

the Government of India consider setting up of a fishing harbour on the Bay of Bengal near the Chilka opening?

MR. SPEAKER: So, that is the heart of your question!

SHRI BALRAM JHAKAR: I agree with the hon. Member one hundred percent. There is very vast scope for fisheries. It has a bright future and we are going to pursue it relentlessly. I am going to revolutionise the whole concept of it. We have already progressed quite a lot. We have reached the figure of 3.8 million tonnes so far and we have gone ahead. But I want to make it 9 million tonnes by the end of the next Plan. I agree with him. I will try to do whatever is possible.

SHRI LOKANATH CHOUDHURY: The Minister has already replied. But I want to know this definitely. When was the proposal for the three harbours of Gopalpur, Astarang and Paradip submitted to the Government of India and when did it give its clearance? It will definitely come out from the reply, whether there is any negligence or not.

My second question is whether there was any objection or not regarding the location of the fishing harbour at Paradip and whether that objection has been taken into consideration or not.

SHRI BALRAM JAKHAR: I think the hon. Member is misinformed. It is already in progress and progress is being watched and monitored and there is no problem. If the hon. Member wants, I can give him the full details as to when it happened, when it was sanctioned, when it was started, how much money has been spent and so on. There is no problem.

MR. SPEAKER: You can send them in writing.

#### White Paper on Teen Bigha corridor

\*205. SHRI LAL K. ADVANI:  
SHRI AMAR ROY PRADHAN:

Will the Minister of EXTERNAL AFFAIRS be pleased to state:

(a) whether there has been a demand for a white Paper on "Teen Bigha" corridor;

(b) if so, the reaction of the Government thereto;

(c) whether the Government are aware of delinking of Kuchlibari areas from the Indian territory on transfer of this corridor to Bangladesh;

(d) if so, the steps proposed to be taken to ensure the safety of the Indian citizen living in Kuchlibari;

(e) whether any representation was received from the residents of Kuchlibari and Kuchligram Sangram Samiti on leasing of this corridor;

(f) if so, the action taken by the government thereon;

(g) whether the government have since consulted the Government of West Bengal regarding problems likely to arise following the transfer of this corridor;

(h) if so, the details thereof; and

(i) whether any security implication is involved for the nearby areas on its transfer?

THE MINISTER OF STATE IN THE MINISTRY OF EXTERNAL AFFAIRS (SHRI EDUARDO FALEIRO): (a) to (i). Statement is laid on the Table of the House.

#### STATEMENT

The Government have not received any demand for a white Paper on the Tin Bigha issue.

There is no delinking of Kuchlibari area from the Indian territory as the Tin Bigha corridor is only being leased and not transferred to Bangladesh and as Indian citizens will continue to enjoy the right to free and unfettered movement through the leased area.

Government are aware that representations from the residents of Kuchlibari and

Kuchlibari Sangram Samiti have been received by the west Bengal Government. The Government of India are in touch with west Bengal authorities regarding the issues mentioned by the residents of Kuchlibari.

The Government are in consultation with the government of West Bengal regarding all arrangements to be made following the leasing of the corridor to Bangladesh.

**SHRI LAL K. ADVANI:** Mr. Speaker Sir, mere then 40,000 Indian residents in Kuchlibari and Cooch Bihar district of West Bengal are extremely agitated over the proposed transfer of Teen Bigha territory to Bangladesh. It derives from the Agreements of 1974 and 1982. But if they have still not implemented, then it is because of the real human problems involved, real legal problems involved and also the attitude of the Bangladesh Government in various matters. And therefore, this has not been done till now. This was proposed to be leased in order to provide a corridor to Bangladesh to reach its enclaves in India and what we are doing is to create an enclave within Bangladesh which is India. You have said in your reply that they have the right to free and unfettered movement through the leased area. Why cannot this right be given to Bangladesh citizens to reach their enclaves instead of subjecting our own people to this kind of a difficulty?

**SHRI EDUARDO FALEIRO:** Sir, first let me make it clear that there is no transfer of territory. There is no transfer of territory at all. It is a misconception that has been going round. Tin Bigha will be part of India and will continue to be Indian territory. There is only a servitude that is created, to use the international law expression. We must provide the right of access, under international law, to Bangladesh because under international laws, all enclaves have a right of access.

**MR. SPEAKER:** I think it will be useful if you could explain what is right of servitude.

**SHRI EDUARDO FALEIRO:** OK Sir, The first thing to do, and I take your hint, is to

lay on the Table of the House, perhaps in the course of the day, the judgement of the Supreme Court which has gone into all aspects of this question.

