

LOK SABHA

Tuesday, December 1, 1964/Agrahayana 10, 1886 (Saka)

The Lok Sabha met at Eleven of the Clock.

[MR. SPEAKER in the Chair]

Mr. Speaker: I would request hon. Members to see that we do not feel the necessity of ringing the bell for quorum at the very commencement of the sitting of the House.

ORAL ANSWERS TO QUESTIONS

Conflict between Allahabad High Court and U.P. Legislature

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- Shri Yashpal Singh:
- Shri Hem Barua:
- Shri Shree Narayan Das:
- Shri Bibhuti Mishra:
- Shri K. N. Tiwary:
- Shri Daljit Singh:
- Shri S. M. Banerjee:
- Shri Bagri:
- Shri Vishram Prasad:
- Shri Heda:
- Shri Bhagwat Jha Azad:
- *280. Shri Warrior:
- Shri Daji:
- Shri Kajrolkar:
- Shri Sezhiyan:
- Shri J. B. S. Bist:
- Shri Sidheshwar Prasad:
- Shri Hem Raj:
- Shri Vishwa Nath Pandey:
- Shri Tridib Kumar Chaudhuri:
- Shri Y. S. Chaudhary:
- Shri Man Sinh P. Patel:
- Shri D. C. Sharma:

Will the Minister of Law be pleased to state:

(a) whether Government have completed the examination of the various issues involved in the opinion given by the Supreme Court on the juris-

dictional conflict between the Allahabad High Court and the U.P. Legislature;

(b) whether it is intended to amend the Constitution to set the matter beyond any doubt or ambiguity; and

(c) if so, how long it will take to bring in the legislation?

The Deputy Minister in the Ministry of Law (Shri Jagannatha Rao): (a) to (c). The matter is under consideration and a statement on behalf of Government will be made soon.

श्री यशपाल सिंह : क्या सरकार के ध्यान में यह बात आई है कि उत्तर प्रदेश के लोगल एडवाइजर्स ने यह कहा है कि यह जजमेंट नहीं है, यह तो एक एडवाइस है और यह बाइंडिंग नहीं है ?

विधि तथा सामाजिक सुरक्षा मंत्री (श्री अ० कु० सेन) : अखबारों में ऐसा पढ़ा गया है।

श्री यशपाल सिंह : आपकी राय क्या है ?

श्री अ० कु० सेन : मैं क्या कहूँ। आपने भी देखा है, मैंने भी देखा है।

श्री यशपाल सिंह : इस मामले में कोई डिजिशन लेने से पहले क्या पार्लिमेंट में कोई डिस्कशन होगा ?

श्री अ० कु० सेन : डिजिशन तो हाउस को लेना है।

श्री यशपाल सिंह : पार्लिमेंट में डिस्कशन होगा ?

श्री प्र० कु० सेन : पार्लिमेंट को ही तो डिशियन लेना है ।

श्री विभूति मिश्र : क्या सरकार ने लोक सभा के अध्यक्ष, राज्य सभा के चेयरमैन तथा विभिन्न स्टेट असेम्बलियों के अध्यक्षों की राय प्राप्त कर ली है इस मामले में क्योंकि उन्हीं को तो सदनों की कार्रवाई को चलाना होता है ? क्या उनसे राय प्राप्त कर ली गई है कि कानून में परिवर्तन हो या न हो ?

श्री प्र० कु० सेन : यह तो आपका कहना है । मैं क्या कहूँ कि स्पीकर साहब की राय क्या है ।

श्री विभूति मिश्र : मेरे सवाल का जवाब . .

अध्यक्ष महोदय : आप बैठिये । वह पूछते हैं कि क्या सरकार ने अध्यक्षों की राय प्राप्त कर ली है ?

Mr. Speaker: The question is whether Government have ascertained the opinion of the Presiding Officers or not. He can say "Yes" or "No".

Shri A. K. Sen: Formally, the opinion of the Speaker or the Chairman has not been taken.

