



IIPA NEWSLETTER

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INSTITUTE NEWS

Programme on Transforming Governments through ICT: Government Process Reengineering

Sponsored by the Ministry of Electronics and Information Technology, the programme was conducted at IIPA for the middle level officers to decipher the real time implementation aspects of Government Process Reengineering (GPR) during November 16-18. The programme was inaugurated by Prof. M.P. Gupta, Professor and HoD of Management Studies, IIT-Delhi; and Shri B.N. Satpathy, Sr. Consultant, NITI Aayog. Shri Shankar Aggarwal, former Secretary, Ministry of Labour and Employment, gave the valedictory address. He gave his valuable insights on the topic emanating from his vast experiences in e-governance realm. The topics included sessions on growth of e-governance in India, components of government process re-engineering (GPR), understanding service prioritisation and related case studies. Case studies on Passport seva, Food Corporation of India (FCI), Aadhar card registration were covered along with indigenously developed GPR related exercises and assignments. Dr. Charru Malhotra coordinated it.

High Impact Change through e-Governance

Sponsored by the Delhi Jal Board, the programme was conducted at IIPA for DJB engineers from January 9-21. Besides understanding the intricacies in human resource management for credible image building of the organisation, the programme was designed to enable the participants to: (i) comprehend the ways and means through which flexible management system is operated in the broader context of generating higher revenue; (ii) understand the legal



Prof. M.P. Gupta delivers the inaugural address. Sitting on his left are Shri B.N. Satpathy and Dr. Charru Malhotra

mechanism before entering into a contract so as to avoid liquidated damages; (iii) apply vigilance guidelines for better contract management; (iv) learn the application of e-communication for robust and transparent communication system in the organisational environment; (v) acquire skills to use paperless communication through web portal; (vi) learn principle of natural justice to establish a good connect with judicial pronouncements on misconduct and charge sheet; (vii) explain national and international commercial contracts to handle different contracts; (viii) use the description-related letter of intent and letter of acceptance; and (ix) apply and appreciate best practices in contract management, e-procurement and preventive vigilance investigation. Programme faculty comprised guest speakers and the programme coordinators, Dr. Kusum Lata and Dr. Saket Bihari.

Programme on Change Management and Capacity Building: A Disciplined Approach

Sponsored by National e-Governance Division (NeGD), Ministry of Electronics and Information Technology, under its prestigious e-Governance Capacity Building Phase-II for the financial year 2016-17, the programme was conducted at IIPA during January 30-31. It was inaugurated by Chief Guest Dr. Ajay Kumar, Addl. Secretary, Ministry of Electronics and Information Technology; Guests-of-Honour, Prof. Amita Singh, Chairperson and Professor, Centre for the Study of Law and Governance, JNU; and Dr. Tishyarakshit Chatterjee, Director of IIPA. Apart from explaining the basics of e-governance and e-Governance Project Life Cycle (e-GLC), the programme was designed to enable the participants to: (i) state the growth of e-governance in India till Digital India Programme; (ii) understand and define the communication strategy for change; (iii) describe and apply change management plan to enhance the advantages of e-governance initiatives; (iv) apply the key elements of change readiness; and (v) understand best practices for change management through well acclaimed national case studies. The programme concluded with its valedictory session chaired by Dr.

Ashwini Kumar Sharma, Director General, NIELIT, Ministry of Electronics and Information Technology, and supported by Shri Deepinder Singh, Head of Strategic Unit, NeGD. Both guests had given their valuable insights into the change management and capacity building, achieved from their vast experiences in e-governance domain. Dr. Charru Malhotra coordinated it.

Blueprinting e-Governance Initiatives: Preparation of DPRs

Sponsored by the Ministry of Electronics and Information Technology, the captioned programme was conducted at IIPA during January 18-20. The training was focused on empowering the middle level officers to decipher the real time implementation aspects of detailed project reports. It was inaugurated by Shri Prakash Kumar, CEO of Goods and Services Tax Network; Shri Shankar Aggarwal, former Secretary, Ministry of Labour and Employment; and Ms. Kiran Puri, Joint Secretary, Ministry of Personnel, Public Grievances and Pensions, followed by sessions on e-Governance basics, e-GLC and DPR, Growth of e-Governance in India, Service identification and prioritisation, GPR, cyber security,



From left to right: Shri Deepinder Singh, Dr. Ashwini Kumar Sharma and Dr. Charru Malhotra.

cashless transactions, Procurement processes and RPF, e-BRC and Passport seva case study. Dr. Charru Malhotra coordinated it.

