

**GOVERNOR'S SECRETARIAT  
ARUNACHAL PRADESH  
ITANAGAR**

**A Clarification**

There are media reports appeared on 8<sup>th</sup> February 2016 in a section of the National as well as Regional / local Press based on some mistakes and false reports from a spokesperson for Arunachal Pradesh Congress that 'Arunachal Pradesh Governor J P Rajkhowa conspiring with dissident MLAs: Congress'. These allegations are baseless, unfounded and mischievously put forward with ill intention.

In this regard Raj Bhavan would like to clarify which is as follows:

- 1) On 02<sup>nd</sup> February 2016 the Secretary received a fax from one Mr. S. Tante, signed as PS to Deputy Speaker (LA) informing that Mr. Tenzing Norbu Thongdok, MLA is arriving in Guwahati from New Delhi at 0900 hrs. Mr. T.N Thongdok had requested Secretary (LA) & Deputy Secretary (MV), Legislative Assembly to provide his official vehicle along with pilot & driver. But Secretary (LA) & DS (MV) Legislative Assembly refused to provide vehicles on account of President Rule in the state.
- 2) On the same day Mr. T.N Thongdok called the undersigned over telephone and informed that Legislative Assembly is not allowing him to use his official vehicle. The Secretary informed him that he may only use the official vehicle that he is entitled to as a MLA.
- 3) The Secretary after appraising His Excellency on the issue, wrote a letter to Chief Secretary on 04-02-2016 requesting him to direct Secretary Legislative Assembly to:
  - i) To allow Mr. T.N Thongdok to use the official vehicle entitled to him for official use only.
  - ii) To provide vehicle meant for security to Mr. T.N Thongdok as per the recommendation of Standing Committee on security.

This is as per the decisions taken in meeting convened by His Excellency Governor on 26<sup>th</sup> January 2016 to discuss the MHA notification on Promulgation of President Rule in Arunachal Pradesh which was attended by Chief Secretary and DGP. Minutes of meeting was enclosed and sent to Chief Secretary.

- 4) Accordingly, Secretary Parliamentary Affairs wrote a letter to Secretary Legislative Assembly with directions as in 3 (i) & (ii).
- 5) Following this Mr. T N Thungdok sent an email on 03-02-2016 at [governor.secy@yahoo.com](mailto:governor.secy@yahoo.com) with a note on 'Deputy Speaker performing functions of Speaker continuing in office when the proclamation under article 356 is operative in relation to Arunachal Pradesh'. A separate note titled 'Note on Deputy Speaker performing duties of speaker under article 180 (1) of the constitution of India' was also enclosed. The same was placed before the undersigned on 4/2/16 around 3 pm. Receipt no. on the email print out is dated 4<sup>th</sup> February 2016.
- 6) In his note he had made references to the Decision of Hon'ble Gauhati High Court dated 13.12.15 and articles of Constitution of India viz., **179** Vacation and resignation

of, and removal from, the offices of Speaker and Deputy Speaker and **180 (1)** While the office of the speaker is vacant, the duties of the office shall be performed by the Deputy Speaker

- 7) The undersigned had on the email copy wrote
- a. Refer the matter to Secy (law) for comments and Opinion
  - b. Copy to HE for information

The email copy was marked by the undersigned to Deputy Secretary.

- 8) On 8<sup>th</sup> February 2016, local newspapers reported news headlines like “Arunachal Pradesh Governor JP Rajkhawa conspiring with dissident MLAs: Congress”.
- 9) Upon inquiry with Deputy Secretary on 8.02.16, he had sent a letter no. GS/PR-01/2015/7895 dated 4<sup>th</sup> February 2016 to Secretary (Law). The draft letter was not put up for approval of the Secretary or the Governor. Also, despite clear direction in writing on the email copy that a copy should be sent to HE for information, no copy was sent to the Governor.
- 10) The Governor only came to know about the said letter from Mr. T N Thundok only through today’s newspaper.
- 11) Also, no media persons ever called the undersigned or the PRO Raj Bhawan to seek clarification as to why Deputy Secretary had written such a letter to Secretary
- 12) A showcase notice has been issued to the Deputy Secretary as to why despite the Secretary’s instruction to send a copy to HE, he failed to do so and as to why the letter sent to Secretary (Law) was not approved by Secretary or HE.

