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11.05 hrs.

RULING BY SPEAKER

RE : PROPRIETY OF (I) TERMING ""VOTE-ON-ACCOUNT"" AS INTERIM BUDGET IN THE ORDER PAPER OF THE DAY; AND OF CONVENING OF THE SESSION OF THE YEAR ON 29 JANUARY, 2004 WITHOUT THE PRESIDENTIAL ADDRESS

Title: Regarding propriety of terming "Vote on Account" as the "Interim Budget" in the Order Paper of the day; and convening of the first session of the year on 29 January, 2004 without the Presidential Address. (The point of order disallowed).

SHRI SOMNATH CHATTERJEE (BOLPUR): Sir, I have given notice on a very important issue. I would like your kind permission to raise it.

MR. SPEAKER: Before you speak, let me remind the House that, in the Business Advisory Committee, it was decided that we would start today with the presentation of the Budget at 11 o'clock and after the Budget, we would be taking up the 'Zero Hour' at 12 noon. I would request the hon. Members that their issues are no doubt important ones and, therefore, I would be definitely taking up their issues, the issues which Shri Dasmunsi and Shri Somnath Chatterjee want to raise, during the 'Zero Hour'. Both the issues can be discussed by giving priority in the 'Zero Hour'.

...(Interruptions)

SHRI PRIYA RANJAN DASMUNSI (RAIGANJ): Sir, my issue is regarding the Budget itself. It cannot be taken up after the presentation of the Budget. It is on the very constitutional matter pertaining to the procedure of the House.....(Interruptions) It is not a 'Zero Hour' issue. It is on the procedure of the House. I am on a point of order..â€¦ (Interruptions) Here, I would like to get the position rectifiedâ€¦â€¦ (Interruptions) My issue is not a 'Zero Hour' issue. It is linked with the very presentation of the Interim Budget and my point of order should be taken up first and disposed of.....(Interruptions)

SHRI SOMNATH CHATTERJEE : Sir, I am on the very validity of this Session. I am raising the question of constitutionality of this Session which is going on here.

MR. SPEAKER: Shri Somnath Chatterjee, this issue was discussed a few days back. The same issue which you want to raise now was raised in the House and the Minister had replied to it. And since it was once taken upâ€¦

...(Interruptions)

SHRI SOMNATH CHATTERJEE : Sir, there is a judgement of a court of law which clearly states it. If it is upheld, then the proceedings will become null and voidâ€¦...(Interruptions) Let me formulate it. My point is on the constitutionality of this very Session.....(Interruptions)

MR. SPEAKER: I do not deny the importance of the questions which you want to raise. I have also read your point of order which you want to raise today. But the only thing is, we have already decided that the presentation of the Budget will be taken up at 11 a.m.

...(Interruptions)

SHRI PRIYA RANJAN DASMUNSI : The whole order of procedure is wrong.....(Interruptions)

MR. SPEAKER: If the Government has no objection, I may permit them to speak.

...(Interruptions)

SHRI S.S. PALANIMANICKAM (THANJAVUR): Sir, I would like to raise a very important matter.....(Interruptions)

MR. SPEAKER: I will permit you during the 'Zero Hour'.

...(Interruptions)

MR. SPEAKER: The point of order will require a discussion and that may take longer time. Therefore, I will give you the fullest opportunity to present your views during the 'Zero Hour'.

...(Interruptions)

SHRI SHIVRAJ V. PATIL (LATUR): No, Sir. Our point is on the presentation of the Budget itself.....*(Interruptions)*

MR. SPEAKER: Please sit down. You may be brief and present your point.

...(Interruptions)

SHRI PRIYA RANJAN DASMUNSI : Sir, this is Parliament. Nobody can take the Parliament for a ride violating the Constitution, violating the rules and violating the established conventions of the House.

Sir, in today's Order Paper, it is stated as 'Interim Budget'. Now, article 112 of the Constitution makes it clear that there can be three financial statements. The first is the Annual Statement, the second is the Vote on Account and the third is the Supplementary Demands or Demands for Excess Grants. The Constitution does not say anything called the Interim Budget....*(Interruptions)*

DR. VIJAY KUMAR MALHOTRA (SOUTH DELHI): Sir, these things have been decided earlier.....*(Interruptions)*

MR. SPEAKER: I have permitted him to speak on his point of order.

SHRI PRIYA RANJAN DASMUNSI : Rule 204 categorically states 'Presentation of Budget.' We know that today is not the presentation of the Budget. Rule 213 says that the presentation of Budget may be in two parts, namely, part I and part II. Rule 214 says about the Vote on Account. We all know what is Vote on Account. Nobody may teach us or preach sermons. Today's Order Paper says 'Interim Budget'. Practice and Procedure of Parliament by Kaul and Shakhder says that, under Vote on Account, new services cannot be included to be charged from the Consolidated Fund of India except in exceptional circumstances.

Mr. Speaker, Sir, besides the rules that I quoted, I would like to refer to page 719 of Practice and Procedure of Parliament by Kaul and Shakhder. There it is very clearly said as to what is a Vote on Account.

In page 720, it says:

"As the purpose of a vote on account is to keep the Government functioning, pending the voting of the final supply, it cannot normally be used as a means to obtain Parliament's approval for "new services". "

Finally, it says that even for "new services" money can be given from the Contingency Fund of India even at a time when the Lok Sabha is in Session.

It says:

"It is for the Government to decide in what cases it would be necessary to withdraw advance from the Contingency Fund for expenditure on a "New Service" when the Lok Sabha is in Session. As far as possible, before such withdrawal is made, the concerned Minister may make a statement on the floor of the House giving details of the amount and the scheme for which money is needed. In emergent cases, however, “

Now, you have to justify, according to the rules, as to what is the emergency now. Is there any foreign invasion? Is the country facing any serious natural calamity? Or is the country faced with any drought situation or will a drought situation prevail after two months? What is the emergency now?

Mr. Speaker, Sir, it is not only this. According to the rules, one of the duties of the Standing Committees, which you have composed, is to scrutinise the Budget. Here, I would like to quote the Rules of Procedure and Conduct of Business in Lok Sabha.

In page 124, at rule 331G, it is said:

"the Committees shall consider the Demands for Grands of the concerned Ministries during the aforesaid period; "

If any additional item is included or removed in respect of any Ministry's head in the Interim Budget, which has been voted already in the earlier Budget, it should be referred to the Standing Committee again for scrutiny and it should give a Report to the House.

If the House rises on 5th and the Session is over, how will the Standing Committees have a chance to discuss the Budget? Besides this, in the Rules of Procedure and Conduct of Business in Lok Sabha, at rule 219, page 82, it is said like this....*(Interruptions)*

DR. VIJAY KUMAR MALHOTRA : How do you know what is there in the Interim Budget? ...*(Interruptions)*

SHRI PRIYA RANJAN DASMUNSI : I am talking on the subject of rules. ...*(Interruptions)*

DR. VIJAY KUMAR MALHOTRA : How does he know as to what is there in the Budget? ...*(Interruptions)* If there is something in the Budget, then you can raise it. ...*(Interruptions)*

SHRI PRIYA RANJAN DASMUNSI : You have already said it in the Press. ...*(Interruptions)*

DR. VIJAY KUMAR MALHOTRA : How do you know it? Then, you are anticipating something. How do you know what is there in the Budget? ...*(Interruptions)*

SHRI PRIYA RANJAN DASMUNSI : Mr. Speaker, Sir, in rule 219, about the Finance Bill you have said:

"At any time after the introduction in the House of a Finance Bill, the Speaker may allot a day or days, jointly or severally, for the completion of all or any of the stages involved in the passage of the Bill â€". "

You have to fix a date to discuss the Finance Bill. If I am not mistaken, Mr. Speaker, Sir, the Business Advisory Committee has finalised only two slots. One slot is to discuss the Demands for Grants in respect of Railways. In the case of Railways, it was not Interim Budget. But in the case of General Budget, you have treated it as an Interim Budget. The word 'Interim' is not there either in the Constitution or in the rules book.