Dr. B.R. Ambedkar Memorial Lecture

Dr. B. R. Ambedkar Chair in Social Justice, Indian Institute of Public Administration, New Delhi organised a memorial lecture on “Dr. Babasaheb Ambedkar: Intellectual Colossus and Great National Leader” on January 30. Prof. Narendra Jadhav, Member of Parliament, Rajya Sabha and former Vice-Chancellor of Pune University, delivered the lecture. In his lecture, Dr. Jadhav highlighted Ambedkar’s multi-faceted personality as an economist, prolific writer, national leader, architect of the Indian Constitution, and champion of human rights. He comprehensively touched upon the different facets of thought and philosophy of Dr. B.R. Ambedkar and paid a tribute to his timeless legacy. Shri T.N. Chaturvedi, Chairman of IIPA, in his presidential remarks referring to Dr. B.R. Ambedkar as a towering personality and a great national leader appreciated the highly educative, informative and analytical lecture of Dr. Jadhav. Dr.



Shri T.N. Chaturvedi pays tribute to Dr. Ambedkar.

Tishyarakshit Chatterjee, Director of IIPA, gave the opening remarks and reinforced the view of Dr. Ambedkar in ensuring social democracy which alone can guarantee one-man-one-value. Prof. C. Sheela Reddy, welcomed the guests, briefed about the Chair and its activities and finally proposed vote of thanks at the end of the event.

ATTN. MEMBERS!

As per the decision taken by the Executive Council in its 301st meeting held on April 11, 2016 as also in its 303rd meeting held on October 20, 2016 and in partial modification of the notification dated October 10, 2014, all concerned are hereby informed that for the use of the hostel facilities at IIPA, New Delhi: (A) The members over the age of 70 years may be allowed one attendant to accompany him/her at the rates as applicable for accompanying spouse provided that: (i) the member is not accompanied by the spouse; (ii) the attendant is of the same gender as that of the member subject to the condition that this gender restriction would not be applicable if the member is accompanied by own son/grandson or daughter/granddaughter as attendant; and (iii) the member is willing to adjust the attendant in his/her own room. This facility will be only for the first five days of the stay. (B) In case separate room is demanded for the attendant, the member has to pay the applicable rent for the attendant meaning thereby that if the attendant is a member, rate applicable will be as for member and if the attendant is non-member, he/she shall pay non-member rate.

ATTN. IJPA SUBSCRIBERS!

It is for information to all concerned that M/s SAGE Publications is going to print the *Indian Journal of Public Administration (IJPA)* from January-March 2017 issue onwards. As such, those interested to subscribe *IJPA* are advised to contact; Ms. Komal Mathur, email ID: komal.mathur@sagepub.in (Tel; 011-40539222 Extn. 405), SAGE Publications for subscription/ circulation related queries.

Solicitation of Articles for IJPA

Like every year the Institute is bringing out a Special Issue (July-September 2017) of the *Indian Journal of Public Administration* on “Discretionary Powers of the President and Governors in India in Constitution and Practice”. Articles on the topic are solicited from willing contributors for this year’s Special Issue in 5000 words or thereabout along with an abstract of around 250 words latest by April 15, 2017. Articles may be mailed to ijpaijpa@gmail.com and copy to either dipankar56@gmail.com or profmpsingh@gmail.com. Following is the note on the theme:

Discretionary Powers of the President and Governors in India in Constitution and Practice

