is simply the concept of current domicile. In addition, instead of giving a simple definition, Para 7 gives many definitions and is so porous that it appears that there is an escape clause for anybody to claim the local candidate status. Broadly speaking, Para 7 first describes a local candidate as one who has either studied in the local area for four years or has resided in that area for four years. Thereafter, Para 7 goes on to say that if a candidate does not pass the above test then he would be considered a local of *that* area where he has either studied for the maximum period out of seven years (with the pre-condition of having studied in the State for not less than seven consecutive years) or has resided in *that* local area for the maximum period out of seven years (with the pre-condition of having resided in the State during these seven years). Apart from diluting the long residing criterion (from 15 years to 4 years) it strangely mixes the ‘local area’ criterion with ‘State’ criterion. The wording of Para 7 is largely an exercise in obfuscation making it not only un-implementable in itself but also open to gross misuse.
- (E) It is indeed surprising that post the Presidential Order, popular dissatisfaction focused more on violation or non-implementation of the Presidential Order. What has escaped attention is that non-implementation, per se, is of little consequence, for, even if implemented, this porous definition of local candidate was hardly beneficial to the original/long-residing residents of the Telangana region as almost

anybody who had come to stay in the Telangana region even for a brief period could easily get the local candidate status under Para 7. And indeed, this is exactly what happened.

3.7 It is no surprise, therefore, that the Telangana Non-Gazetted Officers Union brought to the notice of the Government several violations of the Presidential Order, the most notable amongst them being the allotment of almost 40,000 non-local employees to the Telangana region. This resulted in the Government issuing the G.O. Ms. No. 610 dated 30.12.1985, Para 5(1) of which says – “The employees allotted after 18.10.1975 to Zones V & VI in violation of zonalisation of local cadres under the Six Point Formula will be repatriated to their respective zones by 31.03.1986 by creating supernumerary posts wherever necessary”. However, the Government failed to implement even this part of the G.O. Ms. No. 610 for the next 16 years, which led to the appointment of the ‘One Man Commission’ on 25.06.2001. **It would be fair to say that during the 26 years’ period (from the issue of the Presidential Order in 1975 to the appointment of One Man Commission in 2001) precious little was done in the direction of satisfying popular dissatisfaction in this area.** A large number of Government Orders and instructions were issued but were either not implemented or implemented in the breach. **The Report of the One Man Commission is actually a detailed enumeration of the non-implementation of the Presidential Order and G.O. Ms. No. 610 during this 26 years period.**

3.8 At one place in the Report, Shri J.M. Girglani, who headed the One Man Commission, says that his report contains findings on the **“ignoring, skirting, bypassing, circumventions, wrong applications or misapplications of some provisions, leakages, deviations, contraventions and violations”** that came to his notice. This description by the One Man Commission is a telling comment on the way the Presidential Order and Government Order No. 610 were implemented by the Andhra Pradesh Government. While discussing the causes of the contraventions and deviations, the One Man Commission makes the following observations⁵³:-

⁵³ (A), (B), (C), (D), (E) and (F) below have been quoted from volume one of the Final Report submitted by the One Man Commission.

- (A) “The Presidential Order had gradually been receding in the limbo of oblivion. Hence, its implications in the administrative decisions, even in the matters of re-organization and far-reaching personnel and structural changes and in the movement of personnel, did not even cross the minds of the proposers and decision-makers. While in every such decision the financial implications were always examined and legal aspects kept in mind, the implications under the Presidential Order escaped attention and tended to get ignored. Even where they did occur to the concerned authorities, as in the case of workcharged establishments, these were skirted and the easy way out was adopted.”
- (B) “In some situations the imperatives/compulsions of circumstances left no choice but to turn the Nelson’s eye to the provisions of the Presidential Order.”
- (C) “In a few cases patronage, favouritism or the blue-eyed boy syndrome, stand out quite patently and rather deplorably.”
- (D) “The ignorance and often misconception about or misconstruance of some of the provisions of the Presidential Order and of the instructions in G.Os like G.O.P No. 728 and G.O.P No. 729 quite often stand out glaringly. One finds free mention in official correspondence and discussions of such things as “VII Zone” (something that does not exist), “Free Zone” (referring to the city of Hyderabad) “non-local quota” (which is nowhere contemplated in the Presidential order) etc.”
- (E) “Departments that have a very large cadre and which include certain wings which are/were excluded from the Presidential order and umbrella departments which have an integrated cadre covering new offspring departments tend to resort to amnesia now and then with regard to the Presidential Order as the easy way out.”
- (F) “Above all, a very important cause is the absence of any device for (i) either on-going control or monitoring system as Finance Department has through pre-audit process or the Law Department as