According to established constitutional procedures, only three statements can be made. First one is on the direction of the President, which is Budget. That you have tactfully avoided. Shri Somnath Chatterjee will deal with that. Second is the Vote on Account. You are not saying that it is Vote on Account, because you are careful that in Vote on Account you cannot include new services unless there are some exceptional and emergent situations. You cannot explain 'emergency', except saying that you have to go to elections and get votes. That is your 'emergency'. ...*(Interruptions)*

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS AND MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS (SHRI HARIN PATHAK): You are afraid of that. ...*(Interruptions)*

SHRI PRIYA RANJAN DASMUNSI : We are not afraid. We are very happy. We will soon get rid of you. ...*(Interruptions)* Now, you have allotted two days. The last day is for other business. So, how will the House discuss Finance Bill clause-by-clause, including cut motions?

This was how we thought of it. Even if the House could sit for another few days to discuss it in depth, the heavens will not fall. The Government has taken the whole Parliament for a ride that whatever it will do, we will support it; whenever it comes to the House in a manner it wants, we will support it....*(Interruptions)* This is not genuine.

Sir, you are not only presiding over the House but you are presiding over the destiny of the Indian democracy in Parliament. This is how they are behaving and this is how they are doing it.

The hon. Member asked me: "How do you know what is coming up in the Budget?" He said it as if the Ministry respects Parliament and it declares all the sops on the floor of the House without going to the media ten days before calling the Parliament. This is why I object to it. The words "Interim Budget" are improper. It is not in consonance of the Constitution and the Rule Book. If it is an Interim Budget with all new services, all the Demands for Grants as entered in the respective demand should be sent to the Standing Committee to make proper scrutiny. Otherwise, they are insulting the authority of the President of the Republic by using the expression "Interim Budget." Mr. Minister, you are by-passing the Parliament; you are deliberately ignoring the provisions of the Constitution. Therefore, Sir, I need your ruling in this matter....*(Interruptions)*

SHRI SHIVRAJ V. PATIL : Sir, I have a point of order to raise.

MR. SPEAKER: Are you on the same point of order?

SHRI SHIVRAJ V. PATIL : I am on a different issue...*(Interruptions)*

SHRI SUDIP BANDYOPADHYAY (CALCUTTA NORTH WEST): Sir, I want to mention one thing.

MR. SPEAKER: What do you want to mention? His point of order is before us.

SHRI SUDIP BANDYOPADHYAY : I will speak only for a minute. I want to be clarified by Shri Dasmunsi. He said that the particular words "Interim Budget" do not appear in the Constitution. The point is that the very word "Budget" itself does not appear in any part of the Constitution. It is also to be clarified whether the word "Budget" appears in the Constitution.â€ (Interruptions)

SHRI PRIYA RANJAN DASMUNSI : You have not gone through the Rule Book....(*Interruptions*)

SHRI SUDIP BANDYOPADHYAY : It is mentioned that a statement of accounts would be laid. So, the word "Budget" does not appear even in the Constitution.

SHRI PRIYA RANJAN DASMUNSI : What the Constitution says is of the Annual Financial Statement, the Rule Book says, it is "Budget." There are no words like "Interim Budget." ...(*Interruptions*)

MR. SPEAKER: Now, the matter is clear for him.

SHRI SUDIP BANDYOPADHYAY : As I said earlier, the word "Budget" does not appear in the Constitution anywhere. It says of the statement of accounts. These are the particular words used in the Constitution.â€¦(*Interruptions*)

SHRI PRIYA RANJAN DASMUNSI : I would like to add one thing here. The Constitution says of the Annual Financial Statement, Vote on Account and the Supplementary Demands. Mr. Law Minister, I may not be a lawyer like you. But I have also learnt law. The law is derived from the Constitution. The law of Parliament is the Rule Book. It is derived from the Constitution. Please read that word "Budget" mentioned in the Rule Book. Please do not look at it blindly. This is how you always mislead the court and the Parliament....(*Interruptions*)

SHRI SOMNATH CHATTERJEE : Mr. Speaker, Sir, I wish to raise a basic and fundamental question about the Constitutional validity of these proceedings.

डॉ. विजय कुमार मल्होत्रा : कितनी देर रोकेंगे, क्या इस तरह से बजट पेश होने से रुक जाएगा? (व्यवधान)

श्री हरिन पाठक : बजट से इनको तकलीफ है? (व्यवधान) ये लोग पब्लिक में नहीं जा पाएंगे। इनके 50 सदस्य भी चुनकर यहां नहीं आएंगे इसलिए इन्हें तकलीफ हो रही है। (व्यवधान)

डॉ. विजय कुमार मल्होत्रा : महोदय, पाइंट आफ आर्डर का भी समय तय कर दें।

SHRI SOMNATH CHATTERJEE : You are already looking good. Why are you upset?...(*Interruptions*)

DR. VIJAY KUMAR MALHOTRA : You are not a fundamentalist!

SHRI SOMNATH CHATTERJEE : I certainly concede it. आप लोग हल्ला क्यों करते हैं? (व्यवधान) उनको बोलिए, नामिनेशन मिलेगा। अब आप बैठ जाएं।

I am not ever questioning the undoubted authority of the hon. Prime Minister to recommend the dissolution of the House earlier than the scheduled time. He has already met the hon. Rashtrapati in this matter as we come to see in the newspapers because the Opposition is never taken into confidence.

Secondly, we are not afraid of elections. Let elections come. I do not have to go to advertise in the newspapers for the purpose of getting votes.

There is a specific provision. I am reading the Constitution of India. Please tell them the importance of this Book. It says:

"At the commencement of the first session after each general election to the House of the People and at the commencement of the first session of each year, the President shall address both Houses of Parliament.. "

Sir, may I have your kind attention?

MR. SPEAKER: I am drawing the attention of the Minister.

SHRI SOMNATH CHATTERJEE : Please ask them to listen peacefully because I know that they will be shouting soon and they will not allow us to do anything. Kindly see this. You have been involved in this matter. The Presiding Officer of the House has taken a certain decision, according to me – I submit it with all humility and respect – contrary to the clearest provisions of the Constitution of India. Kindly read this. Kindly take this page....(*Interruptions*)

DR. VIJAY KUMAR MALHOTRA : Do not charge the hon. Speaker.

SHRI CHANDRA SHEKHAR (BALLIA, U.P.): He has not mentioned anything. ...(*Interruptions*)

SHRI SOMNATH CHATTERJEE : Kindly see article 87 of the Constitution of India. It says:

"At the commencement of the first session after each general election to the House of the People,"
this does not apply now,

"and at the commencement of the first session of each year, the President shall address both Houses of Parliament assembled together and inform Parliament of the causes of its summons. "

The question is very simple. Is this the first session of this Year? ...(*Interruptions*) यह आपकी एस्ट्रोलॉजी नहीं है। This is something else.

मानव संसाधन विकास मंत्री, विज्ञान और प्रौद्योगिकी मंत्री तथा महासागर विकास मंत्री (डॉ. मुरली मनोहर जोशी) ; यह फॉर्मल एजुकेशन है जो मैं आपको देना चाहता हूँ।

SHRI SOMNATH CHATTERJEE : I know that I have upset you. This is the summons that we have got this time from the Secretary General. It says:

"I have the honour to inform that under Rule 15 of the Rules of Procedure and Conduct of Business in Lok Sabha, the Speaker has directed that the Lok Sabha, which has adjourned *sine die* on 23rd December, 2003 will resume its sittings at New Delhi on Thursday, 29th January, 2004."

