

THE UNITED NATIONS (PRIVILEGES AND IMMUNITIES) ACT, 1947

ARRANGEMENT OF SECTIONS

SECTIONS

1. Short title.
2. Conferment on United Nations and its representatives and officers and certain privileges and immunities.
3. Power to confer certain privileges and immunities on other international organisations and their representatives and officers.
4. Power to make rules.

THE SCHEDULE.

THE UNITED NATIONS (PRIVILEGES AND IMMUNITIES) ACT, 1947

ACT No. 46 OF 1947¹

[20th December, 1947.]

An Act to give effect to the Convention on the Privileges and immunities of the United Nations.

WHEREAS it is expedient to give effect to the Convention on the Privileges and Immunities of the United Nations, and to enable similar privileges and immunities to be enjoyed by other international organisations and their representatives and officials;

It is hereby enacted as follows:—

1. Short title.—This Act may be called the United Nations (Privileges and Immunities) Act, 1947.

2. Conferment on United Nations and its representatives and officers and certain privileges and immunities.—(1) Notwithstanding anything to the contrary contained in any other law, the provisions set out in the Schedule to this Act of the Convention on the Privileges and Immunities, adopted by the General Assembly of the United Nations on the 13th day of February, 1946, shall have the force of Law in India.

(2) The Central Government may, from time to time, by notification in the Official Gazette, amend the Schedule in conformity with any amendments, duly made and adopted, of the provisions of the said Convention set out therein.

3. Power to confer certain privileges and immunities on other international organisations and their representatives and officers.—Where in pursuance of any international agreement, convention or other instrument it is necessary to accord to any international organisation and its representatives and officers privileges and immunities in India similar to those contained in the provisions set out in the Schedule, the Central Government may, by notification in the Official Gazette, declare that the provisions set out in the schedule shall, subject to such modification, if any it may consider necessary or expedient for giving effect to the said agreement, convention or other instrument, apply *mutatis mutandis* to the international organisation specified in the notification and its representatives and officers, and thereupon the said provisions shall apply accordingly and, notwithstanding anything to the contrary contained in any other law, shall in such application have the force of law in India.

4. Power to make rules.—²[(1)] The Central Government may ³[by notification in the Official Gazette] make rules for carrying out the purposes of this Act.

³[(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

1. This Act has been extended to the Union territory of Pondicherry by Act 26 of 1968, s. 3 and the Schedule and to the State of Sikkim (w.e.f. 12-1-1976) vide notification No. G.S.R. 19(E), dated 12-1-1976.

2. Section 4 renumbered as sub-section (1) thereof by Act 4 of 1986, s. 2 and the Schedule (w.e.f. 15-5-1986).

3. Ins. by s. 2, *ibid.* (w.e.f. 15-5-1986).

THE SCHEDULE

(See sections 2 and 3)

ARTICLE I

JURIDICAL PERSONALITY

SECTION 1. The United Nations shall possess juridical personality.

It shall have the capacity:

- (a) to contract;
- (b) to acquire and dispose of immovable and movable property;
- (c) to institute legal proceedings.

ARTICLE II

PROPERTY, FUNDS AND ASSETS

SECTION 2. The United Nations, its property and assets wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except in so far as in any particular case it has expressly waived its immunity. It is, however, understood that no waiver of immunity shall extend to any measure of execution.

SECTION 3. The premises of the United Nations shall be inviolable. The property and assets of the United Nations, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

SECTION 4. The archives of the United Nations, and in general all documents belonging to it or held it, shall be inviolable wherever located.

SECTION 5. Without being restricted by financial controls, regulations or moratoria of any kind,

(a) the United Nations shall be free to transfer its funds, gold or currency of any kind and operate accounts in any currency;

(b) the United Nations shall be free to transfer its funds, gold or currency from one country to another or within any country and to convert any currency held by it into any other currency.

SECTION 6. In exercising its rights under section 5 above, the United Nations shall pay due regard to any representations made by the Government of any Member in so far as it is considered that effect can be given to such representations without detriment to the interests of the United Nations.

