

>

Title: Shri N.K. Premachandran raised Point of Order under Rule 219 of the Rules of Procedure and Conduct of Business in Lok Sabha and under Article 110 of the Constitution of India regarding motion for consideration of the Bill to give effect to the financial proposals of the Central Government for the financial year 2019-2020 (Mr. Speaker given his ruling).

SHRI N. K. PREMACHANDRAN (KOLLAM): Sir, I rise to object the motion for consideration of the Finance (No.2) Bill under rule 219 (1) of the Rules of Procedure and Conduct of Business in Lok Sabha and under article 110(1) and article 117 of the Constitution of India as well as rule 376 of the Rules of Procedure and Conduct of Business in Lok Sabha as clauses 135 to 181 and clauses 187 to 192 of the Finance (No.2) Bill, 2019 will not come within the purview of the Finance Bill.

Sir, rule 219(1) says:

“In this rule, “Finance Bill” means the Bill ordinarily introduced in each year to give effect to the financial proposals of the Government of India for the next following financial year and includes a Bill to give effect to supplementary financial proposals for any period.”

So, a Finance Bill is for a particular period. It is for either for the next following financial year or for a particular period and this shall not give

any permanent changes to the existing laws. It is very clear that rule 219(1) is distinct and separate.

Sir, let now come to article 110(1) of the Constitution of India. I will not take much time of the House by reading the entire article as I know that there is paucity of time. Article 110(1) of the Constitution of India speaks about Money Bills. It says:

“For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the following matters, namely—

1. The imposition, abolition, remission, alteration or regulation of any tax;”

I stress upon the words ‘only’ and ‘imposition, abolition, remission, alteration or regulation of any tax’.

Clause (b) of the article 110(1) says about the regulation of the borrowing of money; clause (c) speaks about the custody of the Consolidated Fund of India or the Contingency Fund of India and clause (d) speaks about the appropriation of moneys out of the Consolidated Fund of India. The Government is relying on clause (g) which says:

“any matter incidental to any of the matters specified in sub-clauses (a) to (f).”

The Government is relying on article 110(1)(g) under which this Finance Bill is being brought forward. The Government is relying upon any matter which is incidental to any of the matters specified in article 110(1) (a to f).

Sir, what is the long title of the Bill? Even in the Finance Bill, the long title of the Bill is, and I quote:

“A Bill to give effect to the financial proposals of the Central Government for the Financial Year 2019-20.”

That means, these should be the financial proposals for the financial year 2019-20, and nothing else. This means that it is temporary in nature. It cannot have any permanent nature. Every year, for a particular period, for a financial year, the financial proposals are being brought before the House by means of a Finance Bill.

Now, let us see what does Practice and Procedure of Parliament by Kaul and Shakhder says. It explains, what is meant by a Finance Bill, and I quote:

“Finance Bill means the Bill ordinarily introduced in each year to give effect to the financial proposals of the Government of India for the next following financial year and includes a Bill to give effect to supplementary financial proposals for any period.”

This is at page No. 726 of the Practice and Procedure of Parliament by M.N. Kaul and S.L. Shakhder. It means that it does not contain provisions intended to make permanent changes in the existing laws unless they are consequential upon or incidental to the taxation proposals.

Sir, the Government can come with a Financial Bill without having the non-taxation proposals only on two conditions – according to Kaul and Shakhder. If it is consequential upon or incidental to the taxation proposals, the Government can definitely come with a Financial Bill. I

will come to the clauses one-by-one afterwards. I am not going into the details of Financial Bill of Category A and the Financial Bill of Category B because I know, there is paucity of time. In this background, let the hon. Speaker may kindly examine the contents of the Finance Bill No. 2 of 2019.

Number one, Clauses 135 to 142 of the Bill deal with amendments to the Reserve Bank of India Act, 1934.

It is giving power to the Bank to remove the Directors from the office. Is there any taxation proposal? It is supersession of the Board of Directors of the non-banking financial companies. It is power to take action against the auditors. I want to know whether it will come under the purview of the Finance Bill. How will these things come within the purview of the Finance Bill? This means that you are making permanent changes, not for a particular year or for a particular period.

Similarly, Clause 143 of the Finance Bill No. 2 of 2019 deals with amendment of Insurance Act; Clause 144 and 145 deal with amendment to Securities Contract Act; Clause 146 and 147 deal with amendment to Banking Companies Act; Clause 148 deals with amendment to General Insurance Act; Clause 151 to 171 deal with amendment to National Housing Bank Act.

I want to know how National Housing Bank Act will come within the purview of a Money Bill or a Finance Bill? Further, Clause 172 to 176 deal with amendment to Benami Property Act; Clause 177 to 181 deal with amendment to SEBI Act; and Clause 187 to 192 deal with amendment to Prevention of Money Laundering Act. These are the clauses I am having objection to.