Therefore, there is the clearest statement. It is a fact that it was adjourned *sine die* on the 23rd December last year. Ordinarily and certainly, if it was in the middle of the year, there was no question about it. If it was adjourned during the Winter Session or the Monsoon Session, nobody would raise a question. The question is this. Why did the Constitution provide that before the first session, the President must address the House? What does "first session" mean? The first session will mean first in point of time. This is creating some amusement even in the mind of the esteemed colleague the hon. Finance Minister who is going to commit an outrage soon. May I read this which is a Bible to this Government? It is a U.S. Publication called Black's Law Dictionary.â€ (Interruptions)

DR. MURLI MANOHAR JOSHI : After *Das Kapital*, you are now referring to this!

SHRI SOMNATH CHATTERJEE : What can I do when I find this jamboree here?...(*Interruptions*)

DR. MURLI MANOHAR JOSHI: Please refer to your Bible and *Quran*. Do not refer to it.

SHRI SOMNATH CHATTERJEE : I will read the *Quran*.

DR. VIJAY KUMAR MALHOTRA : What happened in the Leaders' meeting? Why did you object to it there?

MR. SPEAKER: Hon. Members, please take your seat.

डॉ.विजय कुमार मल्होत्रा : बिजनैस एडवाइजरी कमेटी में, लीडर्स मीटिंग में सब पाइंट

जब तय हो चुके हैं तब आप यहां क्या कह रहे हैं। वहां 11 बजे का समय बजट के लिए तय हो गया था।

Now, wasting the time of the House has no meaning at all. जब 11 बजे का समय तय हो गया, तब आप यहां और क्या कहना चाहते हैं।

SHRI SOMNATH CHATTERJEE : Mr. Law Minister, let me make my submission now.

DR. VIJAY KUMAR MALHOTRA : What was your leader doing there? Did your leader accept there? जब मीटिंग में 11 बजे का समय बजट के लिए तय हो गया, तब आप यहां और क्या कहना चाहते हैं।

श्री प्रकाश परांजपे (ठाणे) : अगर एडवाइजरी कमेटी में तय हुई बात नहीं मानते हो तो एडवाइजरी कमेटी को एबोलिश करो।

SHRI SOMNATH CHATTERJEE : Probably, you have advised him wrongly. ...(*Interruptions*)

MR. SPEAKER: I have requested the hon. Members to be brief.

SHRI SOMNATH CHATTERJEE: What is the meaning of the words "first session"?...(*Interruptions*)

Mr. Speaker, Sir, we are discussing the Constitution of India, not the Business Advisory Committee, which is much more fundamental than any other decision. No one in this country can ignore or override the Constitution of India. I do not have to say this, but I have to because of the interruptions that are coming in. Nobody can do that.

Sir, what is the meaning of the words 'first Session'? It is very well recognised. At least, our esteemed Law Minister will know it and he has been following it. ...(*Interruptions*)

SHRI KHARABELA SWAIN (BALASORE): Mr. Speaker, Sir, he will not follow anything decided in the Business

Advisory Committee. What is this? ...(*Interruptions*)

SHRI N.N. KRISHNADAS (PALGHAT): Mr. Speaker, Sir, what is happening here? You have allowed Shri Somnath Chatterjee to speak. Why is he objecting to it? ...(*Interruptions*)

MR. SPEAKER: I would request the hon. Members to listen to Shri Somnath Chatterjee who is on a point of order. The point of order is on the procedure to be followed in the House. I am there to reply and I am there to give a ruling on the issue. Let the other Members not disturb him. I have also requested both the Members to be very brief. Shri Priya Ranjan Dasmunsi adhered to it and he was very brief. I would request Shri Somnath Chatterjee also to be very brief and complete his submission quickly. I would request hon. Members not to disturb him because we have to go to other important business as early as possible.

SHRI SOMNATH CHATTERJEE : Sir, my strength is not the time I take because of the importance of the issue.

MR. SPEAKER: Yes.

SHRI SOMNATH CHATTERJEE : Sir, I was reading one of the most recognised legal dictionaries which says: "A Session is the whole space of time from its first assembly to its prorogation or adjournment *sine die*". This is very clear. A Session can be put an end to by prorogation or by adjourning it *sine die*, as this authority has said. A gap of six months is the provision that is made in article 85 between one Session and the next Session. Otherwise, it is not possible to say simply that it was kept adjourned *sine die*, and so we can go on extending the time. Ordinarily, as I said, under Rule 50, if there is no constitutional bar or a constitutional requirement, certainly the Speaker can resume the sitting by issuing a notice, if it was any other Session.

Sir, now, I submit, at this point of time, this is the first Session of this year because the earlier Session was adjourned *sine die*. That Session came to an end. So, this is the first Session of this year. There is no concept of a continuing Session in the first Session of the new year. You cannot say that I am dividing it by saying that I have adjourned it *sine die*. Now, in point of time, this is a new Session and the first Session. The words used are not 'new Session'. The Constitution makers did not say that only a 'new Session' will require an Address by the hon. Rashtrapatiji. The significant words are: 'first Session'.

Now, what is the effect if there is a violation of this article? The matter is not *res integra*. It has been decided by the judgement of the Calcutta High Court as early as in 1966 that if there is a violation of this rule, the entire proceedings are unconstitutional and the Practice and Procedure of Parliament by Kaul and Shakhder is approving this. They have referred to this book of Kaul and Shakhder as an authority for the proposition that without an Address by the President, it will be illegal and unconstitutional. At page no. 167 of Practice and Procedure of Parliament by Kaul and Shakhder, there is a reference to the case of the State Legislature. So, the article referred there is article 176 and the relevant article here is article 87. It is said that if a Legislature meets and transacts legislative business without the mandatory provision of an Address by the Governor when required under article 176, its proceedings are illegal and invalid and may be questioned in a court of law and precisely that happened. There was a case before the Calcutta High Court whether the Governor of West Bengal did address the first Session of the Assembly or not.

It was held that, factually, he did. But it was very clearly held in that judgement about any non-compliance with the mandatory provisions. The words are: 'shall address' and not 'may'. It does not depend on the decision of any particular dignitary howsoever high position he is occupying. Therefore, it says:

"If it is established that President did not address or Governor did not address, although he was required to do so, the whole proceedings will be unconstitutional and illegal. "

That is my submission. The first session is this session because it has been called after the adjournment *sine die* of the earlier session. There is no pending session. There is no question of a pending session in the new year. There is no question of language. It is not a new session. It cannot be said that the earlier session has not ended. Therefore, it is a new session.

It is a question of first session. Therefore, my submission is this. As a first session, which has purported to commence here without the address by the President of India, and the Constitution wants it in the beginning of the year, the President must tell the country through the Parliament as to what are the policies and programmes of the Government. They have not done it. Therefore, it is the grossest violation of the Constitution of India. It is a wholly unconstitutional sitting that is going on. Therefore, I am not going into the Budget. People know what is in the Budget. Another Rs. 40,000 crore will be doled out. It has not been actually done but promised to be doled out. Ultimately, nothing will happen because they will not be there to implement it. ...(*Interruptions*)

Mr. Speaker, Sir, this outrage on the Constitution be stopped here and now. That is my demand.

SHRI SHIVRAJ V. PATIL : Sir, I shall be very brief. I endorse all that Shri Somnath Chatterjee has said. In article 87, the most important words are 'shall' and 'the first session'. If I am allowed, I will read it again:

"At the commencement of the first session of each general election to the House of the people, at the commencement of the first session of each year, the President shall addressâ€¦"

Now this is the first session of this year. ...*(Interruptions)* I did tell the Minister of Parliamentary Affairs that her fluency in language will not overcome the logic of the law and the technicalities involved in it. You are a witness to that, Sir.