Sir, in the context of what you have said, I would just like to quote two portions of this judgement which will really throw light on this matter. It is a long judgement going into 47 to 50 pages or so. But let me just say what the Supreme Court has said after a prolonged litigation. It was made clear at every single stage, by every single judge of the Calcutta High Court, Division Bench of the Calcutta High Court and the Supreme Court itself, that there is no transfer of territory. What the Supreme Court has said is this and I am on this because the hon. Member has mentioned the legal problem.

I quote from page 47 of the Supreme Court judgement on the civil appeal on this matter, that is, Union of India versus Sukumar Sengupta and others.

"We must observe that this was really a fight over a non-issue."

Now, the Division Bench judgement says categorically that there was no cession of territory and no lease in perpetuity. If that is so, change in the law or change in the constitution and the agreement should have been implemented fully. This was presided over by late Chief Justice Mukherjee. I quote:

"The Agreement should have been fully implemented and we hope that will be done for the restoration of the friendly relations between India and Bangladesh".

That takes care, in view of the highest court of this land, of the legal aspect was a non-issue in the words of Supreme Court.

As far as human problem is involved, we had guaranteed under our Agreement of 1974 and more so clarified in 1982 that there will be no human problem. Every single right, every single facility existing today will be preserved for the residents of Kuchlibari

and for the residents of other side of Kuchlibari, that is Meckliganj. India will continue to have sovereign powers there. It will continue to be an Indian territory.

I request the hon. Member, who is the Leader of the Opposition in his own right, to please see that when there is no human problem, no legal problem, it is politicised unnecessarily.

**MR. SPEAKER:** Mr. Minister, you had said that the right of servitude is a term used in national internal law and other law. It will be beneficial if you explain it. The Members will appreciate it.

**SHRI EDUARDO FALEIRO:** Sir, the Supreme Court has clarified this and has quoted the Internal Court of Justice, including literally the judge, who was one of the most eminent judges of the Supreme Court that the right of servitude is a right of access which under international law every country must provide to every enclave of other country. That is all, and nothing more is provided.

**SHRI LALL ADVANI:** Sir, I did not want to go into any legal polemics. I am aware there are legal fictions of all kind. To me it appears if it had been a long term lease, it was one thing. We have one provision which talks about lease in perpetuity. another provision says sovereignty will vest in India. I regard lease in perpetuity as lapse of sovereignty. so, it is not a lease for the common man and for the citizens living there. It is a transfer in a situation where local residents of Bangladesh are coming over to India because of the situation there. We are subjecting our own people to the virtual sovereignty of the Bangladesh. This is a hard reality.

My second question is, will this mean increasing the border of India; the transfer of this Teen-Bigha territory - virtual transfer though not *de jure*, *de facto* transfer - will it mean an added area which we will have to guard and, therefore, will it have security implications also. And, in view of the fact that there are human implications, there are security implications, will the Government con-

sider talking to Bangladesh once again and asking for a review of the earlier agreements in order to ensure that the human problem is solved, the security problem is taken care of and we have no more agitated group of people numbering to more than 40,000 on our hand. Today, they are extremely agitated. As a result of this the Chief Minister of West Bengal also once has had to visit that place. An important constituent of the West Bengal Government also is not in favour of this transfer.

**SHRI EDUARDO FALEIRO:** What is the question?

**MR. SPEAKER:** Some problems are being created because of...

**SHRI EDUARDO FALEIRO:** Yes, thank you, Mr. Speaker, Sir. I would like to say that the question of review never arose before. The 1974 Agreement was signed by the Congress Government. Thereafter, there have been other governments. In 1977 there was a Government of which the hon. Member was distinguished Member and his colleague in the Party was the Foreign Minister. Not for a moment during the period between 1977-80 when the Janata Party was in power or when the Janta Dal (S) was in power or when there was Janta Dal Government, which they were supporting, this question of review of 1974 agreement was raised. Not for a moment, when the then Prime Minister Shri Morarji Desai along with Mr. Vajpayee went to Dhaka - I have the minutes of this meeting and also a joint communique - this issue was raised.

Now, Sir, I am again on the question of human problem. I wish to assure the House that all human problems will be taken care of. There will be no human problem. All the rights, facilities which are existing at present for the Indian citizens, they will be preserved. I may further assure the House that at the operational level, we will work closely with the West Bengal Government, because that is a Government on-the-spot, to see that these things are done.

**SHRI AMAR ROYPRADHAN:** Mr.

Speaker, Sir, before I ask the question, with due respect to you, please correct the question. Under '(e)' it is stated Kuchligram Sangram Samiti. There is no such organisation named Kuchligram Sangram Samiti.

