

## **Opinion on the scope of article 76 (2) (a) of the Constitution**

Inclusion of article 76 in the Constitution appears to be unique in the sense that such provisions are not seen in any other constitutions of modern democracy. Article 76 mainly deals with appointment of standing committees and entrusting them with certain powers.

One of such powers is 'to examine draft bills and legal proposals'. Question arose as to how the Standing Committee for law, justice and parliamentary affairs, in brief, SC would exercise such power.

Article 80 provides amongst other that every proposal in Parliament for making law shall be made in the form of a Bill. So, every legal proposal or bill in draft for making law after introduction in Parliament is treated as a Bill. Only after admission, a Bill becomes a subject for deliberation in the Parliament and Parliament may send it for examination by a SC however in accordance with the Rules of Procedures.

A SC is the creature of the Parliament and its works and continuance depends upon the decision of the Parliament. It may be noted what Parliament is not empowered to do, a SC cannot assume to do that.

Introduction of a legislative proposal or a bill in Parliament for making law squarely falls within legislative agenda of the party in power and within the prerogative of a government. Under the rules of business, every such legal proposal or bill needs to be placed, considered and approved in the cabinet before introduction in the Parliament.

It must be understood that the executive that is the government is the pilot in the journey of a draft bill or legislative proposal to the Parliament. When the Parliament or the Speaker is not empowered to ask the government to introduce any bill or legislative proposal in Parliament, a SC cannot claim a power to ask the government to send

a legislative proposal or draft bill for examination. When the government in its judgment finds it necessary to seek an opinion of a SC it may refer a draft bill or a legislative proposal for examination of a SC. After such reference only, a SC may examine such proposal or draft bill under the above clause (2)(a) of article 76. Such provisions might be thought necessary for the government to have a scrutiny of a legislative proposal or a draft bill by a SC before introduction in Parliament.

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