It says about 'the first session of each year'. Is this not the first session of this year? ...*(Interruptions)* Shri Somnath Chatterjee has very correctly pointed out that a *sine die* adjourned session is also the first session of this year. If this is the first session of the year, article 87 makes it mandatory on the Government to see that the President of India addresses that session. The President of India did not address this session. This session is the first session, Sir.

Moreover what kind of trick has the Government played on the Parliament? I will read out from page 167 of 'Practice and Procedure of Parliament' by Kaul and Shakti. It says:

"The President in exercising the power to prorogue the House acts on the advice of the Prime Minister."

The President has to prorogue the House on the advice of the Prime Minister. It is the Executive that forwards the letter to the Speaker. The Speaker forwards the letter to the President. I must submit that the Speaker has a minimum role in this. The most important role that is played is by the Executive. It is by the Prime Minister who has to send a letter to the President for prorogation. Why has the Prime Minister not sent the letter to the President? We are told on the floor of the House by the Parliamentary Affairs Minister herself that they had decided to hold the election. That is why they did not write a letter to the President.

This is a confession. This is an admission given on the floor of the House.

Now, if they were deciding to hold the election, they could have prorogued this House. This House could have been addressed by the President and after the President addresses, the President's Address would have been discussed on the floor of the House. The President's Address would have shown to the people and to the Members about their performance and we would have criticised them. This opportunity is not allowed to the Members sitting on the Opposition Benches. Is this not colourable exercise of law?

The constitutional law provides that in the first session the President has to address both the Houses. In order to avoid the Address by the President, the Prime Minister or the Head of the Executive is not writing to the President. This is exactly using the law in order to defeat the law. The law is very clear. It says the first session, not a session when it is held after the prorogation. The dictionary says and the courts also will say that the first session is first session. This is the first session simply because it is a continuation, simply because it was sine die adjourned and it was not prorogued, this does not lose the character of the first session of the year. If this is the first session of the year, if this session is not addressed by the President, then everything done is illegal and that is according to the ruling given by the Calcutta High Court and this can be challenged in the court of law. Why should it be done? Anybody can go to the court of law and challenge it. The court of law can be told that the Government is giving the sops through advertisements without coming to the Parliament and the Budget is presented and it is discussed only for two days and the President Address is not given and the Members are not allowed to discuss the President's Address. Is this not a colourable exercise of the law by the Government itself? If it is there, we seek your ruling on this point.

I am just pointing out the issues on which the ruling is given. Is this the first session of the year or not?...*(Interruptions)* Is this the first session of the year or not? I am underlining, I am defining. I do not want to put you in an embarrassing position. The prorogation is the responsibility of the Government, but giving a decision whether this is the first session of the year or not is your responsibility. We would like to seek from you whether it is the first session of this year or not. If this is the first session of the year, was it incumbent on the President to address the House or not?

श्री रामदास आठवले (पंढरपुर) : अध्यक्ष जी, हमें यह जानकारी चाहिये कि सरकार जिसे अंतरिम बजट बता रही है, वह अंतरिम बजट है या अंतिम बजट है?

MR. SPEAKER: Shri Athawale, they have not asked the ruling from you. Please sit down.

...*(Interruptions)*

अध्यक्ष महोदय : आठवले जी, आप मेरे चैम्बर में आयेंगे तो आपको बताऊंगा।

...(व्यवधान)

डॉ. रघुवंश प्रसाद सिंह (वैशाली) : अध्यक्ष महोदय, ऐसा चुनाव से पहले एक बार 1962 में किया गया था, जब हाउस प्रोरोग किये बिना सेशन बुलाया गया था। वह सेशन संविधान के आर्टिकल 87(1) के मुताबिक बुलाया गया था लेकिन इस साल सरकार इस फिराक में रही और इसलिये आर्टिकल 87(1) की धजियां उड़ा दी गईं। सरकार ने संविधान को ताक पर रख दिया। इस अफरा-तफरी में सरकार प्रचार करके जनता की आंखों में धूल झांकना चाहती है। **â€¦(व्यवधान)** अध्यक्ष जी, महामहिम राष्ट्रपति जी के अधिकार का सरकार ने उल्लंघन किया है। संविधान के आर्टिकल 87(1) के अनुसार महामहिम राष्ट्रपति जी को फर्स्ट सेशन बुलाये जाने का राइट है और हर चुनावी वॉ में प्रेज़ीडेंट अड्रेस पेश हुआ है लेकिन वॉ 2004 में प्रेज़ीडेंट अड्रेस एक ही हो पायेगा, दो नहीं हो पायेंगे। सरकार ने इस परम्परा का उल्लंघन किया है।

MR. SPEAKER: Please take your seat. Shrimati Sushma Swaraj, you can speak now.

स्वास्थ्य और परिवार कल्याण मंत्री तथा संसदीय कार्य मंत्री (श्रीमती सुमा स्वराज) : अध्यक्ष जी, मुझे मालूम नहीं कि रघुवंश बाबू कब से अंतर्दृष्ट हो गये हैं? **â€¦(व्यवधान)**

श्री रामदास आठवले : अध्यक्ष जी, मैं जानना चाहता हूँ कि यह अंतरिम बजट है या अंतिम बजट है? **â€¦(व्यवधान)**

श्री हरिन पाठक : अध्यक्ष जी, माननीय सदस्य के लिये यह अंतरिम बजट है और हमारे लिये अंतरिम बजट है, ऐसा समझ लीजिये।

श्रीमती सुमा स्वराज : अध्यक्ष जी, मैं क्या बोलूंगी, मैं क्या दिखाऊंगी, मैं क्या पढ़ूंगी, उसके आकलन पर भी यहां बहस हो रही है। मुझे अनुमान था कि बी.ए.सी. में तय होने के बाद आज हम सीधे बजट की प्रस्तुति से दिन प्रारम्भ करेंगे। लेकिन यहां दो संवैधानिक प्रश्न उठाये गये हैं। एक प्रश्न श्री प्रियरंजन दासमुंशी जी ने उठाया है कि इंटरिम बजट शब्द कहां से आया, यह शब्द है ही नहीं, न यह कांस्टीट्यूशन में है और न रूल बुक में है, कहां से हमने यह शब्द घड़ लिया। प्रियदा आपकी एक ही आपत्ति है न कि हमने इंटरिम बजट शब्द क्यों कहा। **â€¦(व्यवधान)**

श्री प्रियरंजन दासमुंशी : इंटरिम बजट वर्ड के ऊपर नहीं, यह गलत बोल रहे हैं। मैंने कहा कि वोट ऑन एकाउंट में अगर इस बजट में डिफरेंट डिपार्टमेंट के हक में नया सर्विस चार्ज हुआ है That should also go to the Standing Committee. यह रूल बुक कहती है।

श्रीमती सुमा स्वराज : अध्यक्ष जी, क्या हुआ, क्या नहीं हुआ, यह जब वित्त मंत्री जी मुंह खोलेंगे, तब पता चलेगा। लेकिन जहां तक उनकी आपत्ति है कि इंटरिम बजट शब्द न कांस्टीट्यूशन में है और न रूल बुक में है तो आज इंटरिम बजट कैसे लिखा गया। मैं बता दूँ कि मुझे कोई तर्क देने की आवश्यकता नहीं है, मैं केवल दो उदाहरण रख रही हूँ - एक इनके समय का और एक अपने समय का रख रही हूँ। वॉ 1996-97 में जब श्री शिवराज वी.पाटिल पीठासीन अधिकारी थे, स्पीकर थे, सरदार मनमोहन सिंह हिन्दुस्तान के वित्त मंत्री थे, अध्यक्ष जी, मैं उनका यह पहला वाक्य पढ़ रही हूँ - Mr. Speaker, Sir, I rise to present the Interim Budget for 1996-97. अब मैं वॉ 1998-99 में जब श्री यशवंत सिन्हा वित्त मंत्री थे, उस समय का पढ़ रही हूँ - Sir, I rise to present the Interim Budget for 1998-99. अब मुझे यह कहने की आवश्यकता नहीं है कि इसके बाद और किसी चीज की जरूरत है।