There was no covert or overt attempt on the part of Raj Bhavan to favour any political party or person as the matter is already in Court.

The Press should have at least clarified with Raj Bhavan before printing unilateral opinion.

(Document attached for reference)

PRO to Governor  
Arunachal Pradesh  
ITANAGAR, February 8, 2016

(2/6)

OFFICE OF DEPUTY SPEAKER  
PERFORMING DUTIES OF SPEAKER

No.

CAMP: NEW DELHI  
4<sup>th</sup> February, 2016

Your Excellency

I enclose a note on the Deputy Speaker performing functions of Speaker continuing in office when the Proclamation under article 356 is operative in relation to Arunachal Pradesh, for your perusal and record.

Yours sincerely,

(T.N. THONGDOK)

His Excellency the Governor  
Raj Bhavan  
Itanagar

*Urgent!*  
~~Yesterday DS (CA)~~  
1) Refer the matter to Secy (Law) for  
commute and opinion.  
2) Copy to HE for info.

*indt*  
*DS*  
*4/2/16*  
↓

*4/2/16*  
*DS*

Signature of the  
Secretary to Governor

Signature of the Deputy Secretary



Governor's Secretariat  
Bhawan, Itanagar  
Arunachal Pradesh  
PIN - 791 111

TOP PRIORITY

No.GS/PR-01/2016//*100*  
February 4, 2016

To.

The Secretary (Law),  
Govt. of Arunachal Pradesh,  
Itanagar.

Sir,

Kindly find enclosed herewith copy of a D.O. letter dated 4<sup>th</sup> February 2016 addressed to His Excellency the Governor of Arunachal Pradesh by Shri N. Thongdok, MLA and the Deputy Speaker of the Arunachal Pradesh Legislative Assembly (now under suspended animation), enclosing a Note on the Deputy Speaker performing functions of Speaker continuing in office when the proclamation of President's Rule under Article 356 of the Constitution of India is operative in relation to Arunachal Pradesh. His Excellency the Governor of Arunachal Pradesh has desired to have the comments and opinion of the Department of Law and Judicial, Government of Arunachal Pradesh, as quick as possible.

I am therefore, directed to request you to kindly have the needful furnished to this Secretariat for perusal of His Excellency the Governor, by 5<sup>th</sup> February 2016.

Encl: As stated above.

Yours faithfully,

*Minik Damin*  
(Minik Damin)  
Deputy Secretary to Governor

*PR*

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(T.N. THONGDOK)

His Excellency the Governor  
Raj Bhavan  
Itanagar

*Subject -*  
*Yesterday 28/1/16*  
*1. Refer the matter to Secy. Genl. for*  
*comment and opinion.*  
*2. Secy. to Govt. for info.*  
*Just*  
*djs*  
*4/2/16*  
*Secy*  
*4/2/16*

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**(T.N. THONGDOK)**

**His Excellency the Governor  
Raj Bhavan  
Itanagar**

Copy to:

- (1) **Shri G.S.Patnaik, IAS  
Advisor(FPD) to Governor  
Itanagar**
- (2) **Shri.Y.S Dadwal, IPS  
Advisor(H&P) to Governor**

