

No. RTI/GoI/MoD/2018/1

From,  
Venkatesh Nayak  
#55A, 3<sup>rd</sup> Floor  
Siddharth Chambers-1  
Kalu Sarai  
New Delhi – 110 016

To,  
The Central Public Information Officer &  
US (GS-I/IS)  
Department of Defence  
Ministry of Defence  
Government of India  
Room No. 283-B, South Block  
New Delhi- 110 001

Dear sir,

Sub: Submission of request for information under *The Right to Information Act, 2005*

Apropos of the reply to Unstarred Question No. 1463 tabled in the Rajya Sabha on 01/01/2018 (copy along with Annexure is enclosed), by the Hon'ble Minister of State in your Ministry, I would like to obtain the following information under the RTI Act:

- 1) A clear photocopy of all official records containing details of the procedure that is required to be followed by your Ministry while deciding whether or not to grant sanction for prosecuting any member of the defence forces for actions committed under the *Armed Forces (Jammu and Kashmir) Special Powers, 1990* (J&K AFSPA), including channel(s) of supervision over and accountability of such decision making procedure;
- 2) A clear photocopy of all official records/documents containing the norms, criteria and standards that are required to be applied for assessing the evidence submitted by the Government of Jammu and Kashmir in relation to its request for sanction for prosecuting any member of the defence forces for actions committed under J&K AFSPA;
- 3) The rank or designation of the officer who is competent to make a final decision on whether or not to grant sanction for prosecuting any member of the defence forces for actions committed under J&K AFSPA in any case (name of the officer is not required);
- 4) A clear photocopy of the communication sent by your Ministry to the Government of J&K denying sanction for prosecution of members of the defence forces in all cases listed in the Annexure to the reply to the said Unstarred Question; and
- 5) Inspection of every file including all papers, correspondence, file notings and emails, if any, relating to the denial of sanction for prosecution of members of the defence forces as per the list annexed to the reply to the said Unstarred Question and supply of clear photocopies of the relevant papers and electronic files identified by me during the inspection.

I believe that the information sought at paras #1-4 above are required to be proactively disclosed by your Ministry under Sections 4(1)(b), 4(1)(c) and 4(1)(d) of the RTI Act. As I am unable to locate the said information on your official website, I am constrained to file this RTI

अधपत्रा COUNTERFOIL  
इसे फाइल प्रेषक अपने पास रख ले।  
To be detached and kept  
by the Sender.

पोस्टल आर्डर  
₹ 10  
POSTAL ORDER

किस अदा करना  
To whom payable A/o  
Ministry of Defence

किस डाकघर  
At what Office C.P.O., N. Delhi

क्या इसे क्रॉस किया है  
Whether crossed no

भेजने की तारीख  
Date sent 12/02/18

38F } 252947

Date: 12/02/2018

application. I would like to receive all this information by post at my postal address mentioned above.

As regards the request for inspection of information described at para #5 above, I would be grateful if you would give me sufficient advance notice of the date and time for inspection.

I am a citizen of India. I have enclosed an IPO (bearing #38F 252947) for Rs. 10/- towards payment of the prescribed application fee. Please inform me of the additional fee payable for obtaining access to all the information described above.

I hereby certify that the total length of the substantive portion of this RTI application (424 words) is well within the statutory limit of 500 words prescribed in the RTI Rules, 2012.

Yours sincerely,

S.S. Venkatesh Nayak  
Venkatesh Nayak 12/2/18

SP HALU KHAS <110016>  
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ED716443558IN  
Counter No:1,OP-Code:OP1  
To:THE CPID,  
NEW DELHI, PIN:110001  
From:KENKATESH , ND  
Wt:20grams, ,12/02/2018 ,11:00  
Amt:18.00  
,CGST @% 1.5 ,UTGST @%: 1.50  
<<Track on [www.indiapost.gov.in](http://www.indiapost.gov.in)>>