SECTION 7. The United Nations, its assets, income and other property shall be:

(a) exempt from all direct taxes; it is understood, however, that the United Nations will not claim exemption from taxes which are, in fact, no more than charges for public utility services;

(b) exempt from customs duties and prohibitions and restrictions on imports and exports in respect of articles imported or exported by the United Nations for its official use. It is understood, however, that articles imported under such exemption will not be sold in the country into which they were imported except under conditions agreed with the Government of that country;

(c) exempt from customs duties, prohibitions, and restrictions on imports and exports in respect of its publications.

SECTION 8. While the United Nations will not, as a general rule, claim exemption from excise duties and from taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless when the United Nations is making important purchase of official for official use of property on which such duties and taxes have been charged or are chargeable. Members will, whenever possible, make appropriate administrative arrangements for the remission or return of the amount of duty or tax.

ARTICLE III

FACILITIES IN RESPECT OF COMMUNICATIONS

SECTION 9. The United Nations shall enjoy in the territory of each Member for its official communications treatment not less than that accorded by the Government of that member to any other Government including diplomatic mission in the matter of priorities, rates and taxes on mails, cables, telegrams, telephotos and telephone and other communications; and press rate for information to the press and radio. No censorship shall be applied to the official correspondence and other official communications of the United Nations.

SECTION 10. The United Nations shall have the right to use codes and despatch and receive its corresponds by courier or in bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

ARTICLE IV

THE REPRESENTATIVE OF MEMBERS

SECTION 11. Representative of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations, shall while exercising their functions and during their journey to and from the place of meeting, enjoy the following privileges and immunities:

(a) immunity from personal arrest or detention and from seizure of their personal baggage, and, in respect of words spoken or written and all acts done by them in their capacity as representatives, immunity from legal process of every kind;

(b) inviolability for all papers and documents;

(c) the right to use codes and to receive papers or correspondence by courier or in sealed bags;

(d) exemption in respect of themselves and their spouses from immigration restrictions, aliens registration or national service obligations in the state they are visiting or through which they are passing in the exercise of their functions;

(e) the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;

(f) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys; and also

(g) such other privileges, immunities and facilities not inconsistent with foregoing as diplomatic envoys enjoy, except that they shall have no right to claim exemption from customs duties on goods imported (otherwise than as part of their personal baggage) or from excise duties or sales taxes.

SECTION 12. In order to secure, for the representatives of Members to the principal and subsidiary organs of the United Nations and to conferences convened by the United Nations, complete freedom of speech and independence in the discharge of their duties, the immunity from legal process in respect of words spoken or written and all acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer the representatives of Members.

SECTION 13. Where the incidence of any form of taxation depends upon residence, periods during which the representatives of Members to the principal and subsidiary organs of the United Nations and to conference convened by the United Nations are present in a State for the discharge of their duties shall not be considered as period of residence.

SECTION 14. Privileges and immunities are accorded to the representatives of Members not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the United Nations. Consequently a Member not only has the right but is under a duty to waive the immunity of its representative in any case where in the opinion of the Member the immunity would impede the court of justice, and it can be waived without prejudice to the purpose for which the immunity is accorded.

SECTION 15. The provisions of sections 11, 12 and 13 are not applicable as between a representative and the authorities of the State of which he is a national or which he is or has been the representative.

SECTION 16. In this article the expression “representative” shall be deemed to include all delegates, deputy delegates, advisers, technical experts and secretaries of delegations.

ARTICLE V

OFFICIALS

SECTION 17. The Secretary-General will specify the categories of officials to which the provisions of this Article and Article VII shall apply. He shall submit these categories to the General Assembly. Thereafter these categories shall be communicated to the Governments of all members. The name of the officials included in these categories shall from time to time be made known to the Government of Members.