श्री क० ना० तिवारी: अभी हाल में ला मिनिस्टर ने एक लैक्चर में कहा था कि इससे लेजिस्लेचर और ज्यूडिशरी में कोई फर्क नहीं पड़ता है । यह जो राय उन्होंने पब्लिकली जाहिर की है और जो पब्लिश हुई है वह क्या उनकी व्यक्तिगत राय है या वह गवर्नमेंट की कंसिडर्ड ओपिनियन है ?

Mr. Speaker: The question is whether it is the personal opinion of the Minister or the opinion of the Government.

Shri A. K. Sen: I was asked in the Rajya Sabha yesterday whether the conflict created by the opinion of the Supreme Court was going to be attended to. I said that according to me quite clearly there

is no conflict created by the opinion of the Supreme Court.

Shri S. M. Banerjee: Recently there had been many symposiums in which eminent lawyers, legislators, educationists, economists and others took part in the various debates. I would like to know whether the Government is aware that the general opinion in this country is that the opinion of the Supreme Court is correct and that there is no need to amend the Constitution. What is the reaction of Government to that?

Shri A. K. Sen: I do not think there has been any question anywhere about the correctness of the opinion of the Supreme Court. The majority opinion of the Supreme Court always guides the Government, as anybody else. The matter which has been agitated is whether in view of the interpretation put by the Supreme Court any change of law was necessary.

Shri S. M. Banerjee: My question has not been answered.

Mr. Speaker: Shri Bagri.

Shri S. M. Banerjee: What is the reaction?

Mr. Speaker: What should be the reaction? Opinion has been given. What is the reaction?

Shri S. M. Banerjee: Is the Constitution likely to be amended?

Mr. Speaker: That was not his question.

Shri S. M. Banerjee: There is an opinion in the country that there is no need to amend the Constitution.

Mr. Speaker: That was not his question. Shri Bagri.

Shri S. M. Banerjee: I say that there is no need to amend it.

Mr. Speaker: Then, that is his opinion. What should the Government say about that?

Shri S. M. Banerjee: What is its opinion?

Mr. Speaker: Opinions cannot be given during the Question Hour.

Shri S. M. Banerjee: Reaction? I do not want their opinion.

Mr. Speaker: Shri Bagri.

श्री बागड़ी : राज्य असेम्बलियों में कांग्रेस के बहुमत का जिस तरीके से उपयोग किया जाता है, जैसे कि महाराष्ट्र असेम्बली से श्री डोटे को बरखास्त कर दिया था . . .

अध्यक्ष महोदय : उसका इससे क्या ताल्लुक है। अंपिनियन के बारे में सवाल पूछना चाहते हैं तो पूछिये।

श्री बागड़ी : इसी के बारे में . . .

अध्यक्ष महोदय : आप दूर न जायें और बताने लग जायें कि किस जगह क्या बाका हुआ था।

श्री बागड़ी : राज्य असेम्बलियों पर क्या कोई ऐसा कानून बना कर रोक लगाने पर विचार किया जा रहा है जिससे कि वहाँ पर मनमानी न की जा सके? उच्च न्यायालय के फैसले को देखते हुए क्या राज्य असेम्बलियों के अन्दर जो कांग्रेस बहुमत के बल पर मनमानी करती है, उसके ऊपर रोक लगाने के लिए कोई कानून बनाने की बात क्या केन्द्र सोच रहा है?

श्री अ० कु० सेन : मैं नहीं समझता हूँ कि एना कोई मनमानी हुई है।

Shri Bhagwat Jha Azad: In view of the fact that the Government says that they are still considering the matter and the legislators all over the country and the general public are awaiting their considered views, has Government taken note of the aggres-

sion almost launched by a section of the people in this country, specially the lawyers, regarding the decision and the repercussions of the public and the legislators in this connection?

Shri A. K. Sen: The Government will consider the reaction of every section of the community including the lawyers.