रही श्री सोमनाथ चटर्जी साहब की बात, सोमनाथ दादा आप 29 तारीख को यहां नहीं थे। यह प्रश्न इस सदन में उठाया गया। श्री राधाकृष्णन जी यहां बैठे होंगे, यहां के वरिष्ठतम सांसद ने यह प्रश्न उठाया था और श्री शिवराज पाटिल जी ने बहुत विस्तृत तरीके से आप वाली बातें यहां रखीं। रघुवंश बाबू ने जो बातें आज रखी हैं, वह उस दिन भी रखी थीं। कॉमरेड पाल आपकी तरफ से बोले, उन्होंने भी ये बातें रखीं। पांच साथी यहां बोले और मैंने सबका विस्तृत जवाब दिया, एक-एक बात का जवाब दिया। श्री सोमनाथ दादा आप अगर लीगल भाग में सुनना चाहते हैं तो एडजर्न साइने डाई का अर्थ ही होता है कि सभा अनिश्चित काल के लिए स्थगित कर दी गई यानी सभा वापस कभी भी बुलाई जा सकती है।

दूसरी बात जब तक सत्र का अवसान नहीं होता, जब तक हाउस प्रोरोग नहीं होता, तब तक सभा को पुनः बुलाया जा सकता है। इसके अलावा **â€¦(व्यवधान)**

SHRI SOMNATH CHATTERJEE : There is no constitutional bar. Only for the first Session there is a bar. I said that in regard to other Sessions, there is no bar. If it is the first Session, under Article 87, the Speaker cannot override the provisions of the Constitution.

श्रीमती सुमा स्वराज : आप बैठिये, मैं बोल रही हूँ। सोमनाथ दादा मैंने आपको सुना है तो आप मुझे भी सुन लीजिए। जब सभा प्रोरोग नहीं होती, जब सत्र का अवसान नहीं होता और साइने डाई एडजर्न किये गये हाउस को दोबारा बुलाया जाता है तो वह नया सेशन नहीं होता वह Second part of the last Session होता है, मैं वही सुना रही हूँ। **â€¦(व्यवधान)** सोमनाथ दादा आप कौल एंड शकधर कह रहे हैं, कौल एंड शकधर आपके लिए बाइबल है **â€¦(व्यवधान)**

MR. SPEAKER: Please keep quiet now. Let us listen to the Government.

श्रीमती सुमा स्वराज : अगर आप एथीस्ट हैं तो कौल एंड शकधर को बाइबल नहीं रैड बुक मान लें। यह आपकी रैड बुक है। आपने कौल एंड शकधर से पढ़कर बताया है। मैं कौल एंड शकधर को पढ़कर सुना रही हूँ, जहां यह कहा गया है कि जब हाउस प्रोरोग नहीं होता और साइने डाई एडजर्न किया गया हाउस दोबारा बुलाया जाता है तो वह सैकिन्ड पार्ट ऑफ दि लास्ट सेशन कहलाता है, वह नया सेशन नहीं होता है। आपने एक ही प्वाइंट रखा है।

SHRI SOMNATH CHATTERJEE : This is the first Session of the year, not a new Session of the year. This is the first Session of the year. The words here are not new Session. What is the meaning of 'first Session'?

...(Interruptions)

श्रीमती सुमा स्वराज : कौल एंड शकधर का पेज 169 निकालिये। **â€¦(व्यवधान)**

SHRI SHIVRAJ V. PATIL : I request the Parliamentary Affairs Minister to enlighten us as to whether this is the first Session of the year or not. ... (Interruptions)

SHRI SOMNATH CHATTERJEE : If it is during the Winter Session or the Monsoon Session, I would not have raised this question. This is the first Session of the year. The Constitution makes a specific provision in this matter.

...(Interruptions)

MR. SPEAKER: You have made your point.

SHRI SHIVRAJ V. PATIL : Anybody sitting on the Treasury Benches can enlighten us, 'Is this is the first Session of the year or not?' ...(Interruptions)

SHRIMATI SUSHMA SWARAJ: No. ...(Interruptions)

THE MINISTER OF LAW AND JUSTICE AND MINISTER OF COMMERCE AND INDUSTRY (SHRI ARUN JAITLEY): No. ...(Interruptions)

THE MINISTER OF HUMAN RESOURCE DEVELOPMENT, MINISTER OF SCIENCE AND TECHNOLOGY AND MINISTER OF OCEAN DEVELOPMENT (DR. MURLI MANOHAR JOSHI): No. ...(Interruptions)

SOME HON. MEMBERS: No. ...(Interruptions)

SHRI SHIVRAJ V. PATIL : Voting does not make male into female and female into male. ...(Interruptions)

MR. SPEAKER: Shrimati Sushma Swaraj, please go ahead with your argument.

...(Interruptions)

श्रीमती सुमा स्वराज : ऐसा पहली बार नहीं हुआ है। **â€**! (ब्यवधान)

SHRI SHIVRAJ V. PATIL : You have to enlighten us logically whether this is the first Session of the year or not. ...(Interruptions)

DR. MURLI MANOHAR JOSHI: She mentioned about as to what happened in 1962. Please listen to her. ...(Interruptions)

श्री अरुण जेटली : अध्यक्ष महोदय, सुमा जी की एक बात और सुन लें, इनकी बात पूरी हो जाएगी। **â€**! (ब्यवधान)

SHRI SHIVRAJ V. PATIL : Sir, the Law Minister and the Attorney-General should have advised the Government correctly on this matter. They have not done so. ...(Interruptions)

MR. SPEAKER: I do not appreciate these interpretations. Please do not interrupt her.

...(Interruptions)

MR. SPEAKER: I do not appreciate this. You are not to interrupt the other Member. ...(Interruptions)

SHRI SHIVRAJ V. PATIL : The Law Minister or anybody who has advised the Government on this point is responsible. ...(Interruptions)

SHRI ARUN JAITLEY: I am not responsible for your lack of information. ...(Interruptions)

MR. SPEAKER: Nothing will go on record except what Shrimati Sushma Swaraj says.

(Interruptions)*

SHRI PRIYA RANJAN DASMUNSI (RAIGANJ): May I ask one question? ...(Interruptions)

* Not Recorded.

MR. SPEAKER: I have not permitted you. She is not yielding.

...(Interruptions)

MR. SPEAKER: Shrimati Sushma Swaraj, only what you say will go on record.

श्रीमती सुमा स्वराज : अध्यक्ष जी, अगर आपकी रूलिंग से संतो होता है तो मैं आपको कहना चाहती हूँ कि आप निःसंकोच यह रूलिंग दे सकते हैं कि यह फर्स्ट सेशन नहीं है, यह तेरहवीं लोक सभा के चौदहवें सत्र का दूसरा चरण है। **â€**! (ब्यवधान)

MR. SPEAKER: I do not know why you are all standing. Please sit down. A constitutional point has been raised. I am going to give my ruling on the issue. You cannot interrupt the Minister like this. Please sit down.

...(Interruptions)

MR. SPEAKER: You have every right to raise points of order. The points of order have been raised by very senior Members. The Government have a right to reply on what they have said.

...(Interruptions)

MR. SPEAKER: Please sit down. I will not tolerate this. The Government is replying to the points of order which have been raised. I am going to give my final ruling. In the meantime, you cannot interrupt the Minister in the way in which you are trying to do. Nothing will go on record. Please sit down.