All the aforesaid amendments will never come within the ambit of the Finance Bill for which a separate amendment Bill is required. These amendments are incorporated in the Finance Bill with an intent to avoid threadbare discussion and scrupulous scrutiny of the Bill. It is against the basic principles of the legislation. The legislative supremacy of the Parliament is being taken away by the executive under the protection of the Finance Bill. It is not at all fair. Sir I am coming to the third part.

Hon. Speaker Sir, I seek your wisdom regarding this. It is very academic. Let the Government also explain. It is regarding ruling of your predecessors. Number one, Shri G.V. Mavalankar, the first Speaker of India in Lok Sabha who served till 1956, said:

“Only the taxation proposals and other provisions necessary for the administration of tax will come within the purview of Finance Bill.”

Number two, what Shri M. Ananthasayanam Ayyangar said, in the same year 1956, when the Lok Sabha considered regarding the Wealth Tax Act, Gift Tax Act and the Finance Bill, I would like to read that ruling also. I may kindly be permitted a little bit more time. That is in Volume 10 of Part-II of Lok Sabha debates of 1956 at column 2105. I quote that ruling:

“I would normally urge upon the Finance Minister, not only he but also all his successors to see to it that only those provisions which relate to the raising of taxation should be included in the Bill. The procedure should be followed, and no other provision should be given attention to, unless they are absolutely consequential.”

So, those which are absolutely consequential to the taxation proposals, they will only be included or incorporated in the Finance Bill. That is the ruling of M. Ananthasayanam Ayyangar, the second Speaker of Lok Sabha.

I am now coming to the last speaker, your immediate predecessor, Madam Sumitra Mahajan Ji. When the same objection was raised by myself and Prof. Saugata Roy, who is presently absent in the House, during the 16th Lok Sabha, Madam Sumitra Mahajan Ji had stated that and I quote. ...(*Interruptions*). It is just for academic interest. Please give me two minutes. She said:

“Nevertheless, the fact is that a well-established practice of this House has been not to include non-taxation proposals in not only a Finance Bill but also other Bills containing taxation proposals unless it is imperative to include such proposals on constitutional or legal ground. Therefore, every effort should be made to separate taxation measures from other matters unless it is impossible on constitutional or legal grounds or on some such unavoidable reasons to do so in a particular case.”

I am concluding. My point is this. I do agree with the hon. Speaker that under Article 110 (5) of the Constitution, you have ample authority and discretion to declare this Bill as a Money Bill. I do not dispute it. This is absolutely a backdoor legislation. It cannot be allowed under the pretext of Finance Bill by suspending Rule 80 (1) of the Rules of Procedure and invoking Rule 388 of the Rules of Procedure, thereby bypassing the Parliament scrutiny. The legislative supremacy of the Parliament is being questioned. So, hon. Speaker, I appeal to you to

uphold the democratic conventions and precedence and the spirit of the Constitution and the rules framed thereunder. I appeal to the hon. Speaker to give a ruling to protect the rights of Members of Parliament.

With these words, I conclude.

माननीय अध्यक्ष : श्री निशिकान्त दुबे जी, आप कृपया संक्षेप में बता दें ।

डॉ. निशिकांत दुबे (गोड्डा): श्रीमान् स्पीकर सर, श्री प्रेमचन्द्रन जी ने संविधान के आर्टिकल-110 में कहा, यह क्या कहता है, सर? यह कहता है कि:

“For the purposes of this Chapter, a Bill shall be deemed to be a Money Bill if it contains:

(a) the imposition, abolition, remission, alteration or regulation of any tax;

और सर, बी कहता है कि:

“the regulation of the borrowing of money or the giving of any guarantee by the Government of India, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by the Government of India;”

प्रेमचन्द्रन साहब, आप बहुत विद्वान वकील हैं । आप यह समझिये कि आरबीआई में, सेबी में या इंश्योरेंस में ये ऑब्लिगेशन है या नहीं है? और स्पीकर सर, इसके आगे ...(व्यवधान) ।

माननीय अध्यक्ष: माननीय मंत्री जी, क्या आप बोलना चाहेंगी?

डॉ. निशिकांत दुबे : इसमें यह कहा गया है कि ...(व्यवधान) । स्पीकर सर, केवल एक मिनट लूंगा। प्वाइंट नंबर 3 यह है कि:

“If any question arises whether a Bill is a Money Bill or not, the decision of the Speaker of the House of the People thereon shall be final.”