श्री सिद्धेश्वर प्रसाद : मैं जानना चाहता हूँ कि इस प्रश्न पर निर्णय लेने में सरकार ने इतनी देर क्यों की है और क्या सरकार इस प्रश्न पर विचार करते समय संविधान सभा में जब इन धाराओं पर विचार किया जा रहा था उस समय के विधि मन्त्री ने जो विचार व्यक्त किये थे, उन विचारों को भी ध्यान में रखेगी?

श्री अ० कु० सेन : मैं नहीं मानता हूँ कि ज्यादा देर हुई है इस मामले में। कारण यह है कि कोई निर्णय लेने से पहले, किसी निष्कर्ष पर पहुँचने से पहले बहुत अच्छी तरह से सारे मामले पर सोच विचार होना चाहिये।

श्री विश्वनाथ पाण्डेय : अभी बताया गया है कि सुप्रीम कोर्ट की राय के ऊपर सरकार विचार कर रही है। मैं जानना चाहता हूँ कि सरकार कब तक विचार पूरा कर लेगी और कब तक उसको सदन के सामने प्रस्तुत कर देगी?

श्री अ० कु० सेन : जब तक किसी अन्तिम निर्णय पर नहीं पहुँचा जाता है तब तक विचार चलता रहेगा।

Shri Man Sinh P. Patel: In view of the majority decision of the Supreme Court and an opinion confined specially to the members of the Bar in favour of the decision, may I know whether Government would like to take the opinion of the different legislatures and of this House before framing the new amendment to the Constitution which is likely to be amended?

Shri A. K. Sen: Any decision with regard to the final course of action to be taken will have to be decided by Parliament and you, Sir, as the Speaker of the House and as the custodian of the House's consensus will have to aid the House in arriving at a proper conclusion. It can be done only with the aid of the House in such a way as possible.

श्री ए० सि० चौधरी : मैं समझ नहीं पा रहा हूँ कि प्रश्न आप से पूछूँ या विधि मन्त्री जी से पूछूँ। जब पहले सर्वोच्च न्यायालय के इस निर्देश पर हाउस में विचार हुआ था उस वक्त आपने कहा था कि सारे के सारे मामले पर विचार करने के बाद जल्दी विधान सभानों के अध्यक्षों का मैं एक सम्मेलन बुला कर तथा उनके विचार जान कर सारी परिस्थिति का अध्ययन करूँगा। मैं जानना चाहता हूँ कि क्या इस प्रकार का सम्मेलन आपकी तरफ से बुलाने की योजना बनाई गई है या बनाई जा रही है या बनाई जा चुकी है ?

अध्यक्ष महोदय : न बनाई गई है, न बनाई जा रही है। सालाना एक सम्मेलन होता है। उसकी इत्तिला आपका पहले भी होगा।

Shri Ranga: May I know whether the Government are taking note of the opinions expressed not only by lawyers but also by the general public as well as political parties and that it is not correct to say that lawyers alone have reacted with regard to this particular matter on behalf of the citizen; the citizens also are interested?

Shri A. K. Sen: I do not think I have ever expressed any such view that lawyers alone count in this matter. Representatives of political parties including Professor Ranga, count possibly as much, if not more than, as lawyers.

Shri H. N. Mukerjee: In view of the peculiarly complicated questions involved and in view of a certain kind

of propaganda which is purported to say that the majority opinion is, more or less, binding on Government while the minority opinion and other interpretations are not likely to be as effective as that, may I know if Government is going to set in train some processes of thinking on this issue on the part of Parliament as well as other interests before a decision is arrived at so that we are not taken unawares and the decision is made behind our back?

Shri A. K. Sen: The Government is not competent to arrive at a decision behind anybody's back. Government can express only its own views. It is for Parliament to finally decide upon the matter and what course of action should be taken. So far as Government is concerned, I would certainly repeat that we must accept the interpretation put by the majority opinion as the opinion of the court.

Mr. Speaker: Shri Hem Raj.