A very serious point was raised. This is the question on procedure. The serious point has to be replied by the Government. I am also making my mind on the issue. In the meantime, you cannot say that we will not listen to the Minister. Please sit down.

SHRIMATI SUSHMA SWARAJ: 'Prorogation' means termination of the Session. Winter Session was not terminated. It was adjourned *sine die*. It has been reconvened. एक-दो बार नहीं बल्कि पिछले पचास वाँ में इस लोक सभा में सारे उदाहरण मौजूद हैं और वह उदाहरण इन्हीं के समय के हैं। अध्यक्ष जी, एक बार 75 दिनों तक आठवीं लोक सभा में हाउस प्रोरोग नहीं हुआ। **â€**(व्यवधान)

MR. SPEAKER: I have not permitted anybody to speak except Shrimati Sushma Swaraj.

...(Interruptions)

श्रीमती सुमा स्वराज : सर, यह कौन सा तरीका है। **â€**(व्यवधान)

MR. SPEAKER: No, she has not yielded. I am not listening to you. I am not taking it on record. Please sit down.

(Interruptions) *

MR. SPEAKER: This was agreed in the Business Advisory Committee.

श्री प्रियरंजन दासमुंशी : परम्परा को तोड़िए मत। लोक सभा सत्र के बाद सत्र का समापन होता है। **â€**(व्यवधान)

अध्यक्ष महोदय : सुमा स्वराज जी, आप बोलिए। Shrimati Sushma Swaraj, you can go ahead.

...(Interruptions)

MR. SPEAKER: Please sit down.

श्रीमती सुमा स्वराज : महोदय, माननीय सांसद जानते हैं, समझते हैं, लेकिन इन्होंने तय किया है कि समझना नहीं है। मैं उस दिन भी समझा चुकी हूँ। उस दिन ये मान गए थे। मैंने इनके दोनों प्रश्नों का जवाब दिया था। प्रोरोग किए बिना, सेशन साइने-डाई होने के बाद, यदि री-कन्वीन किया जाता है, तो वह सत्र पहले सत्र का ही दूसरा खंड माना जाता है। आप कौल एंड शकधर की पुस्तक का पृष्ठ 169 देखिए। उसमें साफ लिखा है। **â€**(व्यवधान)

* Not Recorded.

SHRI PRIYA RANJAN DASMUNSI : Sir, I listened to your own concluding speech on 23rd December. In that speech, you said about the Session's story, the end of the Session and then the National Anthem was played. **â€**(Interruptions) Mr. Speaker, Sir, you refer to your own speech made on 23rd December.

श्रीमती सुमा स्वराज : आठवीं लोक सभा में हाउस प्रोरोग हुए बिना, साइने-डाई एडजर्न होने के बाद 75 दिन चला। तब सत्र प्रोरोग नहीं हुआ था। **â€**(व्यवधान) 1962 में भी प्रोरोग हुए बिना सत्र री-कन्वीन हुआ। **â€**(व्यवधान)

SHRI SHIVRAJ V. PATIL : That was in the same year. Please do not mislead the House. **â€**(Interruptions)

SHRI PRIYA RANJAN DASMUNSI : That was in the same year. **â€**(Interruptions)

श्रीमती सुमा स्वराज : अध्यक्ष महोदय, यह 13वीं लोक सभा के 14वें सत्र का दूसरा खंड है। यह नया सत्र नहीं है। इस वा का यह पहला सत्र नहीं है। **â€**(व्यवधान)

SHRI SOMNATH CHATTERJEE : What is the meaning of the words in article 87? **â€**(Interruptions) That is the point. **â€**(Interruptions)

SHRI PRIYA RANJAN DASMUNSI : I would like to make it clear. I am prepared to resign from the membership. Sir, in Rajiv Gandhi's time, it was in the same calendar year and not in the new year. You check it from the record book.

श्रीमती सुमा स्वराज : अगर हर जनवरी में होने वाला सत्र नया सत्र है, तो प्रोरोग किए बिना, लोक सभा साइने-डाई एडजर्न करके, सैशन री-कन्वीन करने के इससे पहले तीन उदाहरण हैं। (व्यवधान)

SHRI PRIYA RANJAN DASMUNSI : Mr. Speaker, Sir, I challenge Shrimati Sushma Swaraj. Let her prove it. During Rajiv Gandhi's tenure, it was in the same calendar year that the Session adjourned *sine die*. The next Session was not in the new year. She should not take this plea. Shri Somnath Chatterjee said that it was in the first Session of the new year and that was in the same year.

श्रीमती सुमा स्वराज : सर, आप निर्विवाद रूलिंग दीजिए। मैं यह कह रही हूँ कि यह नया सत्र नहीं है। यह 13वीं लोक सभा के 14वें सत्र का दूसरा चरण है। (व्यवधान) This is the second part of the Fourteenth Session of the Thirteenth Lok Sabha. ... (Interruptions)

SHRI SOMNATH CHATTERJEE : What is the meaning of the words, 'first Session of each year' in article 87? It is uncertain. ... (Interruptions)

SHRI SHIVRAJ V. PATIL : Now you clarify whether it is the first Session of the new year or not... (Interruptions)

श्रीमती सुमा स्वराज : महोदय, अगर हर जनवरी में होने वाला सत्र, वाँ का नया सत्र है, तो इस प्रकार के तीन उदाहरण हैं, जब सत्र को प्रोरोग किए बिना, लोक सभा को साइने-डाई एडजर्न करने के बाद, लोक सभा का सत्र री-कन्वीन किया गया। इनमें से एक 21 जनवरी, 1963 का उदाहरण है जब लोक सभा सत्र को प्रोरोग किए बिना, लोक सभा सत्र को री-कन्वीन किया गया। (व्यवधान) मैं कहना चाहती हूँ कि यह 13वीं लोक सभा के 14वें सत्र का दूसरा चरण है। सर, आप रूलिंग दीजिए। (व्यवधान)

आठवीं लोक सभा हाउस प्रोरोग हुए बिना 75 दिन चली है। (व्यवधान)

श्री प्रियरंजन दासमुंशी : प्रधानमंत्री जी की तरफ से न्यू ईयर के कार्ड भी हम लोगों को मिल गए। (व्यवधान)

श्री कांतिलाल भूरिया (झाबुआ) : ये पूरे देश को गुमराह दे रहे हैं। (व्यवधान)

SHRIMATI SUSHMA SWARAJ : Sir, this is an open and shut case... (Interruptions) आप रूलिंग दीजिए, यह 13वीं लोक सभा के 14वें सत्र का दूसरा चरण है। (व्यवधान) सन् 2004 का नया सत्र नहीं है। आप रूलिंग दीजिए। (व्यवधान)

MR. SPEAKER: Hon. Members, please sit down. I have allowed Shri Chandra Shekhar to speak now.