There are two organisations. One is Teen Bigha Sangram Samiti. It is led by Forward Bloc, that is my party. Second is Kuchlibari Sangram Samiti led jointly by the Congress and the BJP. So, this should be mentioned clearly. (*Interruptions*)

Before I put the question I would like to mention that we would like to have friendly relations with Bangladesh and not at the cost of our sovereignty. (*Interruptions*)

MR. SPEAKER: It is an important question. I suppose, people will pay attention to what is being said.

SHRI AMAR ROYPRADHAN: We would like to have friendly relations with Bangladesh but certainly not at the cost of our sovereignty.

Here, the hon. Minister has referred to an international law and said that right to access to the Indians to every enclave is there. That is all right. Through you, I would like to know from the hon. Minister whether he knows the position about the 126 Indian enclaves. What is the position of those enclaves? There is no law and order. One lakh people are staying there. They are our citizens.

MR. SPEAKER: If your question is amorphous, you will get amorphous answer.

SHRI AMAR ROYPRADHAN: There is no law and order. There is no police. There is no *chowkidhar*. There is no administration. One lakh people are at the mercy of the Bangladesh people. They are living in the jungles. This is the position. (*Interruptions*)

MR. SPEAKER: Mr. Pradhan, you should not make a speech. Please put the question.

SHRI AMAR ROYPRADHAN: I am not making any speech. I would like to mention the position regarding Kuchlibari. Now, you are going to create another enclave namely, Kuchlibari with a population of over 40,000.

I would only like to ask the hon. Minister whether the Government will give a second thought to it and whether they will make a negotiation with Bangladesh and have a package deal regarding the New Moore Islands also which is still pending; and the exchange of Indo-Bangladesh enclaves; sharing of Ganga-Tista water.

All these things should be taken together and have a complete proposal. You give a thought to it and come up with a package. In that case, Kuchlibari will not be turned into a new enclave.

SHRI EDUARDO FALEIRO: Mr. Speaker, Sir, the hon. Member has raised many important issues. But I will reply only - as directed by you - to what is concerned with this question.

In my answer, I have said that Kuchlibari will not become an enclave. It will be just as it is today. I reiterate that. I am prepared to give a map to the hon. Member, that I have here. I will definitely say that he may not get upset over it.

SHRI AMAR ROYPRADHAN: I will also you a map.

SHRI EDUARDO FALEIRO: There is no question of it becoming an enclave. This is point number one.

The point number two is that the question of its review does not arise. The Supreme Court had directed us to have an Agreement from 1974. If you want to go back 1959, that is Noon-Nehru Pact.... (*Interruptions*) The Supreme Court had directed us to implement them as soon as possible. We agree to it and respectfully we will go accordingly.

SHRI AMAR ROYPRADHAN: It is not within that place.

**DR. DEBIPROSAD PAL:** The hon. Minister has explained that Bangladesh Government will have a right of servitude in international law. The right of servitude means that Bangladesh will have an access for reaching the enclaves of Bangladesh. For giving a servitude, it is not necessary to have lease in perpetuity. If there is a lease in perpetuity, then the Bangladesh Government -although India will be sovereign- including the people who are living there, will exercise their right over the territory.

So, will the hon. Minister kindly explain, whether for servitude a leasing perpetuity is required or not and if there is a lease in perpetuity, then what is the position?

**SHRI EDUARDO FALEIRO:** Now, the hon Member has mentioned about the right of servitude in favour of Bangladesh for a limited purpose and access to the enclaves. For that purpose only, it had to be created and had been created. As I have said that this question of lease had been gone into in greatest detail in the Supreme Court judgement distinguishing that when the Government provides a lease what will be the position and when a private person provides a lease, what will be the position. All these questions have been dealt with in the Supreme Court judgement which I am laying on the Table. And I will say therefore that there is no legal problem; it is not a legal issue.

**SHRI SOMNATH CHATTERJEE:** I am thankful to the hon. Minister for clarifying such an important issue which is agitating the public mind there. It appears that some of our friends in the Left Party also have misgivings about it, apart from the BJP and the Congress, I find. May I get some clarification from the hon. Minister? After he has said that there is no question of creation of an enclave and there is no ceding of territory, giving up territory altogether, may I know whether the Corridor that is being created will be equally available for use by Indian citizens including the use by police, para-military and military personnel? Would there be any difficulty for the people of Kuchilbari for using the existing road running North-South across the Corridor connecting Meckliganj to Kuchilbari?