through legal advice on files, or inspections that the Social Welfare Department has OR (ii) post-facto monitoring system such as audit for accounts, and (iii) absence of nodal agency to guide and control the implementation of the Presidential Order, and (iv) absence of a legislative controlling committee like Public Accounts Committee, or Committees as there are for Scheduled Castes, Scheduled Tribes and for Women which create a feeling in the minds of the officials that they are accountable to the Legislative Assembly through a Committee. Such state of apparent absence of accountability enforcing devices or agencies has tended to create an attitude of indifference, some callousness with a sense of immunity and impunity in the implementation of the Presidential Order over the last almost three decades.”

3.9 These are the findings by a senior officer of the Government of Andhra Pradesh itself, of the way the Presidential Order was violated and not implemented. The One Man Commission was appointed on 25.06.2001 and submitted its Final Report in three volumes on 30.09.2004. After the due process of the recommendations contained in the Report being considered by a Group of Ministers and officers’ Committee, the entire recommendations were accepted by the Government of Andhra Pradesh vide its G.O. No. 548 dated 4.10.2006. **In the series of acknowledgements that have already been referred to in this Chapter earlier, this was the latest public and official acknowledgment of the fact that the Presidential order (and the G.O. Ms. No. 610) had not been implemented over a period of thirty years.**

3.10 However, the acceptance of the recommendations of the One Man Commission by the Government of Andhra Pradesh in October 2006 marks a watershed and a turning point in the treatment of this subject by the State Government apparatus. It appears that the Andhra Pradesh Government realized that this matter could no longer be allowed to drift. This realization in the executive wing of the Government was matched by a similar realization by the Andhra Pradesh Legislative Assembly. While the recommendations of the One Man Commission were being discussed and debated in the executive wing of the Government by a Group of Ministers and Officers’ Committee, the Andhra Pradesh Legislative

Assembly also constituted two House Committees to monitor the implementation of Government Order No. 610. This had an extremely salutary effect on the quality of implementation as, for the first time in 30 years, executive implementation had legislative oversight. Even at the executive level the importance and significance attached to the subject was increased many folds with the constitution of an Implementation and Monitoring Authority (IMA) under the Chairpersonship of the Chief Secretary and with Special Chief Secretary (Finance), Law Secretary, Principal Secretary (Department concerned) and Secretary to Government on G.O. Ms. No. 610 as its members.

3.11 The result is that during the last four years a number of steps have been taken to implement the recommendations of the One Man Commission in all seriousness. As has been detailed in Chapter-2, the Government after identifying 18,856 employees for repatriation, has already repatriated 14,784 employees. Thus, Para 5(1) of G.O.Ms.No.610 has been largely implemented. The Government has also addressed at least 16 genres of deviation (from the Presidential Order) through the steps described in Chapter 2. Not only is this good performance but all efforts appear to have been made to implement the Presidential Order in right earnest. However, it has to be kept in mind that this implementation relates to a flawed and watered down definition of 'local candidate'.

3.12 It will also help to put things in the correct perspective if we look at the roles played by the Government of Andhra Pradesh and the Government of India separately.

3.13 After what has been described in Chapter 2 and earlier in Chapter 3, one does not have to be an expert in deductive logic to conclude that successive State Governments in Andhra Pradesh did practically nothing either to implement the 15 years' residential qualification enshrined in the Mulki Rules or the same qualification enacted by the Public Employment (Requirement as to Residence) Act, 1957, between 1956 and 1975. In fact, it is very clear that they were extremely uncomfortable with this qualification and welcomed the eventual dilution of this qualification in 1975. What is more disappointing is that they pussy-footed and did not implement

even a severely watered down definition of domicile (Para 7 of the Presidential Order) for almost 30 years, till the One Man Commission submitted its Report in 2004 which was accepted in 2006. During this period they issued more than a hundred Government Orders (G.O.s) and instructions, but there was neither any intent nor direction. The proof of the pudding, as the saying goes, is in the eating.

When the direction and intent came, it took them less than four years (2006-2010) to implement most of the recommendations of the One Man Commission and consequently the Presidential Order (and G.O. 610). One cannot deny the positive intent displayed and role played by the Government of Andhra Pradesh during the last four years in implementing the Presidential Order of 1975 and G.O.Ms. No. 610. If the earlier governments in Andhra Pradesh treated this issue as “business as usual”, the present government in Andhra Pradesh has treated this subject with all seriousness, priority, due importance and right intent.