A reading of the text of Indian Constitution indicates that it does not explicitly grant any discretionary powers, especially after the 42nd and 44th Amendments (1976 and 1978). The President is expressly required by Article 74 of the Constitution to always have a council of ministers to aid and advise and to always act in accordance with its advice in exercise of his/her functions. The original Constitution had left the presidential action in conformity of the advice of the ministerial council subject to the constitutional convention. The subsequent constitutional amendments made it a matter of a written constitutional provision, leaving the President the only leeway that he/she “may require the Council of Ministers to reconsider such advice, or either generally or otherwise”, but added that “the President shall act in accordance with the advice tendered after such reconsideration” (44th amendment). The amendments incorporate the view taken on this issue by the Supreme Court of India in *Samsher Singh vs. State of Punjab* (AIR 1974 SC 2192). Article 74 (2) also adds: “The question whether any, and if so what, advice was tendered by ministers to the President shall not be required into any court”. The use of “Ministers” in plural implies the Council of Ministers here barring individual ministerial advice to the President. In case law it is, however established that clause 2 of this Article does not bar judicial scrutiny of ministerial advice to the President (*S.P. Gupta V. President of India* AIR 1982 SC 149; *State of Rajasthan v. Union of India* AIR 1977

SC 1361). Moreover, courts can justifiably look into the basis of the advice subject to the provisions of Section 123 of the Evidence Act (*Kartar Singh v. State of Punjab*, (1944) 3 SCC 569).

The President seems to enjoy some discretion in the appointment of the Prime Minister, if not of Ministers. For Article 75 (1) provides; “The Prime Minister shall be appointed by the President and the other Ministers shall be appointed by the President on the advice of the Prime Minister.” However Article 75 (3) goes on to add that “The Council of Ministers shall be collectively responsible to the House of the People”. This clause restricts the President’s discretion to appointing the leader of the party or coalition of parties enjoying majority in the House of the People after an election and any subsequent contingency as to political realignment, etc., in an existing House. Or are there different interpretations possible as to the constitution, precedents/ or conventions in India?

Despite the blanket provision regarding acting in accordance with ministerial advice mentioned above, does the President have any powers in the functioning or malfunctioning of the Government of India and /or the governments in states in normal or emergency conditions contemplated in Article 352 (National emergency), Article 356 (emergency in a state) and financial emergency in India or any of the states of the Indian Union (Article 360)?

So far, all Presidents have acted in accordance with the constitutional and or nominal role of the President in the affairs of the Union and state governments, including Rajendra Prasad, Giani Zail Singh and R. Venkataraman, who in their notes, speeches, and memoirs gave vent to the opinion that the President does have discretionary role in some normal or abnormal situations even though they never acted upon their interpretations and understanding. Rajendra Prasad, for example, believed that the powers of the British Crown and the Indian President cannot be identical to the British Crown, as is commonly argued, for the simple reasons that the Crown is hereditary whereas the President is elected (even though indirectly); the United Kingdom is unitary whereas India is federal where the President is elected by a federal electoral college; and Crown can do no wrong whereas the President is impeachable. Zail Singh and Venkataraman were called upon to act against Prime Minister Rajiv Gandhi in the context of corruption charge in relation to Bofors arms

supply deal. They did not act in the matter but have left behind controversial opinions.

Does the President (and for that matter Governor of a state) have discretionary powers independent of Cabinet advice in sanctioning prosecution of ministers and civil servants under various Central and /or state laws? The same question applies to the power of the President and Governor under the Constitution to grant clemency to citizens convicted with death sentence.

Does the President (and for that matter a Governor) have discretionary powers as Visitor or Chancellor of universities? These are subject to the parliamentary and state legislative legislations relating to the central and state universities concerned.

Do the President and Governors enjoy any discretionary powers regarding the dissolution of the popularly elected House of the legislative branch of the governments at the Union and state levels? In the United Kingdom the advice of a Prime Minister as to the dissolution of the House of Commons is absolute even when such an advice is made by a Prime Minister who has lost the majority in the Commons. In Canada in 1926, Prime Minister Lyon Mackenzie King who had lost majority requested Governor General Juliam Byng to dissolve the Commons and call a fresh election. Byng refused but in the ensuing election King was returned with a clear majority. Since then no Governor General has done so, setting an established constitutional convention in the matter. The practice in India has diverged both at the state level since the late 1960s and at the Centre since late 1970s, though, to my mind subject to correction on, there may be only a rare case when a Prime Minister, having lost majority, has advised the President for dissolution of the Lok Sabha. The discretionary power, of the constitutional heads of the federal or regional states in India appear to be well established in refusing automatic dissolution in case of a head of government who has lost parliamentary or legislative majority.