Would that road be continued to be used by the Indian citizens?

**SHRI EDUARDO FALEIRO:** As the hon. Member has pointed out, I would like to reply that both civil and military personnel, all types of our people will be allowed and will be permitted; and that is their right to use it, because that is part of India and it will continue to be part of India.

As far as the perpendicular and is concerned, more or less North-South direction existing today, that will continue to exist and therefore the question of the human problem mentioned by other hon. Members does not arise.

**SHRI GUMAN MAL LODHA:** I have to invite the attention of the hon. Minister, who has been talking of the human problem, to clause 4 of the Agreement in which it has been mentioned that Bangladesh citizens including police, para-military and military personnel along with their arms and ammunition, equipments and supplies, have the right of free and unfettered movement in the leased area and will not be required to carry passports, travel documents, etc. The Supreme Court Judgment which the hon. Minister has talked of generally is being reviewed by the Supreme Court itself. And it has been obtained by misrepresentation that there is no person living in that area, which is a subject matter or writ petition in the Calcutta High Court. People who have got agricultural fields filed a writ petition that they are living there and a false affidavit was given by the Government of India before the Supreme Court. Now, I am asking the hon. Minister whether it is a fact that taking of the military personnel no military equipments is a human problem. If they are to solve the human problem, why can't they do it by having a flyover? The issue is with the Government of India; the Sovereignty remains with the Government of India. They can provide a flyover by which the citizens of Bangladesh can cross from one area to other so that neither there is any security risk nor there is any problem for the Kuchilbari area between the enclave of Bangladesh.

**SHRI EDUARDO FALEIRO:** I am aware of any review of this judgment. But let me console the hon. Member who has been relying on the writ petition now filed in the Calcutta High Court. Please let it be known that their writ petition has once again been dismissed. The fate of all these writ petitions has been a consistent dismissal; and that as also has befallen the writ petition now mentioned by the hon. Member. Now, as far as the military personnel and others are concerned, I may mention again the right of access from the mainland to the enclave for this purpose only, all these things have to be done for them to maintain their sovereignty over the enclave; no other purpose. Our people have full access, full sovereignty; and that is the position consistent with the court's judgment including the writ petition that now the hon. Member has mentioned. Let it be known by the hon. Members that has also been dismissed; and that is the position.

**MR. SPEAKER:** Is it possible to have the flyover?

**SHRI EDUARDO FALEIRO:** That question was never, you see, in the agreement. And we don't see now it is necessary.

**SHRI DIGVIJAYA SINGH:** When the Pacts of 1974 and 1982 were signed, did the then Prime Minister, Mrs. Indira Gandhi consult the Opposition Parties and also particularly the Forward Block; and what was the reaction of the Opposition Parties and the Forward Block?

**SHRI EDUARDO FALEIRO:** Well, I do not have the information at the moment; if the hon. Member has it, he can share it with the House. *(Interruptions)*

**SHRI CHITTA BASU:** May I know from the hon. Minister whether there has been any official level discussion between the Government of West Bengal and the officials of the Ministry of External Affairs on this issue; if so, what are the points raised by the West Bengal Government; and what has been the total result of that discussion? May I further know whether it has been communicated to the Government by the Chief Min-

ister of West Bengal that it would not be possible to lease out the land before the 16th December as demanded by the Government of Bangladesh?

**SHRI EDUARDO FALEIRO:** In this matter we are in constant consultation and cooperation with the Government of West Bengal. We are and we have to be and must, be and therefore, we are in consultation with them to see that there is no human problem or any problem of any sort to the people in these enclaves.

**SHRI CHITTA BASU:** What is the result of the last discussion you had?

**SHRI EDUARDO FALEIRO:** Only operational matters are being discussed all the time, and that is to see that there is no operational problem at any level at any point of time. There is therefore constant discussion in cooperation and in coordination with the State Government, to settle it as early as possible.

## WRITTEN ANSWERS TO QUESTIONS

[Translation]

### Demand and Production of LPG

\*206. **SHRI K.P. UNNIKRISHNAN:** Will the Minister of PETROLEUM AND NATURAL GAS be pleased to state:

(a) the percentage of increase in demand and production of LPG during each of the last three years; and

(b) the action taken or proposed to be taken to bridge the gap between demand and supply, if any?

**THE MINISTER OF PETROLEUM AND NATURAL GAS (SHRI B. SHANKARANAND):** (a) and (b). The production of LPG was 1760 TMT in 1988-89, 1948 TMT in 1989-90 and 2144 TMT in 1990-91. The demand of LPG has been