इसीलिए आप सबसे सुप्रीम हैं और सुप्रीम कोर्ट यही कहता है ।

माननीय अध्यक्ष: प्रोफेसर सौगत राय साहब, आप लेट आए थे, इसलिए आप माननीय मंत्री जी को बोलने दीजिए ।

SHRIMATI NIRMALA SITHARAMAN: Thank you respected Speaker Sir. Shall I come out with the contents of the Finance Bill and then also at the end, answer the objection raised by the hon. Member? ... (*Interruptions*). Can I please make my submission to the Speaker and obey the orders of the Speaker? ...(*Interruptions*)

माननीय अध्यक्ष: माननीय मंत्री जी, जैसा आप चाहें ।

SHRIMATI NIRMALA SITHARAMAN: Speaker Sir, I am addressing you and I like to take order from you ...(*Interruptions*) . I am addressing you and taking an order from you. As your instruction goes, I shall follow that route. ...(*Interruptions*). I am asking you, Sir, if you would want me to first respond to the hon. Member, who raised an objection. ...(*Interruptions*). कृपया स्पीकर सर को बोलने दें. ... (व्यवधान)... or would you like me to also speak about the contents of the Finance Bill and then also answer the hon. Member. Sir, I seek your directions. ...(*Interruptions*)

माननीय अध्यक्ष : माननीय मंत्री जी, अगर आप पॉइंट ऑफ ऑर्डर पर कुछ बोलना चाहती हैं तो बोल सकती हैं ।

SHRIMATI NIRMALA SITHARAMAN: Sir, the hon. Member has quoted rule 219, and then, rightly from his side, there was an objection. The primary object is to give effect to the financial proposals. But it does not rule out the possibility of including non-taxation proposals in the Finance Bill.

So, rule 219 that the hon. Members is quoting, does not rule out the possibility of bringing non-taxation related matters ...*(Interruptions)*

Prof. Sougata Ray, let me clarify the matter. You are a very senior Member and I respect you. Let me finish. I have my own way of talking. Unfortunately, it is not as sharp as yours! ...*(Interruptions)*

So, when this rule does not explicitly exclude, I cannot see, why objections should come. Again, it also says this. While even referring to other Bills, which the hon. Member rightly quoted saying that it is not just about the Finance Bill but it is so in other Bills also. Yes, his point is understood. But it also gives room when it says: “Unless it is imperative.” And, the Government considers what we are doing now as absolutely imperative.

So, now, may be permitted to speak about the Finance Bill?

माननीय अध्यक्ष : माननीय सदस्यगण, प्रक्रिया नियमों के नियम 219 और संविधान के अनुच्छेद 110 के अनुसार व्यवस्था का प्रश्न श्री एन.के. प्रेमचन्द्रन द्वारा उठाया गया है । यह भी तर्क दिया गया है कि अनुच्छेद 110 के अनुसार, वित्त

विधेयक में उसके धन विधेयक होने के कारण गैर-कराधान प्रस्ताव शामिल नहीं किए जा सकते हैं और इस विधेयक में गैर-कराधान प्रस्तावों को सम्मिलित करना विधेयक के पूरे नाम में उल्लिखित अधिदेश से परे है ।

माननीय सदस्यगण, नियम 219 के अनुसार वित्त विधेयक का मूल उद्देश्य सरकार के वित्तीय प्रस्तावों को लागू करना है । किन्तु यह नियम गैर-कराधान प्रस्तावों को वित्त विधेयक में शामिल करने की सम्भावना से इंकार नहीं करता है । विगत में तत्कालीन माननीय अध्यक्षों द्वारा यह निर्णय दिए गए हैं कि स्थापित परम्परा के अनुसार यदि सांविधिक अथवा विधिक आधार पर ऐसे प्रस्तावों को शामिल करना आवश्यक न हो तो गैर-कराधान प्रस्तावों को न केवल वित्त विधेयक बल्कि कराधान प्रस्तावों वाले अन्य विधेयक में भी शामिल न किया जाए । कराधान प्रावधानों को अन्य मामलों से पृथक करने का तब तक हर संभव प्रयास किया जाना चाहिए जब तक कि किसी विशेष मामले में ऐसा करना सांविधिक अथवा विधिक आधार पर अथवा किन्हीं अपरिहार्य कारणों से संभव न हो ।

मैं यह भी उल्लेख करना चाहता हूं कि विगत में भी वित्त विधेयकों में गैर-कराधान प्रस्ताव शामिल किए गए हैं । वित्त विधेयक, 2017 और वित्त विधेयक, 2018 के विचार तथा पारित किए जाने के दौरान भी इन विधेयकों में कतिपय गैर-कराधान प्रस्तावों को शामिल करने के संबंध में ऐसी ही आपत्तियां की गयी थीं और तत्कालीन अध्यक्षों ने उपरोक्त आधार पर व्यवस्था के प्रश्न को अस्वीकृत कर दिया था ।

यह ध्यान में रखते हुए कि नियम 219, वित्त विधेयक में गैर-कराधान प्रस्ताव शामिल करने पर विशिष्ट रूप से प्रतिबंध नहीं लगाता, इसलिए मैं व्यवस्था के प्रश्न को अस्वीकृत करता हूं ।

माननीय मंत्री श्रीमती निर्मला सीतारमण जी ।

FINANCE (NO.2) BILL, 2019*

... (Interruptions)