- 3.14 It must be admitted, as mentioned earlier in Chapter 2, that the Government of India started with excellent intent when the unified State of Andhra Pradesh, comprising the Telangana region, was formed in 1956 but appears to have lost it way as different events unfolded. There are two considerations which form the basis of the above statement. Firstly, let me refresh the memory of the reader by quoting what the SRC cautioned in Para 384 of its Report – “We have carefully gone into the details of the arrangements which may be made on these lines. It seems to us, however, that neither guarantees on the lines.....will prove workable or meet the requirements of Telangana during the period of transition. Anything short of supervision by the Central Government over the measures intended to meet the special needs of Telangana will be found ineffective,.....” When two separate regions were being merged amidst a host of uncertainties and apprehensions, then, as the parent of the merger, it would have been prudent for the Government of India to put in place a mechanism of Central supervision, as advocated by the SRC. Secondly, article 35(a)(i) of the Constitution confers exclusive power on the Parliament, while denying it to State Legislatures, for legislating on the matter covered under article 16(3), that is, for providing any

residential qualification in a State as a pre-condition for public employment. In a parliamentary form of government, this duty gets transferred to the Central Government. The following analysis shows that somehow the Government of India lost its way while discharging these two duties in a way that could have satisfied the expectation of the people of Telangana:

- (A) It must be admitted that after the unified State of Andhra Pradesh was formed on 1.11.1956, the Government of India did carry out its legislative duty by enacting the Public Employment (Requirement as to Residence) Act, 1957, and the Rules thereunder. The Parliament also amended Article 371 to provide for the constitution of Telangana regional committee. However, after having done the basic legislative job, the Government of India either forgot or did not consider it essential to put in place a mechanism for Central supervision. At that stage, the mechanism itself could have been made a part of the Public Employment Act and Rules. The non-implementation of the provisions of the Public Employment Act and Rules has as much to do with the inability and/or unwillingness of the earlier Governments in Andhra Pradesh as with the failure to establish a supervision mechanism.
- (B) I have described in some detail in 2.6 and 2.8 of Chapter 2 how the Supreme Court judgment of 28.03.1969, striking down Section 3 of the Public Employment Act (along with Rule 3 of the Rules) and thereby extinguishing the 15 years' residential qualification, led to a period of uncertainty about the existence of any safeguard in this regard till the Supreme Court itself, by its order dated 3.10.1972, revived the Mulki Rules by striking down Section 2 of the Act as well. The Supreme Court, very ably, plugged the legislative loophole that it had highlighted in the first place. In doing so the Supreme Court correctly focused on the original intention of the Parliament. But the Supreme Court is not Parliament; it cannot enact a law. That responsibility lies with the Government of the day and one feels that with better

judgement it was possible to take corrective steps at this point of time. The Government was well aware of what was happening and it was against this backdrop that the then Prime Minister announced the Eight Point Programme in the Lok Sabha on 11.04.1969, which included the examination of the possibility of providing for appropriate safeguards in the matter of public employment in favour of the people of Telangana in consultation with a committee of jurists. We know now that the committee of jurists was never formed but even in the absence of a formal committee credible steps could have been initiated on proper constitutional/legal advice. The Supreme Court, in its order dated 28.03.1969, had struck down Section 3 of the Public Employment Act (along with Rule 3 of the Rules), insofar as it related to Telangana, on a simple argument based on a 'narrow' construction of the word 'State'— that Parliament in exercise of its legislative powers under Article(s) 35(a) and 16(3) of the Constitution could make laws providing for residential qualification in public employment for the whole 'State' but not for 'parts' of the State. Now, it has to be remembered here that Article 16(3) itself had been amended by the same Constitution (Seventh Amendment) Act, 1956, by which Article 371(1), providing for the Telangana Regional Committee, had been inserted. A possible corrective step that the Government could have taken was to amend Article 16(3) again so as to empower the Parliament to make a law (for a State) that prescribed residential qualification for public employment in a 'part' of that State (relating to those 'parts' only that had been merged or bifurcated as a result of the re-organisation of States), and then re-enact Section 3 of the Public Employment Act. The Government had already put in place a legislative safeguard way back in 1957. It did not need to provide fresh safeguards. All it needed to do was to re-inforce the Constitutional support of that legislative safeguard.