Shri H. N. Mukerjee: May I seek a clarification?

Shri Hanumanthaiya: On a point of order, Sir.

Mr. Speaker: Let us hear the point of order.

Shri Hanumanthaiya: The hon. Minister makes a distinction between the Government and the House. In all matters of major policies, Government represents Parliament because it represents the majority party. Therefore, whenever such a question arises, they cannot set at rest the issue by saying, "We only express the opinion; it is left to Parliament to decide it." That would be...

Mr. Speaker: Why not? Does he think that the Parliament and the Government are the same thing?

Shri Hanumanthaiya: Though they are not the same, it lies within the jurisdiction of the majority party and the Government to take a lead in the matter.

Mr. Speaker: It would be a tragedy when both become one.

Shri H. N. Mukerjee: May I seek a clarification?

Shri S. M. Banerjee: Sir, this is an ex-Chief Minister talking like this. On a point of order.... (Interruption).

Mr. Speaker: Order, order. I have allowed him his turn. He is going on putting a question.

Shri S. M. Banerjee: I am not putting questions.....

Shri H. N. Mukerjee: The Law Minister in this House as well as outside has said from time to time that the majority opinion is binding on the Government. If that is so, there is no question of Government taking more time to make up its decision. If that is so, Government should come before Parliament and place its views so that Parliament also can pronounce upon it.

Mr. Speaker: What is there to be placed? If the Government thinks it is binding on them, that is where the matter ends. There is nothing more to be done. It is only for the Parliament to consider whether they think differently. That is all.

Shri H. N. Mukerjee: I want Government to make it very clear. As far as they are concerned, they have accepted the majority opinion.

Mr. Speaker: We ought to take the word of the Law Minister. When he says it is binding on the Government, what can I do?

Shri Mukerjee: Do we take it that the majority opinion has been accepted by the Government in which case our reactions will have to be communicated to you as quickly as possible?

Shri A. K. Sen: If the hon. Member looks into my answer, I have quite carefully said that the Govern-

ment must accept the majority opinion as the opinion of the court. As to whether the matter should rest there as is interpreted by the Supreme Court or not is to be finally decided by Parliament under your guidance. The Government can only give expression to its own views in the matter. So many times it has happened that the Supreme Court has declared a particular law invalid and we have then decided to amend the Constitution to take more powers, or not to amend the Constitution. In this case also, when the President had sent certain questions for answers answers to the Supreme Court, what other thing can we say except to say that the opinion of the Supreme Court should be taken as the majority opinion? After that, what further course of action is to be pursued is a matter on which the Parliament has to give its final verdict.

Mr. Speaker: Shri Chaturvedi,

Shri Hem Raj: I was called, Sir.

Mr. Speaker: He should sit down. I will call him if I can give him an opportunity.

Shri A. K. Sen: May I add one thing more? So far as the question of privileges is concerned, we have never regarded it either as a matter concerning the majority party alone or any particular group alone. It is a matter on which the entire House has concerned itself and we have never divided on party lines in the past.

Mr. Speaker: There is one thing. I read in the papers that the hon. Minister of Law was of the opinion that the Supreme Court would see, when a citizen is punished for contempt, whether the order by the House is frivolous, illegal and—the third was—*mala fide*. Suppose tomorrow the Supreme Court holds that the order passed by this House was *mala fide* and frivolous. Then, would this Parliament have any right to continue, or the Speaker to continue, in office?

Shri Ranga: Sir, he should not take decisions either as *mala fide* manner or frivolous manner, because there may be occasions, when it is led by the majority, when the House can possibly behave in that fashion.

Mr. Speaker: Opposition Members are ignoring that they might have to sit on the other side some time.

Shri Ranga: Even then there must always be an opposition. Even according to your own earlier statement it would be a tragedy if there would be no opposition at all. Even when we transport ourselves to that side they will have to come here.

Mr. Speaker: They will come to this side.