SECTION 18. Officials of the United Nations shall;

(a) be immune from legal process in respect of words spoken for written and all acts performed by them in their official capacity;

(b) be exempt from taxation on the salaries and emoluments paid of them by the United Nations;

(c) be immune from national service obligations;

(d) be immune, together with their spouses and relatives dependent of them, from immigration restrictions and alien registration;

(e) be accorded the same privileges in respect of exchange facilities as are accorded to the officials of comparable ranks forming part of diplomatic missions to the Government concerned;

(f) be given, together with their spouses and relatives dependent on them, the same repatriation facilities in time of international crisis as diplomatic envoys;

(g) have the right to import free of duty their furniture and effects at the time of first taking up their post in the country in question.

SECTION 19. In addition to the immunities and privileges specified in section 18, the secretary-general and all Assistant Secretaries-General shall be accorded in respect of themselves, their spouses and minor children, the privileges and immunities exemptions and facilities accorded to diplomatic envoys, in accordance with international law.

SECTION 20. Privileges and immunities are granted to officials in the interests of the United Nations and not for the personal benefit of the individuals themselves. The Secretary-General shall have the right and the duty to waive the immunity of any official in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the United Nations. In the case of the Secretary-General, the Security Council shall have the right to waive immunity.

SECTION 21. The United Nations shall co-operate at all times with the appropriate authorities of Members to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in this Article.

ARTICLE VI

EXPERTS ON MISSIONS FOR THE UNITED NATIONS

SECTION 22. Experts (other than officials coming within the scope of Article V) performing missions for the United Nations shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions during the period of their missions, including the time spent on journeys in connection with their missions. In particular they shall be accorded:

(a) immunity from personal arrest or detention and from seizure of their personal baggage;

(b) in respect of words spoken or written and acts done by them in the course of the performance of their mission, immunity from legal process of every kind. This immunity from legal process shall

continue to be accorded notwithstanding that the persons concerned are no longer employed on missions for the United Nations;

(c) inviolability for all papers and documents;

(d) for the purpose of their communications with the United Nations, the right to use codes and to receive papers or correspondence by courier or in sealed bags;

(e) the same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;

(f) the same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys.

SECTION 23. Privileges and immunities are granted to experts in the interests of the United Nations and not for the personal benefit of the individuals themselves. The Secretary-General shall have the right and the duty to waive the immunity of any expert in any case where, in his opinion, the immunity would impede the course of justice and it can be waived without prejudice to the interests of the United Nations.

ARTICLE VII

UNITED NATIONS LAISSEZ-PASSER

SECTION 24. The United Nations may issue United Nations Laissez-passers to its officials. These laissez-passers shall be recognised and accepted as valid travel documents by the authorities of Members, taking into account the provisions of section 25.

SECTION 25. Applications for visas (where required) from the holders of United Nations Laissez-passers, when accompanied by a certificate that they are travelling on the business of the United Nations, shall be dealt with as speedily as possible. In addition, such persons shall be granted facilities for speedy travel.

SECTION 26. Similar facilities to those specified in section 25 shall be accorded to experts and other persons who, though not the holders of United Nations Laissez-passers, have a certificate that they are travelling on the business of the United Nations.

SECTION 27. The Secretary-General, Assistant Secretary-General and Directors travelling on United Nations Laissez-passers on the business of the United Nations shall be granted the same facilities as are accorded to diplomatic envoys.

SECTION 28. The provisions of this article may be applied to the comparable officials of specialised agencies if the agreements for relationship made under Article 63 of the Charter so provide.

ARTICLE VIII

SETTLEMENT OF DISPUTES

SECTION 29. The United Nations shall make provisions for appropriate modes of settlement of;

(a) disputes arising out of contracts or other disputes of a private law character to which the United Nations is a party;

(b) disputes involving any official of the United Nations who by reason of his official position enjoys immunity, if immunity has not been waived by the Secretary-General.

SECTION 30. All differences arising out of the interpretation or application of the present convention shall be referred to the International Court of Justice, unless in any case it is agreed by the parties to have recourse to another mode of settlement. If a difference arises between the United Nations on the one hand and a Member on the other hand, a request shall be made for an advisory opinion on any legal question involved in accordance with Article 96 of the Charter and Article 65 of the Statute of the Court. The opinion given by the Court shall be accepted as decisive by the parties.