... (Interruptions)

डॉ. विजय कुमार मल्होत्रा : अध्यक्ष जी, इनकी हताशा, निराशा और फ्रस्ट्रेशन का कोई इलाज कीजिए। (व्यवधान)

SHRI SOMNATH CHATTERJEE : Sir, this has the same effect of what I have pointed out. I have given the meaning of 'adjournment *sine die*'. ... (Interruptions) I have read out from the dictionary the meaning of the word 'session'. ... (Interruptions)

श्री चन्द्रशेखर : अध्यक्ष जी, माननीय चटर्जी जी ने एक ही सवाल उठाया है कि यह इस साल का सदन का पहला अधिवेशन है या नहीं, इसलिए जवाब इसी का होना चाहिए। महोदय, कोई भी लोक सभा या संसदीय प्रणाली असत्य और मिथ्याचार पर नहीं चल सकती। हमें आश्चर्य हुआ, अन्य सदस्य कुछ कहें तो कहें, विधि मंत्री जी ने बड़े जोरों से कहा कि यह इस साल का सदन का पहला अधिवेशन नहीं है, इससे गलत बात अन्य कोई नहीं हो सकती। अगर यह बात है, सरकार की अन्य कोई व्यवस्था थी तो उस व्यवस्था की बात करनी चाहिए। नियमों और शब्दों को दूसरा अर्थ देकर कोई देश नहीं चल सकता है और न ही कोई लोकतंत्र चल सकता है। इस साल का यह पहला अधिवेशन है और अगर किसी कारणवश आप राष्ट्रपति जी का भाषण नहीं करा सके तो या तो राष्ट्रपति जी से अनुमति ले लें या सदन से ले लें। यहां जो हो रहा है मिथ्याचार और असत्य के ऊपर संसदीय जनतंत्र को चलाने की कोशिश हो रही है। (व्यवधान)

श्रीमती सुमा स्वराज : अध्यक्ष जी, मैं चन्द्रशेखर जी का सम्मान करती हूँ, उन्होंने कहा कि कोई व्यवस्था नहीं है। (व्यवधान) कोई मिथ्याचार है। (व्यवधान) यदि सन् 2004 का पहला सत्र पुराना प्रोरोग होकर बुलाया जाता तो यह सन् 2004 का पहला अधिवेशन होता। यह 13वीं लोक सभा के 14वें सत्र का दूसरा चरण है, सन् 2004 का पहला अधिवेशन नहीं है। (व्यवधान) यह बात विधि मंत्री जी नहीं, मैं कह रही हूँ। (व्यवधान)

डॉ. मुरली मनोहर जोशी : इन्होंने लॉ मिनिस्टर का नाम लिया है, मैं चाहूंगा कि वे इस बारे में अपना स्पटीकरण दें। (व्यवधान)

THE MINISTER OF LAW AND JUSTICE AND MINISTER OF COMMERCE AND INDUSTRY (SHRI ARUN JAITLEY): Mr. Speaker, Sir, Shri Chandra Shekhar has made a statement and raised a very important question. Which interpretation is correct is for the hon. Speaker to decide and not really for any one of us to decide. Therefore, I would certainly join my colleagues on the other side and invite a ruling from you whether this is the first Session of this year or a continuation of the Winter Session of last year. The Winter Session was merely adjourned. It was not prorogued. ... (Interruptions)

As per Kaul and Shakhder's *Practice and Procedure of Parliament*, page

183:

"Termination of a session of the House by an order made by the President under article 85 (2) is called

'prorogation'. "

Now, the fact is that there is no prorogation of the House because there was no termination. Therefore, the Winter Session of last year continues. ...(*Interruptions*) This is not the first time that this has happened.

12.00 hrs.

Exactly an identical situation took place in 1962. I again quote from page 183. On page 183 it is mentioned in the footnote:

"The Third Lok Sabha was adjourned on 11 December, 1962, till 21 January, 1963, with the result that its Third Session which commenced on 8 November 1962, continued till 25 January, 1963 and the House was not prorogued during the period of adjournment."

Therefore, what started on 21st January, 1963 was the continuation of the last Session and not the first Session. Therefore, no President's Address under article 87 took place. Today, the situation is identical to 1962 and 1963. Therefore, I seek a ruling from you - मिथ्याचार का प्रचार चन्द्रशेखर जी ने किया है या मैंने किया है?

MR. SPEAKER: I have heard the Members. I am giving my ruling on this now. I have made up my mind.

...(*Interruptions*)

SHRI PRIYA RANJAN DASMUNSI : Sir, before you give your ruling, since Shri Arun Jaitley, the hon. Minister of Law and Justice, has cited, you may take time to go through the proceedings of the House. At that time, China invaded India and, in fact, the House was adjourned. ...(*Interruptions*)

SHRI SHIVRAJ V. PATIL : Sir, before you give the ruling, ...(*Interruptions*) Your ruling is going to bind us for years to come... ...(*Interruptions*) We will beseech you that this ruling of yours will bind this House for years to come so let it be a considered one.

Now, in extraordinary circumstances, the Emergency powers available to the Government are used and the inherent powers available to the hon. Speaker are also used. We do not use the extraordinary power. Now, the first and the most important point is - was the Budget passed in that Session? Was it non an Emergency? Is this not the next year? This is not 2003. This is 2004. This is the first Session of the year. There is no Emergency. Heavens would not have fallen if the President had addressed and for four or five days more the House would have sat. So, we request you to give the ruling which will not create a problem for the future but which will guide this House in transacting the business in the future also. We do not give the ruling to overcome the difficulties in one case. ...(*Interruptions*)

श्रीमती सुमा स्वराज : शिवराज जी चाहे जितना आक्रोश में बोलें, नियम नहीं बदल जाते। कौल एण्ड शकधर को जो ये कोट करते हैं, कौल एण्ड शकधर ने कहा है, जब भी सभा साइने डाई एडजर्न होने के बाद रीकन्वीन की जायेगी, तो वे दो पार्स माने जाएंगे, (व्यवधान) पहले सेशन का वह दूसरा खंड माना जायेगा, वह नया सेशन नहीं होगा और यह एक बार नहीं, तीन बार हुआ है। आप रूलिंग दीजिए कि तेरहवीं लोक सभा के 14वें सत्र का यह दूसरा चरण है, यह नया सेशन नहीं है। (व्यवधान)

श्री श्रीप्रकाश जायसवाल : 1962 का जो आप कोट कर रहे हैं, 1962 में नेशनल इमरजेंसी थी। (व्यवधान)

SHRI SHIVRAJ V. PATIL : The book on the Practice and Procedure of Parliament by Kaul and Shakhder has not addressed this. ...(*Interruptions*)

श्री प्रियरंजन दासमुंशी : मेरी आपसे विनम्र प्रार्थना है कि आप रूलिंग देने के समय हमें सुनिये। आपकी रूलिंग तो शिरोधार्य है, लेकिन आपकी रूलिंग देने के पहले आप हाउस को दोबारा सुना दीजिए कि 23 दिसम्बर को राष्ट्रीय गीत होने के पहले आपने क्या कहा था। (व्यवधान)

MR. SPEAKER: Hon. Members, I would like to give my ruling on this important issue now. I have heard several Members and I have made up my mind to give the ruling on this important issue.

...(*Interruptions*)

MR. SPEAKER: I have already started giving my ruling.

...(*Interruptions*)

SHRI S. JAIPAL REDDY (MIRYALGUDA): The argument given by the Law Minister does not apply because national emergency was in operation in 1962 following the Chinese aggression. ...(*Interruptions*)

श्रीमती सुमा स्वराज : बलराम जाखड़ जी ने 1987 में सभा एडजर्न करते हुए क्या कहा था। (व्यवधान)

SHRI ARUN JAITLEY: Article 87 is not suspended. It is only article 14, which was suspended, and not article 87. ...(*Interruptions*)

MR. SPEAKER: Shri Priya Ranjan Dasmunsi, Shri Somnath Chatterjee, Shri Shivraj Patil, Dr. Raghuvans Prasad Singh, Shrimati Sushma Swaraj and Shri Arun Jaitley have enlightened me on this very important issue.

...(*Interruptions*)

Let me at the outset make it clear that the rulings of the Speaker are generally in accordance with the rules, the rule book and also the Constitution of India. At times, it so happens that the issue requires ruling of Chair and in such circumstances the precedents are seen. If the precedents are not available, then the presiding officer has to make up his own mind and give a ruling on the issues which are raised. In this particular case, fortunately, there are rules of procedure as well as definitions to guide us. I have gone through Erskine May's Parliamentary Practice. I would like the House to listen carefully to the ruling which I am now going to give.