Shri Ranga: Therefore, it will be a great privilege to restrain our Government from advising Parliament and getting Parliament to do frivolous or irresponsible things.

Shri Nath Pai: Sir, on a point of order. You have been pleased to ask a question. May I point out that normally, whenever we have ventured to ask a question which you in your judgment thought was of a hypothetical nature, you have sternly come down and said, "I don't allow it", whereas the question which you raised started with "Suppose" and so it was *prima facie* hypothetical. Therefore, with the greatest consideration, I hope that you will be pleased to extend this latitude to us also in future.

Mr. Speaker: Not at all.

Shri Nath Pai: Because the question you asked was absolutely hypothetical.

Mr. Speaker: I only wanted to know his reaction.

Shri Nath Pai: Mr. Speaker, your fair play will demand that you will extend to me what you claim for yourself.

Mr. Speaker: Sometimes he will give to me something more!

Shri S. N. Chaturvedi: In view of the interpretation given by the Supreme Court on the constitutional position, do you not apprehend that because of this decision there may be other awkward situations and there may be very great difficulty for the Speakers of Parliament and Legislatures to maintain order in the House and in the galleries?

Mr. Speaker: This is not a question to be answered.

Shri Nath Pai: Is it not the consensus of opinion, as expressed by different bar associations, eminent jurists and through the columns of the papers, that since the conflict is not as to supremacy between the legislature and the courts but one of primacy as to fundamental rights, well defined under the Constitution, and the unlimited privileges of the House, it will be wiser to have a healthy debate throughout the country before Government rushes with any amendment? Is it not the consensus of opinion?

Shri A. K. Sen: Well, if the consensus of opinion is equated with the opinion expressed by the lawyers who had met in the last Seminar in Delhi, then it would be the consensus. But I do not think there will be others who will agree so readily.

Shri Nath Pai: I said bar associations.

Shri A. K. Sen: I have not seen the resolutions of all bar associations, but I have seen some.

Shri Nath Pai: Those who are capable of expressing an opinion have expressed it.

Mr. Speaker: Now he is arguing. Does he mean that those who have not spoken are not capable of expressing an opinion?

Shri Nath Pai: They are waiting.

Shri A. K. Sen: But I think it will be an over-simplification of the matter to say that it is only a question of fundamental rights.

Shri Kapur Singh: I want to know whether Government are in a position to indicate broadly as to when this matter is likely to come up for discussion before the House.

Shri A. K. Sen: Sir, Mr. Kapur Singh is known for his patience; he would not hurry us.

Shri Hem Raj: Is it a fact that the opinion which had been given by the Supreme Court is simply of an advisory nature?

Mr. Speaker: This is for you to judge.

Shri Hem Barua: This anomaly has arisen because of the Indian Legislatures failing to define the powers, privileges and immunities of the Members. In that context, may I know why is it that Government have not considered it proper so far to repeal sub-clause (3) of article 105, and also article 194, because that would mean the end of this situation?

Mr. Speaker: Order, order. Now, he has put the question.

Shri A. K. Sen: Does this question really call for an answer? The hon. Member is wanting me to commit the Government to a particular course of action which Government are not competent to do in such a matter, as it is a matter concerning the privileges of the House.

Shri D. C. Sharma: May I know whether the hon. Minister of Law is going to consult the various State Legislative Assemblies before he brings forward some amendment before this House? May I also know when he will bring forward that amendment before this House?

Shri A. K. Sen: If the House decides upon a particular course of

action, the House will no doubt indicate also whether the final action should be taken in consultation with the State Legislatures or with other Speakers.

Shri Basappa: Is it the intention of Government to wait till the courts interfere on the basis of the decision of the Supreme Court and then come to a settlement?

Shri Nath Pal: Where is the question of settlement?

Shri A. K. Sen: I have never said so.

श्री दलजीत सिंह : हिन्दुस्तान के संविधान की धारा 22, 32 और 54 के अनुसार पालियामेंट को सुप्रीम माना गया है . . .