व्याख्यापक ज्ञापन : केंद्रीय सरकार ने संयुक्त राष्ट्र (विशेषाधिकार और उन्मुक्तियां) अधिनियम, 1947 (1947 का 46) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, का. आ. 168(अ), तारीख 15 जनवरी, 2009 द्वारा यह अधिसूचित किया था कि उक्त मुख्यालय करार को प्रभावी करने के लिए भारत में विशेषाधिकार और उन्मुक्तियां उक्त अधिनियम की अनुसूची के अनुच्छेद II, III, IV, V VI, और VII में समाविष्ट विशेषाधिकार और उन्मुक्तियों के समान ही परियोजना कार्यालय और उसके पदधारियों तथा दक्षिण एशियाई विश्वविद्यालय, उसके अध्यक्ष, रजिस्ट्रार और संकाय सदस्यों को, यथावश्यक परिवर्तन सहित, लागू होंगे।

लेखा-परीक्षा महानिदेशक (केंद्रीय व्यय) के कार्यालय ने अपनी लेखा-परीक्षा रिपोर्ट में उल्लेख किया है कि दक्षिण एशियाई विश्वविद्यालय के रजिस्ट्रार को आयकर से छूट प्रदान करने के लिए उक्त विशेषाधिकार दिया जाना गलत था क्योंकि मुख्यालय करार में स्पष्ट रूप से उल्लेख किया गया था कि आयकर में छूट केवल अध्यक्ष और संकाय सदस्यों को ही दी जाएगी। परियोजना कार्यालय और इसके मुख्य कार्यपालक अधिकारी को उन्मुक्ति और विशेषाधिकार प्रदान करना उचित ठहराया गया था क्योंकि औपचारिक तौर पर विश्वविद्यालय की स्थापना तक कार्यकलाप/प्रचालन करने के लिए परियोजना कार्यालय की स्थापना की गई थी और परियोजना कार्यालय के मुख्य कार्यकारी अधिकारी ने तब तक अध्यक्ष की शक्तियों का प्रयोग किया जब तक कि अध्यक्ष की नियुक्ति नहीं हो गई।

विधिक सलाह के अनुसार उक्त अधिसूचना अधीनस्थ विधायन होने के कारण मूल विधायन का अवरोध नहीं हो सकता अथवा न ही इसके विरुद्ध जा सकता है और उस सीमा तक शून्य है। सरकार लोकहित में इस अधिसूचना के तहत भूतलक्षी प्रभाव से अपात्र व्यक्तियों को विशेषाधिकार प्रदान करके पूर्व में हुई विसंगतियों अथवा गलतियों में सुधार कर सकती है क्योंकि किसी भी विधि के विनिर्दिष्ट उपबंधों के विपरीत अथवा किसी अधिसूचना, जो उस विधि के विपरीत हो, जिसके तहत इसे जारी किया गया है, के तहत ऐसे निहित अधिकारों को सृजित नहीं किया जा सकता।

अब यह समीचीन है कि दक्षिण एशियाई विश्वविद्यालय के मुख्य कार्यपालक अधिकारी के सिवाए इसके रजिस्ट्रार और तत्कालीन परियोजना कार्यालय के पदधारियों को प्रदत्त उक्त उन्मुक्ति और विशेषाधिकार वापस ले लिए जाएं। तदनुसार इस अधिसूचना को भूतलक्षी प्रभाव से संशोधित किया जा रहा है। एतद्वारा यह प्रमाणित किया जाता है कि इस अधिसूचना को भूतलक्षी प्रभाव प्रदान करने से किसी भी व्यक्ति पर कोई भी प्रतिकूल प्रभाव नहीं पड़ रहा है।

टिप्पण : मूल अधिसूचना का.आ. 168 (अ), तारीख 15 जनवरी, 2009 द्वारा भारत के राजपत्र, असाधारण, भाग-II, खंड-3, उप-खंड (ii) में प्रकाशित की गई थी।