- (C) I have also said in Chapter-2 that the 'Jai Andhra' Movement, that is widely believed to have started due

to the Supreme Court order dated 3.10.1972 reviving the Mulki Rules, lacked any rational basis. The Supreme Court order of 3.10.1972 did not create any new residential qualification. All it did was to revive the same 15 years' residential qualification (by validating the Mulki Rules) that had been earlier extinguished by its order dated 28.03.1969. This qualification had always existed. In hindsight, the Andhra 'dissatisfaction', therefore, seems to be an imaginary dissatisfaction meant to influence the Government of India into doing away with the then existing safeguard for the residents of Telangana. There was little reason for the Government of India to have enacted the Mulki Rules Act, 1972. The unofficial historical view is that it was meant to be a compromise. However, one is unable to find any element of a fair compromise in this Act. It is a strange piece of legislation that had the indirect effect of invalidating whatever the Government of India itself had done since 1.11.1956 in the direction of securing justice for the residents of Telangana in public employment. Somehow it escaped the attention of the central authorities that the same Government which continued the Mulki Rules [by the force of Article 35(b)] and which enacted the Public Employment Act (containing the same residential qualification as that contained in the Mulki Rules), was now enacting Section(s) 3(3) and 4 (of the Mulki Rules Act, 1972) which provided immunity to any appointments made in violation of the Mulki Rules from 1.11.1956, that is, since the formation of the State of Andhra Pradesh. Instead of providing credible safeguards to the people of Telangana, this Act actually provides a legislative cover for the actions of those who did not implement the Mulki Rules/the Public Employment Act from the day the State was formed. This was avoidable.

- (D) The Six Point formula which forms the basis of all later developments is also short on logic and reason, though it is believed to have been democratically accepted by all parties. However, it is difficult to understand as to why the Government of India, which mentored the

agreement, agreed to the discontinuance of the Mulki Rules and the Telangana regional committee. The 'Mulki Rules' were just a name; the actual content was the 15 years' residential qualification. Even if the Mulki Rules had to be discontinued, where was the need to discontinue the 15 years' residential criterion for public employment in the Telangana region? Where was the need to create local cadres for other parts of the State? After all, this issue was germane only to the Telangana region, not to the other areas of the State! Article 371-D, which was inserted by the Constitution (Thirty-Second Amendment) Act, 1973, speaks the same language as that used in Section(s) 3(3) and 4 of the Mulki Rules Act, 1972, and provides constitutional amnesty to all acts done in violation of any law providing residential qualification (Mulki Rules/Public Employment Act).

(E) An inordinately complicated Presidential Order that was short on content and long on procedures can also be blamed for the delayed implementation. Though it was based on the Six Point Formula and on Article 371-D and these are largely responsible for the weaknesses in the Presidential Order, a more thorough and objective approach could have been adopted at the time of its drafting. The issue of providing preference to residents of an area in public employment was a Telangana-centric issue; it was not a state-wide issue in Andhra Pradesh. There was no such demand from other areas of the State. It was not correct to universalize this issue as it had the effect of diluting the demand of the residents of Telangana. And Para 7, which defines 'local candidate' is hardly a fair and implementable definition. Firstly, it brings down the effective 'domicile' requirement to just 4 years from 15 years. Secondly, it very strangely integrates a residential qualification for the entire State with that for a local area. The result is that a person can acquire the status of a 'local' for a 'local area' on the basis of having studied/resided in the 'State' for a minimum duration. This is an escape clause for anybody wanting to claim the 'local candidate' status for any local area.

With this kind of a definition anybody wanting to become a 'local' of any 'local area' in Telangana could easily become one. This is a very poor definition. Even if the Presidential Order is seriously implemented, as has been done now between 2006 and 2010, it perhaps means little to the real residents of Telangana.

3.15 Thus, in answer to the limited question as to whether the steps taken in the wake of the different events have been effective in satisfying the demand of the people of the Telangana region, one cannot but reach a conclusion in the negative, despite the good work done by the Government of Andhra Pradesh during the last four years. Whether reservation in public employment on the basis of residential qualification, per se, is desirable is a separate question altogether.