GOVERNMENT OF INDIA  
MINISTRY OF DEFENCE  
DEPARTMENT OF DEFENCE  
**RAJYA SABHA**  
**UNSTARRED QUESTION NO.1463**  
TO BE ANSWERED ON 1.1.2018

**PROSECUTION OF ARMED FORCES UNDER AFSPA**

1463. SHRI HUSAIN DALWAI:

Will the Minister of DEFENCE be pleased to state:

- (a) the number of cases received by the Central Government from Jammu and Kashmir Government for sanction of prosecution of Armed Forces personnel, under Armed Forces (Jammu and Kashmir) Special Powers Act, (AFSPA), 1990;
- (b) the number of such cases in which sanctions were granted, denied and pending;
- (c) the details for each request received including its year of receiving, offences alleged, outcome of investigation, current status of the sanction for prosecution; and
- (d) the reasons for denying or pending status of sanction for prosecution?

ANSWER  
MINISTER OF STATE IN THE MINISTRY OF DEFENCE  
DR. SUBHASH BHAMRE

(a) A total of 50 cases have been received by the Union Government from the Government of Jammu and Kashmir for Prosecution Sanction against Armed Forces personnel under AFSPA, 1990.

(b) & (c): A statement giving the details of the total number of cases received in each of the years, offence alleged and the current status of the sanction granted / denied / pending based on the investigation is annexed.

(d) The reason for denial / pendency of prosecution sanction is on account of lack of sufficient evidence to establish a *prima facie* case.

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**ANNEXURE IN RESPECT OF REPLY GIVEN IN PARTS (b) & (c) OF RAJYA SABHA UNSTARRED QUESTION NO. 1463 FOR 1.1.2018 REGARDING PROSECUTION OF ARMED FORCES UNDER AFSPA.**

<b>S. No.</b>	<b>Year</b>	<b>Total Requests Received</b>	<b>Offence Alleged</b>	<b>Current Status of Prosecution sanction</b>
1.	2001	1	Death in operation	Denied
2.	2005	2	Death in an encounter	Denied
			Death in retaliatory fire	Denied
3.	2006	17	Killing after abduction	Denied
			Apprehending and killing	Denied
			Death after apprehension of civilian	Denied
			Outraging the modesty of a woman	Denied
			Disappearance of two civilians	Denied
			Rape of a woman	Denied
			Death of a civilian in operation	Denied
			Death of a civilian	Denied
			Beating of civilians	Denied
			Maltreatment	Denied
			Death of a civilian	Denied
			Disappearance of a civilian	Denied
			Illegal detention of a civilian	Denied
			Abduction of a civilian	Denied
			Death of a civilian after abduction	Denied
Abduction and Death of a civilian	Denied			
Disappearance of a civilian	Pending			
4	2007	13	Torture and Killing	Denied
			Apprehending and killing	Denied
			Torture and Killing	Denied
			Torture and killing	Denied
			Torture and killing	Denied
			Rape of a woman	Denied
			Custodial death	Denied
			Disappearance of a civilian	Denied
			Disappearance of a civilian	Denied
			Disappearance of a civilian	Denied
			Apprehending and killing	Denied
			Fake encounter leading to death of one person	Denied
			Killing of a civilian	Denied

5	2008	3	Detention and Killing	Denied
			Disappearance of a civilian	Denied
			Theft, molestation and rape	Denied
6	2009	2	Disappearance of civilians	Denied
			Death in custody	Denied
7	2010	4	Killing of a civilian	Denied
			Custodial death	Denied
			Killing of a civilian	Denied
			Killing of a civilian	Denied
8	2011	2	Kidnapping of a civilian	Pending
			Killing of a civilian	Denied
9	2013	3	Killing of suspected terrorist	Denied
			Killing of a civilian	Denied
			Killing of a civilian	Denied
10	2014	2	Killing of a civilian	Pending
			Killing of a civilian	Denied
11	2016	1	Killing of two civilians and causing injury to two civilians.	Denied

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