MINISTRY OF EXTERNAL AFFAIRS

NOTIFICATION

New Delhi, the 13th May, 2021

S.O. 1938(E).—In exercise of the powers conferred by section 3 of the United Nations (Privileges and Immunity) Act, 1947 (46 of 1947), the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of External Affairs published in the Official Gazette *vide* S.O. 168(E), dated the 15th January, 2009, namely :—

1. In the said notification,—

(i) In the fourth paragraph, for the words “officials thereof, and the South Asian University, its President, Registrar”, the words the “the Chief Executive Officer thereof, and the South Asian University, its President” shall be substituted;

(ii) in the fifth paragraph, -

(a) for the words “No Therefore”, the words “Now Therefore” shall be substituted;

(b) for the words “officials thereof, and the South Asian University, its President, Registrar ”, the words “Chief Executive Officer thereof, and the South Asian University, its President” shall be substituted.

2. This notification shall be deemed to have come into force on the 15th day of January, 2009.

[F. No. BI/732/03/17-Part I]

NAGESH SINGH, Jt. Secy. (Chief of Protocol)

Explanatory Memorandum.- The Central Government in exercise of the powers conferred by section 3 of the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947) had notified *vide* S.O. 168(E), dated the 15th January, 2009 that the privileges and immunities in India similar to those contained in Article II, III, IV, V, VI and VII of the Schedule of the said Act shall apply *mutatis mutandis* to the Project Office and officials thereof, the South Asian University, its President, Registrar and faculty members for giving effect to the said Headquarters Agreement.

The Office of the Director General of Audit (Central Expenditure) in its Audit Report observed that the said privileges were wrongly extended to the Registrar of the South Asian University for grant of income tax exemption since it was clearly set out in the Headquarters Agreement that tax exemption would be extended only to the President and faculty members. The grant of immunity and privileges to the Project Office and its Chief Executive Officer was justified as the Project Office was set up to carry out the function/operations till the establishment of the formal university and the Chief Executive Officer of the Project Office exercised the powers of the President until the President is appointed.

As per the legal advice the said notification being subordinate legislation cannot be in the teeth of or contrary to the principal legislation and to that extent is non-est and void. The Government in public interest is at liberty to rectify the anomaly or mistake done earlier by extending the privileges to the non-eligible persons under the Act with retrospective effect as the vested rights may not be created contrary to specific provisions of law or under a notification, which is contrary to the law under which it is issued.

It is expedient now to withdraw the said immunity and privileges granted to the Registrar of the South Asian University and officials of the *erstwhile* Project Office except its Chief Executive Officer. Accordingly this notification is being amended with retrospective effect. It is hereby certified that the no person is being adversely affected by giving retrospective effect to this notification.

Note : The principal notification was published in the Gazette of India Extraordinary, Part II, Section 3, Sub-section (ii) *vide* S.O. 168(E), dated the 15th January, 2009.



भारत का राजपत्र The Gazette of India

सी.जी.-डी.एल.-अ.-20052021-227097
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असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 1811]

नई दिल्ली, बृहस्पतिवार, मई 20, 2021/वैशाख 30, 1943

No. 1811]

NEW DELHI, THURSDAY, MAY 20, 2021/VAISAKHA 30, 1943

विदेश मंत्रालय

अधिसूचना

नई दिल्ली, 13 मई, 2021

का.आ. 1938(अ).—केन्द्रीय सरकार संयुक्त राष्ट्र (विशेषाधिकार और उन्मुक्तियों) अधिनियम, 1947 (1947 का 46) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, राजपत्र में का. आ. 168 (अ), तारीख 15 जनवरी, 2009 द्वारा प्रकाशित भारत सरकार, विदेश मंत्रालय अधिसूचना में निम्नलिखित संशोधन करती है, अर्थात:-