While the Constitution has not expressly provided for discretionary powers of the President, it has, on the other hand, made such provisions in relation to the Governors. Article 163 (1) reads: “ There shall be a Council of Ministers with the Chief Minister as the head to aid and advise the Governor in the exercise of his functions, except in so far as he is by or under this Constitution

required to exercise his functions or any of them in his discretion”. Clause (2) of this article makes the decisions of the Governor final determining the matters in respect of which his discretionary powers apply and the validity of this issue or “shall not be called in question on the ground that he ought not to have acted in his discretion.” Clause (3), as in the case of the President, stipulates that “The question where any, and if so what, advice was tendered by Ministers to the Governor shall not be inquired into in any court.”

An obvious area of gubernatorial discretion is the dismissal of a state government and/or dissolution of the Assembly by the Union executive on account of the failure of constitutional machinery in a state under Article 356.

In terms of express constitutional provisions the Governor is required to act in his discretion in the following matters:

- (i) The powers of the Governor of Assam under paragraph 9 of the Sixth Schedule to the Constitution :
- (ii) The functions of a Governor appointed to be an administrator of a Union Territory;
- (iii) The functions under Articles 371 (2); 371 A (b); 371C (1); 371F (g).

In other cases the Governor must act on the advice of the Council of Ministers (*Rai Sahib Ram Jawaya Kapur v. State of Punjab, AIR 1955 SC 549; A. Sanjeevi Naidu v. State of Madras, AIR 1970 SC 1102*. Moreover, the function of hearing appeal against Public Service Commission by a Governor is also to be performed on cabinet advice (*UP Public Service Commission v. Suresh, AIR 1987 SC 1953*).

In addition to any of the above issues in general, contributors can also opt to present a detailed case study of any particular formation or dissolution of a regime at the Union level or a specific case of a dissolution of a state government under Article 356, or any aspect of the gubernatorial role Chancellor of a state University, or discretionary exercise of relation to tribal areas or tribal governance under the Fifth or Sixth Schedule of the Constitution.

Recommended readings:

Constituent Assembly Debates, New Delhi: Lok Sabha Secretariat in several reprints.

Framing of India's Constitution, Documents and Notes compiled in 5 volumes by B. Shiva Rao and team including Subhash Kashyap who later added a 6th volume in a later edition, New Delhi: Metropolitan Publishers, 1967 and 2006.

Presidential Discretion by Debtoru Chatterjee, New Delhi: Oxford University Press, 2016.

The Constitution of India, Text and Notes by P.M. Bakshi, New Delhi: Universal Law Publishing, 2015.

V. N. Shukla's Constitution of India, Text and Notes revised and updated in multiple editions by Mahendra Pal Singh.

Mahendra Prasad Singh
Editor,

Indian Journal of Public Administration (IIPA/SAGE Publications)

NEWS FROM BRANCHES

Jammu and Kashmir Regional Branch

The branch organised a lecture-meeting on January 5, in which Prof. Rekha Choudhary, Professor of Political Science, University of Jammu, spoke on "Jammu: the Idea and Ethos of a Multicultural Society". While speaking about the diversity of the State, she stated that Jammu is like a mosaic and is one of the most diverse regions with layers of diversity in terms of religion, culture and language.

Maharashtra Regional BranchThe branch organised Late B.G. Deshmukh Memorial Lecture on "Transforming the Agriculture Economy--the Madhya Pradesh Experience" by Shri Anthony de Sa, former Chief Secretary, Government of Madhya Pradesh on January 24. Shri S.S. Kshatriya, Chairman of the branch, presided. Dr. Vijay Satbir Singh, Secretary of the branch, welcomed and introduced the guest speaker. Shri Kshatriya mentioned about the administrative acumen of late B.G. Deshmukh and his endowment to the Institute. Shri Anthony explained about the innovative schemes that have been implemented by the Madhya Pradesh Government for the growth of agriculture sector. He mentioned about the State's achievements in the agriculture production such as wheat grain, horticulture, milk production, also talked about irrigation strategy adopted for exploiting full potential such as completion of incomplete projects and priorities funding, focus on dug-wells and farm ponds.