CHAPTER 4

Conclusion

4.1 This Chapter is not a direct corollary of the earlier Chapters but attempts to put the discussion of Chapter 3 in a wider perspective, for further consideration by the CCSAP. Unlike Chapter 3 which was an analytical and critical review of the events described in Chapter 2, this Chapter raises fresh questions, relating to the issue under consideration, having a bearing on the central issue that the Committee on Consultation on the Situation in Andhra Pradesh (CCSAP) is trying to grapple with – the future state of the State of Andhra Pradesh. Even if my conclusion, arrived at in Chapter 3 - that the steps taken by the Governments (Central and State) to satisfy the demand of the people of Telangana for effective safeguards for ensuring fair opportunities to them in public employment have not been successful - is accepted at face value, a number of other questions related to this issue also need to be answered, or at least considered. Some of these questions are:

- A. Whether there is a need for taking further corrective action and if so, what steps can be recommended?
- B. Whether the demand for reservation in public employment is an issue that can be considered relevant to a large section of the population?
- C. Whether in a democracy, which aspires to be modern in all aspects, demands for reservation in public employment (and in other areas) on the basis of

residence in a particular State/region, conducive to national integration?

- 4.2 None of the above questions involves simple issues that can be answered in a cut and dried manner. It is beyond the scope of this study and certainly beyond the competence of a single mind to answer these questions in such a short span. Nevertheless, a genuine attempt is being made to consider these issues from different perspectives and to place on the table a set of views that can be further considered by the Committee.
- 4.3 The first part of the first question raised above, indeed, lends itself to a simple and straight answer in the affirmative. Chapter 3 has dealt in detail the non-implementation of the original legal safeguards, their dilution and the non-implementation of even the diluted safeguards for almost half a century. Indeed, a lot of intent and direction has been shown by the Government of Andhra Pradesh during the last four years in identifying the non-locals in zones V and VI, repatriating them and in attending to a number of deviations highlighted by Shri J.M. Girglani in his Report. However, it should not be forgotten that even this good effort may prove to be an example of 'too little and too late' because of the highly watered down definition of 'local candidate' in Para 7 of the Presidential Order. Hence, we are enabled to reach a simple answer – yes, corrective action is needed. It is the second part of the question that does not lend itself to a simple answer or answers. In the last 35 years, since the issue of the Presidential Order in 1975, the Government of Andhra Pradesh has built elaborate administrative structures – organization of local cadres, zonal cadres, multi-zonal cadres, procedures of allotment and recruitment to these cadres, procedures of transfer between the cadres, procedures of promotion

etc. – and has issued more than a hundred G.O.s and instructions. It is just not possible to modify the procedural part of the Presidential Order without creating complete administrative chaos within the State. Minor modifications, amendments or tinkering will not lead to any substantive gain. On the contrary, they will disturb the elaborate administrative structures built leading to total chaos. If the Presidential Order is to be modified then there are only two options. The first option is to modify the content related provisions (mainly Para 7 and Para 14) without tinkering with the procedural provisions. The other option is to repeal the entire Presidential Order. However, from a practical point of view the second option appears very difficult to implement despite its alluring simplicity. The reason is that if Andhra Pradesh is recommended to be continued in its present form then in this scenario it will be a daunting task to think of, and a political nightmare to agree to, a structure of safeguards that should replace the Presidential Order. Also, despite its many weaknesses it seems to have been accepted as the starting point of negotiations over the years and the good work done by the Government of Andhra Pradesh during the last four years might also have generated some good will. At this point, therefore, I can only say that the first option is more practical and may find more ready acceptability. In terms of specifics I recommend that-

- (a) The CCSAP may recommend a re-look at or a review of Para 7 of the Presidential Order to make the definition of 'local candidate' more objective, fair and compact;
- (b) The CCSAP may recommend a re-look at or a review of Para 14 of the Presidential Order which exempts

certain classes of posts from its operation. A large number of these posts are concentrated in Hyderabad and their easy visibility has given rise to a feeling of dissatisfaction. The matter regarding the deletion of clause (f) of Para 14 is already before the Government of India. It, therefore, makes sense to have a relook at the entire Para 14 and go into the rationale behind each clause of Para 14.

- (c) I have already said in Chapter 3 that there was little logic behind the discontinuance of the Telangana Regional Committee. A State Planning Board with Sub-Committees for different backward areas is essentially an administrative arrangement. This cannot be a replacement for the Telangana Regional Committee, which was a committee of the members of the state legislative assembly. I, therefore, recommend that the CCSAP may recommend a relook at the possibility of reviving the Telangana Regional Committee, which should, inter-alia, have the authority of oversight on all matters connected with public employment in the Telangana region.

The problem gets solved on its own if Telangana becomes a separate State. In that scenario the Presidential Order will cease to have any rationale in the new State and will have to be repealed in relation to Telangana. Whether the remaining part of Andhra Pradesh would like the Presidential Order to continue is a separate issue and has no bearing on the present issue. In case the new State of Telangana wants a new legislation on the lines of the Public Employment (Requirement as to Residence) Act, 1957, then that is also a separate issue beyond the scope of this Report.