1. उक्त अधिसूचना में,-

(i) चौथे पैरा में "उसके पदधारियों तथा दक्षिण एशियाई विश्वविद्यालय, उसके अध्यक्ष, रजिस्ट्रार" शब्दों के स्थान पर "उसके मुख्य कार्यपालक अधिकारी और दक्षिण एशियाई विश्वविद्यालय, उसके अध्यक्ष" शब्द रखे जाएंगे ;

(ii) पांचवें पैरा में,-

(क) "अतः, अब" शब्दों के स्थान पर "अतः, अब" शब्द रखे जाएंगे;

(ख) "उसके पदधारियों तथा दक्षिण एशियाई विश्वविद्यालय, उसके अध्यक्ष, रजिस्ट्रार" शब्दों के स्थान पर "उसके मुख्य कार्यपालक अधिकारी तथा दक्षिण एशियाई विश्वविद्यालय, उसके अध्यक्ष" शब्द रखे जाएंगे;

2. यह अधिसूचना 15 जनवरी, 2009 से प्रभावी समझी जाएगी।

[फा. सं. बी I/732/03/17-भाग I]

नागेश सिंह, संयुक्त सचिव (प्रोटोकॉल प्रमुख)

व्याख्यापक ज्ञापन : केंद्रीय सरकार ने संयुक्त राष्ट्र (विशेषाधिकार और उन्मुक्तियां) अधिनियम, 1947 (1947 का 46) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, का. आ. 168(अ), तारीख 15 जनवरी, 2009 द्वारा यह अधिसूचित किया था कि उक्त मुख्यालय करार को प्रभावी करने के लिए भारत में विशेषाधिकार और उन्मुक्तियां उक्त अधिनियम की अनुसूची के अनुच्छेद II, III, IV, V VI, और VII में समाविष्ट विशेषाधिकार और उन्मुक्तियों के समान ही परियोजना कार्यालय और उसके पदधारियों तथा दक्षिण एशियाई विश्वविद्यालय, उसके अध्यक्ष, रजिस्ट्रार और संकाय सदस्यों को, यथावश्यक परिवर्तन सहित, लागू होंगे।

लेखा-परीक्षा महानिदेशक (केंद्रीय व्यय) के कार्यालय ने अपनी लेखा-परीक्षा रिपोर्ट में उल्लेख किया है कि दक्षिण एशियाई विश्वविद्यालय के रजिस्ट्रार को आयकर से छूट प्रदान करने के लिए उक्त विशेषाधिकार दिया जाना गलत था क्योंकि मुख्यालय करार में स्पष्ट रूप से उल्लेख किया गया था कि आयकर में छूट केवल अध्यक्ष और संकाय सदस्यों को ही दी जाएगी। परियोजना कार्यालय और इसके मुख्य कार्यपालक अधिकारी को उन्मुक्ति और विशेषाधिकार प्रदान करना उचित ठहराया गया था क्योंकि औपचारिक तौर पर विश्वविद्यालय की स्थापना तक कार्यकलाप/प्रचालन करने के लिए परियोजना कार्यालय की स्थापना की गई थी और परियोजना कार्यालय के मुख्य कार्यकारी अधिकारी ने तब तक अध्यक्ष की शक्तियों का प्रयोग किया जब तक कि अध्यक्ष की नियुक्ति नहीं हो गई।

विधिक सलाह के अनुसार उक्त अधिसूचना अधीनस्थ विधायन होने के कारण मूल विधायन का अवरोध नहीं हो सकता अथवा न ही इसके विरुद्ध जा सकता है और उस सीमा तक शून्य है। सरकार लोकहित में इस अधिसूचना के तहत भूतलक्षी प्रभाव से अपात्र व्यक्तियों को विशेषाधिकार प्रदान करके पूर्व में हुई विसंगतियों अथवा गलतियों में सुधार कर सकती है क्योंकि किसी भी विधि के विनिर्दिष्ट उपबंधों के विपरीत अथवा किसी अधिसूचना, जो उस विधि के विपरीत हो, जिसके तहत इसे जारी किया गया है, के तहत ऐसे निहित अधिकारों को सृजित नहीं किया जा सकता।