Odisha Regional Branch

The branch organised its annual conference on

December 16. Dr. S.C. Jamir, Governor of Odisha, was the Chief Guest. In his address, Dr. Jamir pointed out the problems of the Adivasis of the State and advised the civil servants to act sincerely for the development of the downtrodden in the backward districts. Shri S.C. Hota, president of the branch, presided over the programme.

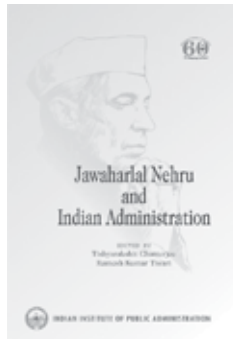
Puducherry Local Branch

The branch organised "UPSC IAS-Test Batch Training Programme 2017" January 28. Shri R.P. Paul, former Secretary, Government of Puducherry, delivered the key-note address. He called the programme was meant for guided self development with emphasis on self development. He observed that the preparation for civil services examination enhances the performance of the final year aspirants in their respective university examinations; it makes them mentally prepared to clear other competitive examinations. Dr. E. Devabalane, NSS Programme Coordinator for Colleges, wished all NSS students should appear for the civil services examination. Classes are proposed to be held every Saturday for this batch. Dr. R.R. Dhanapall, Chairman of the branch, presided over the programme.

Tamil Nadu Regional Branch

The branch organised a lecture-meeting on February 2, in which Dr. R. Balasubramanian, Associate Professor of Economics, D.G. Vaishnav College, Arumbakkam, Chennai spoke on "Union Budget 2017-18". He explained the various aspects of Budget and its expected impact on the economy and the society at large. He explained that the budget is pro-poor and development-oriented. Thiru P.R. Shampath, Chairman of the branch, presided

IIPA DIAMOND JUBILEE PUBLICATIONS



New

JAWAHARLAL NEHRU AND INDIAN ADMINISTRATION

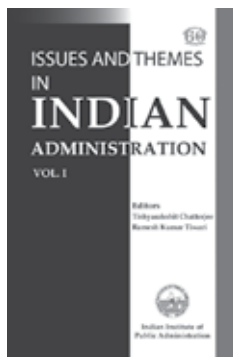
This monograph provides the most important speeches and observations of Jawaharlal Nehru on Indian Administration. It also provides a comprehensive Introduction, analyzing his views primarily, in the context of: administrative machinery, civil service rules, lower level functionaries, interference in administration, democracy and public administration, decentralized democracy, reshaping the public services, human touch, training of public personnel, public policy making, policy coordination, policy-programme implementation, administrative reform, etc. 2014/189pages/Rs. 450 Hard bound, ISBN 81-86641-73-4



New

REFLECTIONS ON PUBLIC ADMINISTRATION IN CONTEMPORARY INDIA, VOL. I

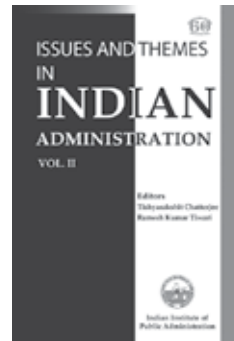
This volume brings together the presidential addresses delivered at the IIPA by some very distinguished persons from public life (1965-2014): Lal Bahadur Shastri, Gulzarilal Nanda, Yeshwantrao Balwantrao Chavan, Indira Gandhi, Gopal Swarup Pathak, Basappa Danappa Jatti, Mohammad Hidayatuallah, Ramaswami Venkataraman, Shankar Dayal Sharma, Kocheril Raman Narayanan, Krishan Kant, Bhairon Singh Shekhawat, and Mohammad Hamid Ansari. These addresses provide the reflections of the top leadership of the country on a number of issues and themes: the changing nature of Public Administration; Administrative Restructuring, Rules and Procedures; Public Order and National Integration; Democratic Decentralization; District Administration; Minister and Civil Servant in a Democracy; Training of Public Personnel, Functionaries at the lower level, Planning and Plan Implementation, Public Sector, etc. 2014/157 pages/Rs. 450 Hardbound, ISBN 81-86641-76-9