श्री स० मो० बनर्जी : नहीं माना गया।

Mr. Speaker: Order, order. That would be an expression of opinion.

श्री दलजीत सिंह : मैं जानना चाहता हूँ कि क्या सुप्रीम कोर्ट ने इस झगड़े पर फंसला देने से पहले सरकार को लिखा था कि संविधान में कोई अमेंडमेंट लाया जाए ?

अध्यक्ष महोदय : यह उन का फर्ज नहीं था ।

श्री शिव नारायण : मैं जानना चाहता हूँ कि क्या गवर्नमेंट राज्यों के स्पीकरों, एटार्नी जनरल और एडवोकेट जनरलों को बुला कर उनकी कमेटी में इस बात पर विचार करना चाहती है ?

अध्यक्ष महोदय : वह अलाहिदा बात है ।

Shri R. Ramanathan Chettiar: In view of the Lok Sabha having been elected directly by the people . . .

Mr. Speaker: The hon. Member is arguing out the case . . .

Shri R. Ramanathan Chettiar: In view of this Parliament being

sovereign, may I know whether Government will take into consideration the views of Parliament as well as the legislatures in this country before coming to any conclusion?

Shri S. M. Banerjee: It is not sovereign.

Mr. Speaker: They are sovereign in this respect at least that they can differ in this manner. They cannot go on arguing in this manner.

श्री म० ला० द्विवेदी : मैं जानना चाहता हूँ कि प्रेसीडेंट ने विधि मन्त्रालय से पूछ कर इस विषय को सुप्रीम कोर्ट के पास भेजा था ? यदि हाँ, तो विधि मन्त्रालय ने किस से परामर्श लिया था कि इस विषय को सुप्रीम कोर्ट के पास भजा जाए ?

श्री अ० कु० सेन : समूचे कैबिनेट के परामर्श से यह किया गया था ।

श्री रामसेवक यादव मैं जानना चाहता हूँ कि क्या कांग्रेस संसदीय दल ने इस मसले पर विचार करने के लिए कोई उप समिति बनायी थी और माननीय न्याय मन्त्री भी उस उप समिति के सदस्य थे ? यदि हाँ तो उनकी क्या राय थी और विधि मन्त्री की क्या राय थी ?

अध्यक्ष महोदय : यह नहीं पूछा जा सकता ।

Shri B. Ramanathan Chettiar: On a point of order. The other day, the hon. Minister of Parliamentary Affairs said that he would await the conference of the Speakers. But the hon. Speaker interjected him and said that already the Speakers' opinion was known, and, therefore, he need not wait for that. That was why I put this question whether Parliament's opinion and that of the legis-

latures would be taken into consideration before Government came to a decision.

Mr. Speaker: That question has already been asked by so many hon. Members.

Consumer Cooperative Societies

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Shri D. C. Sharma:
Shri Yashpal Singh:
Shri P. R. Chakraverti:
Shrimati Savitri Nigam:
Shri Heda:
Shri Rameshwar Tanti:
Shri M. L. Dwivedi:
Shri S. N. Chaturvedi:
*281. Shri Bhagwat Jha Azad:
Shri Daji:
Shrimati Vimla Devi:
Shrimati Ramdulari Sinha:
Shri Sham Lal Saraf:
Dr. Ranen Sen:
Dr. Saradish Roy:
Shri Dinen Bhattacharya:
Shrimati Renuka Barkataki:

Will the Minister of Community Development and Co-operation be pleased to state:

(a) whether Government propose to give any assistance to the consumer co-operative societies started in different colonies of Delhi and New Delhi as a result of the price resistance movement?

(b) if so, the nature thereof; and

(c) whether Government have studied the impact of the appeal to consumers, made by various voluntary organisations in the Capital not to use sweets, to assess the reduction in consumption and prices?

The Deputy Minister in the Ministry of Community Development and Co-operation (Shri B. S. Murthy):
(a) Yes, Sir.