अब यह समीचीन है कि दक्षिण एशियाई विश्वविद्यालय के मुख्य कार्यपालक अधिकारी के सिवाए इसके रजिस्ट्रार और तत्कालीन परियोजना कार्यालय के पदधारियों को प्रदत्त उक्त उन्मुक्ति और विशेषाधिकार वापस ले लिए जाएं। तदनुसार इस अधिसूचना को भूतलक्षी प्रभाव से संशोधित किया जा रहा है। एतद्वारा यह प्रमाणित किया जाता है कि इस अधिसूचना को भूतलक्षी प्रभाव प्रदान करने से किसी भी व्यक्ति पर कोई भी प्रतिकूल प्रभाव नहीं पड़ रहा है।

टिप्पण : मूल अधिसूचना का.आ. 168 (अ), तारीख 15 जनवरी, 2009 द्वारा भारत के राजपत्र, असाधारण, भाग-II, खंड-3, उप-खंड (ii) में प्रकाशित की गई थी।

MINISTRY OF EXTERNAL AFFAIRS

NOTIFICATION

New Delhi, the 13th May, 2021

S.O. 1938(E).—In exercise of the powers conferred by section 3 of the United Nations (Privileges and Immunity) Act, 1947 (46 of 1947), the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of External Affairs published in the Official Gazette *vide* S.O. 168(E), dated the 15th January, 2009, namely :—

1. In the said notification,—

(i) In the fourth paragraph, for the words “officials thereof, and the South Asian University, its President, Registrar”, the words the “the Chief Executive Officer thereof, and the South Asian University, its President” shall be substituted;

(ii) in the fifth paragraph, -

(a) for the words “No Therefore”, the words “Now Therefore” shall be substituted;

(b) for the words “officials thereof, and the South Asian University, its President, Registrar ”, the words “Chief Executive Officer thereof, and the South Asian University, its President” shall be substituted.

2. This notification shall be deemed to have come into force on the 15th day of January, 2009.

[F. No. BI/732/03/17-Part I]

NAGESH SINGH, Jt. Secy. (Chief of Protocol)

Explanatory Memorandum.- The Central Government in exercise of the powers conferred by section 3 of the United Nations (Privileges and Immunities) Act, 1947 (46 of 1947) had notified *vide* S.O. 168(E), dated the 15th January, 2009 that the privileges and immunities in India similar to those contained in Article II, III, IV, V, VI and VII of the Schedule of the said Act shall apply *mutatis mutandis* to the Project Office and officials thereof, the South Asian University, its President, Registrar and faculty members for giving effect to the said Headquarters Agreement.

The Office of the Director General of Audit (Central Expenditure) in its Audit Report observed that the said privileges were wrongly extended to the Registrar of the South Asian University for grant of income tax exemption since it was clearly set out in the Headquarters Agreement that tax exemption would be extended only to the President and faculty members. The grant of immunity and privileges to the Project Office and its Chief Executive Officer was justified as the Project Office was set up to carry out the function/operations till the establishment of the formal university and the Chief Executive Officer of the Project Office exercised the powers of the President until the President is appointed.

As per the legal advice the said notification being subordinate legislation cannot be in the teeth of or contrary to the principal legislation and to that extent is non-est and void. The Government in public interest is at liberty to rectify the anomaly or mistake done earlier by extending the privileges to the non-eligible persons under the Act with retrospective effect as the vested rights may not be created contrary to specific provisions of law or under a notification, which is contrary to the law under which it is issued.

It is expedient now to withdraw the said immunity and privileges granted to the Registrar of the South Asian University and officials of the *erstwhile* Project Office except its Chief Executive Officer. Accordingly this notification is being amended with retrospective effect. It is hereby certified that the no person is being adversely affected by giving retrospective effect to this notification.

Note : The principal notification was published in the Gazette of India Extraordinary, Part II, Section 3, Sub-section (ii) *vide* S.O. 168(E), dated the 15th January, 2009.