4.4 The second question can be rephrased- Is public employment a big issue statistically? As per the figures of Census 2001, the population of Andhra Pradesh was 757.28 lacs, out of which the working population was 348.65 lacs. The Employees' Census held in 2006 put the figure of total employees under the State (or in public employment) at around 12.9 lacs. Now, for the sake of convenience, let us make two assumptions – (a) that the Census 2001 figures of total population can be compared with the Employees' Census figures of 2006, and (b) that the issue of residential qualification in public employment is relevant to the entire work force in public employment. The entire population of public employees in Andhra Pradesh in 2006 was about 1.7% of the total population in 2001 and about 3.6% of the working population in 2001. If we had increased the total population and working population figures (which would anyway have increased by 2006 as compared to 2001) and reduced the figure of public employees to include only those to whom the benefit of reservation could be extended, these percentages would have been even lower. The point is that public employment constitutes a very small percentage of the working population of the State and an even smaller percentage of the total population. During the last two decades (1990-2010), as the Indian economy has undergone structural changes, a great many areas of employment opportunities in the private sector have opened up, pushing public employment, both in numbers as well as in importance, to the background. In an era when the State is withdrawing from many areas, accompanied by increasing privatization or public-private-partnerships, employment under the State can no longer be viewed as a panacea for unemployment. Thus, statistically, if public employment as a whole is not a big issue then the issue

of reservation on the basis of domicile in certain classes of posts under the State is an even smaller issue. However, in relation to Telangana, the issue has to be viewed in its historical context. Firstly, as an issue of regional apprehension or dissatisfaction, it had been in the public and political domain ever since India gained independence. Secondly, public employment was perceived as a major area of employment opportunities, given the lower level of education in the area and the lack of entrepreneurial spirit in the residents of this region. Both these factors have contributed to imparting a very strong emotional appeal to this issue. The fact that the issue, largely, has not been handled well has added further emotional baggage to it. I am, therefore, of the view that despite it being a relatively small issue statistically, it will be a folly to treat it as one. It is a strong emotional issue and begs for a strong and mature solution.

- 4.5 The last question is one that has bedevilled the founding fathers of the Constitution, the leaders at the helm of the State, jurists, planners and public intellectuals et al., ever since independence. The concept of 'nation-state' which got crystallized in Europe between the 16th and the 19th Centuries was based predominantly on uniformity of religion and language. This concept was alien to the Indian subcontinent. The India first under the Mughals and later under the British was politically an 'empire', artificially held together by the force of the central authority, and not a 'nation-state'. This empire consisted of numerous disparate regions differing in religion, language and culture. To remove the unifying force of the central colonizing authority and to glue the disparate regions together to mimic a 'nation-state' was an audacious experiment. A common 'Indian-ness' had to be emphasized while accepting the historical differences.

The founding fathers of our Constitution, in their desire to create a modern nation-state wanted uniformity (in fundamental rights, opportunities and laws) but were forced to introduce exemptions to such uniformity because it was not possible to gloss over the diversities. And thus began our journey with special treatments based on religion, language, caste and domicile. 'Reservation' became the preferred political and administrative instrumentality of these exemptions and special treatments. In the decades of 80s and 90s we witnessed the extension of caste based reservations in public employment to 'backward castes' and 'other backward castes'. Now fresh demands are being raised to extend the OBC reservations to religions not yet covered under the caste reservations. We are also witnessing the rise of strong local sentiments against outsiders, not merely in public employment but in any kind of employment. The 'sons of the soil' ideology of certain political parties is creating an unnecessary rift between citizens of the same country. Can we allow such sentiments to flourish? This is a question that should trouble all those who imagine India as a country aspiring to be a modern nation-state.

In 1990, V.S. Naipaul wrote that 'India was now a country of a million little mutinies'. Unfortunately, these little mutinies seem to be increasing by the day. The cognoscenti and the well-meaning also know that reservation has been a sub-optimal solution to our little mutinies. The 'audacious experiment' has survived but to make it work our solutions have to be optimal. Ramachandra Guha, the famous historian, writes in *India After Gandhi*- "Speaking now of India, the nation-state, one must insist that its future lies not in the hands of God but in the mundane works of men".

These issues need to be considered and debated at length
before we attempt to redraw the internal map of India.

New Delhi
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