ISSUES AND THEMES IN INDIAN ADMINISTRATION, VOL. I

This volume contains contributions of a wide ranging nature dealing with issues relating to governance and social and economic concerns: Problems of Indian Polity; National Integration; The Administration of Law and Order; Electoral Reforms; Coalition Government; National Agenda for Governance; Working of the Indian Constitution; Our Goals for the Twentyfirst Century; Jawaharlal Nehru: His Vision on Science and Technology and Public Administration; Public Administration and the Citizen; Perspectives and Challenges of Public Administration; New Economic

Policies and Public Administration; Organizational Issues in Rural Development; Democratic Decentralization; Women's Development; Administrative Problems of an Inflationary Economy; Public Distribution System; Consumerism; India's Population Policy; Disaster Management; New Directions in Planning; A Decade of Reforms: the Unfinished Agenda. 2015 Reprint/ 618 pages/ Rs. 500 Paperback, ISBN 81-86641-30-0



New

ISSUES AND THEMES IN INDIAN ADMINISTRATION, VOL. II

This volume contains contributions on a large number of issues: Problems in Conducting Free and Fair Elections; Science, Technology and Society; Reforms in Criminal Justice; Internal Security in India; Global Warming; Reforms in Governance; Reservation and Inclusive Growth; Role of Panchayat Bodies in Rural Development; Administration of Urban Development and Urban Service Delivery; Food Security in India; Trends in Centre-State Relations. 2015/552 pages/Rs. 500 Paperback, ISBN 81-86641-80-7



New

REFLECTIONS ON PUBLIC ADMINISTRATION IN CONTEMPORARY INDIA, VOL. II (PART I AND II)

This commemorative volume is a documentation of important speeches and observations by political leadership, jurists, academics and civil servants on Indian Administration (1946-2015): Jawaharlal Nehru, Sardar Vallabhbhai Patel, C. Rajagopalachari, Dr. Rajendra Prasad, Dr. Zakir Hussain, Morarji Desai, Dr S. Radhakrishnan, Govind Ballabh Pant, Jagjivan Ram, G.V. Mavalankar, N.V. Gadgil, Jayaprakash Narayan, John Matthai, V.T. Krishnamachari, C.D. Deshmukh, Atal Bihari Vajpayee, Rajiv Gandhi, D.R. Gadgil, A.P.J. Abdul Kalam, M. Hamid Ansari, Manmohan Singh, Pranab Mukherjee, K.L. Shrivastava, Karan Singh, Asoka Mehta, Swami Ranganathananda, Balvantray Mehta Justice P.B. Gajendragadkar, Justice J.S. Venna, A.D. Gorwala, N. Pillai, C.S. Venkatachari, B.K. Nehru, D.G. Karve, L.K. Jha, B. Sivaraman, L.P. Singh, B. Venkatappaiah, P.C. Alexander, T.N. Chaturvedi, S. Lall, Tarlok Singh, S.G. Barve, V. Subramaniam, R.P. Khosla, B. Shiva Rao, Dharmavira, V. Jagannadham, S.R. Maheshwari.

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over the programme. Earlier, the branch teamed up with Anna Adarsh College for Women, Anna Nagar in organising a seminar on “Digitalisation Merits and Demerits” on January 27. Dr. Jayashree Ghosh, Principal of Anna Adarsh College, welcomed the gathering. Dr. Sakthivel, Professor of Public Administration, Annamalai University, delivered the special address. Thiru P.R. Shampath presided over the seminar and highlighted the need for digitalisation and also its immediate challenges to the large number of common people.

Telangana Regional Branch

The branch in its meeting, held on December 3, elected the following office-bearers for a four-year term 2016-2020: Chairman: Shri M. Gopalakrishnan; Vice-Chairman: Prof. G. Gopal Reddy; Secretary: Dr. A.V. Narsimha Reddy; Treasurer: Dr. Adiki Surender; Members: Dr. P.N. Reddy, Shri K. Shivaprasad, Shri V. Gunashekar Reddy, Prof. T.V. Gopalachari, Prof. D. Ramachandram, Dr. Sita Vanka, Dr. P. Shyamsunder Reddy and Dr. G. Ravinder.

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