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**(T.N. THONGDOK)**

**OFFICE OF DEPUTY SPEAKER  
PERFORMING DUTIES OF SPEAKER**

**4<sup>th</sup> February, 2016**

**NOTE ON DEPUTY SPEAKER PERFORMING DUTIES OF  
SPEAKER UNDER ARTICLE 180(1) OF THE  
CONSTITUTION OF INDIA**

**1. Shri Nabam Rebia removed from Office of Speaker  
w.e.f. 16.12.2015**

It may be recalled that at the first sitting of the sixth session i.e. on 16.12.2015, a resolution was moved in the Arunachal Pradesh Legislative Assembly for removal of Shri Nabam Rebia from the office of the Speaker which was adopted unanimously (by all 33 members present and voting in favour). On 17.12.2015, a single judge (Justice Rishikesh Roy) of the Guwahati High Court, on a writ petition filed by Shri Nabam Rebia, stayed the proceedings of both days (16 & 17.12.2015) of the sixth session. With that stay, Shri Nabam Rebia, despite the passage of the aforesaid resolution for his removal, continued in office. On 13.12.2015, the writ filed by Shri Nabam Rebia and the IAs filed by the Governor, the Deputy Speaker etc., were disposed of by another single Judge (Justice B.K.Sharma). The writ was dismissed and IAs were allowed. The consequence was that the proceedings of 16 & 17.12.2015 of the sixth session were held valid and accordingly, Shri Nabam Rebia stood removed from the office of Speaker. However, the order of the HC is under challenge in Supreme Court which is being heard in the Apex Court with the Apex Court having refused to stay the HC order.



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## **2. Deputy Speaker becomes Deputy Speaker performing the duties of Speaker under art. 180(1) of Constitution of India**

With the removal of Shri Nabam Rebia from the office of Speaker w.e.f. 16.12.2015 and with no stay of any court on the resolution being operative, the office of Speaker of the Arunachal Pradesh Legislative Assembly has fallen vacant w.e.f. 16.12.2015. In this connection, the provision in article 180(1) which reads as under may be perused to deal with the contingency:

**"180. (1) While the office of the Speaker is vacant, the duties of the office shall per performed by the Deputy Speaker or, if the office of Deputy Speaker is also vacant, by such member of the Assembly as the Governor may appoint for the purpose."**

With effect from 16.12.2015 while the office of Speaker had fallen vacant, there is an incumbent (Shri T.N. Thongdok) in the Office of Deputy Speaker. According to article 180(1), the Deputy Speaker shall perform the duties of the office of Speaker w.e.f. 16.12.2015. For all purposes, though the Deputy Speaker is not elected to the office of the Speaker by the House, he shall perform the functions of Speaker, as though he is the Speaker. He would continue to be designated as **Deputy Speaker performing duties of Speaker.**

## **3. Whether Deputy Speaker performing duties of Speaker continues in office when the Proclamation under article 356 is operative in the State**

A quick glance of article 179 of the Constitution, more particularly, its second proviso needs to be had for a proper comprehension of the incumbent in the Office of the Speaker continuing in office despite dissolution (and also despite suspension of the House).

Article 179, House of Representatives

**179. Vacation and resignation of, and removal from, the offices of Speaker and Deputy Speaker**

A member holding office as Speaker or Deputy Speaker of an Assembly,

- (a) shall vacate his office if he ceases to be a member of the Assembly;
- (b) may at any time by writing under his hand addressed, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker, to the Speaker resign his office; and
- (c) may be removed from his office by a resolution of the Assembly passed by a majority of all the then members of the Assembly:

Provided that no resolution for the purpose of clause (c) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution.

**Provided further that whenever the Assembly is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the Assembly after dissolution."**

The intent of the second proviso to article 179 is to keep in office the incumbent in the office of the Speaker despite dissolution so that the Legislative Assembly continues to have its head until a Speaker *pro tem* takes over at the first sitting of the new House. The intention is not to have a vacancy in the Office of Speaker despite dissolution. It is easily discernible that when the Constitution has intended to keep filled the office of Speaker with an express prohibition on the Speaker vacating his office upon dissolution of House, the Constitution would not have intended that office of Speaker would stand vacated when it is in suspension under President's rule. By harmonious construction of law, it should therefore be deemed that the incumbent in the office of Speaker does not vacate when the Assembly is in suspension as he does not vacate his office

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when the Assembly is dissolved. Accordingly, the Deputy Speaker performing duties of Speaker being in a de facto occupant of the office of Speaker in compliance with article 184(1) of above-quoted does not vacate his office when the Legislative Assembly is at suspended animation when a proclamation under article 356 is operative in relation to Arunachal Pradesh.

This is for your kind perusal.

**(T.N. THONGDOK)**  
**DEPUTY SPEAKER**  
**PERFORMING DUTIES OF SPEAKER**  
**CAMP:NEW DELHI**

(2/6)

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