Firstly, let me refer to Erskine May who has given, fortunately, a definition of the term 'prorogation'. He has said :

"A prorogation terminates a session; an adjournment is an interruption in the course of one and the same session."

Therefore, the point which was raised here about prorogation has been made clear by this definition.

Shri Priya Ranjan Dasmunsi, at the outset, when he started his argument on the issue, had said that this cannot be treated as an interim Budget. Therefore, I had to go through the precedents to see whether this can be treated as an interim Budget or not. I find that this was treated as an interim Budget in the past also. For instance, I would like to bring it to the notice of the House that on 11th March, 1996 the general discussion on the interim Budget was listed in the List of Business. Not only this; there are also several instances when Vote-on-Account was called an interim Budget. Therefore, calling this a Vote-on-Account or calling this an interim Budget does not really make much difference.

But that was not the main point which was raised today. The main point which was raised by Shri Somnath Chatterjee was about the very holding of this Session and this point was also raised in the House by Shri Varkala Radhakrishnan and some other Members on 30th January, 2004 and the hon. Minister of Parliamentary Affairs had responded to the points raised by the Members on that day. Shri Somnath Chatterjee has contended that what commenced on 29th January, 2004 was the first Session of the year. I would like to clarify that there is no mention of adjournment *sine die* of the House in the Constitution. As per the provisions of the Constitution, a Session of the House comes to an end when the House is prorogued. As the House was not prorogued after its adjournment *sine die* on 23rd December, 2003 this Session can, at best, be treated as the second part of the fourteenth Session of the Thirteenth Lok Sabha notwithstanding the fact that the calendar year has since changed.

I am giving an illustration; I am giving a precedent regarding the Third Lok Sabha. On 11th December, 1962 the House adjourned to meet on 21st January, 1963.

...(*Interruptions*)

श्री कांतिलाल मूरिया : उन दिनों इमर्जेसी थी।^१ (बख़दान)

MR. SPEAKER : That was adjourned; it was not *sine die*.

...(*Interruptions*)

MR. SPEAKER : This was treated as Part-II of the same Session.

...(*Interruptions*)

MR. SPEAKER : I may inform the House that in the past also there have been occasions when after adjournment *sine die* of the House, the Lok Sabha was re-convened before prorogation.

SHRI SOMNATH CHATTERJEE : That is conceded. It is in the rule book.

SHRI SATYAVRAT CHATURVEDI (KHAJURAHO): Sir, it was the same year. ...(*Interruptions*)

MR. SPEAKER: I am just making a reference to it. For example, the Eighth Session of the Eighth Lok Sabha was adjourned *sine die* on 12th May, 1987, but the House was not prorogued.

...(Interruptions)

SHRI SATYAVRAT CHATURVEDI : It was the same calendar year. ...(Interruptions)

MR. SPEAKER: Am I not expected to give the factual position in other cases also? I can always give the factual position. But the House was not prorogued and was reconvened after a gap of 75 days on 27th July 1987 as the second part of the Session. Similarly, the 14th Session of the Eighth Lok Sabha was adjourned *sine die* on 18th August 1989, but the House was not prorogued and was reconvened on 11th October, 1989 after a gap of 53 days as second part of the 14th Session.

...(Interruptions)

MR. SPEAKER: There are several other similar instances also. I have already made a reference to the case when the House was adjourned and thereafter, though it was reconvened in the next year, it was not treated as the fresh Session. Therefore, I must make it clear that in this particular case also, this Session can be treated as the second part of the Winter Session. Since under the provisions â€¦.

...(Interruptions)

SHRI SOMNATH CHATTERJEE : Sir, you have to hold that this is not the first Session of the year. ...(Interruptions)

MR. SPEAKER: After listening to the arguments, I have treated this as the second part of the Winter Session. Since under the provisions of the sub-clause (a) of clause (2) of article 85 of the Constitution, the power to prorogue the House vests in the hon. President – please remember that this power is with the hon. President – I am not inclined to allow any more discussion on the issue and I hold both the points of order out of order.

Now, I call upon the Minister to address his Budget Speech.

...(Interruptions)

SHRI SOMNATH CHATTERJEE : Sir, this is an unfortunate day. ...(Interruptions) Sir, I had cited this dictionary, which is an authority. ...(Interruptions) I highlighted the authority. ...(Interruptions)

अध्यक्ष महोदय : मंत्री जी, आप शुरू कीजिए।

...(ब्यवधान)

MR. SPEAKER: I have called upon the Finance Minister to address.

...(Interruptions)

SHRI PRIYA RANJAN DASMUNSI : Sir, I appeal to the Treasury Benches to withdraw all the new year greeting cards sent to us because it is not a new year and the old year is still continuing. We shall return back all the new year greetings cards to them. ...(Interruptions)

कुंवर अखिलेश सिंह (महाराजगंज, उ.प्र.) : अध्यक्ष महोदय, अगर राष्ट्रपति का अभिभाषण है। (ब्यवधान)

यह सरकार लगातार संविधान की धज्जियां उड़ा रही है। (ब्यवधान)

अध्यक्ष महोदय : मंत्री जी, आप शुरू कीजिए।

...(ब्यवधान)

MR. SPEAKER: Nothing else should go on record excepting the speech of the Minister.

(Interruptions)*

MR. SPEAKER: These cross-talks will not go on record. Please sit down.

(Interruptions) â€¦ *

MR. SPEAKER: Please sit down.

...(Interruptions)

MR. SPEAKER: Shri Ramdas Athawale, please sit down. Certain matters regarding the procedure were raised in the House, and the ruling has been given on them. Now, it is for the hon. Finance Minister to present his Budget to

the House. So, I would request the hon. Minister to start presenting the Budget to the House.

THE MINISTER OF FINANCE (SHRI JASWANT SINGH): Mr. Speaker Sir, ...(*Interruptions*) Sir, kindly permit me to speak ...(*Interruptions*)

श्री रामदास आठवले : अध्यक्ष महोदय, राष्ट्रपति जी का अभिभाषण पहले होना चाहिए। (व्यवधान)

* Not Recorded.

MR. SPEAKER: Please sit down. The entire country is seeing what you are doing. So, please sit down.

...(*Interruptions*)

SHRI SUNIL KHAN (DURGAPUR): Sir, you are right that the entire country is seeing as to what is being done in the Parliament! (Interruptions)

श्री रामदास आठवले : अध्यक्ष जी, राष्ट्रपति जी का अभिभाषण पहले होना चाहिए। उसके बाद अन्तरिम बजट पेश करें। (व्यवधान) राष्ट्रपति जी का अभिभाषण पहले होना चाहिए। (व्यवधान)

MR. SPEAKER: This is not proper. Please sit down.

श्री रामदास आठवले : अध्यक्ष जी, राष्ट्रपति जी का अभिभाषण पहले होना चाहिए। उसके बाद अन्तरिम बजट पेश करें। (व्यवधान) राष्ट्रपति जी का अभिभाषण पहले होना चाहिए। (व्यवधान)

अध्यक्ष महोदय : मंत्री जी, आप शुरू कीजिए। आप शुरू करेंगे तो थोड़े समय बाद सब ठीक हो जाएगा।

(व्यवधान)

SHRI JASWANT SINGH : Mr. Speaker, Sir, after this very interesting and illuminating overture ...(*Interruptions*)

SHRI MANI SHANKAR AIYAR (MAYILADUTURAI): Mr. Speaker Sir, you had said that you would be answering on the point whether this is the first Session of the Parliament in this year or not. But, you have not answered that question. Is this the first Session of the Parliament or not?

Sir, you had said that you would answer that question. But, Mr. Speaker Sir, you have not answered that question.

MR. SPEAKER: According to me I have already answered that question. Please sit down. According to me I have answered it.

Yes, Mr. Finance Minister, you can speak.

SHRI MANI SHANKAR AIYAR : Sir, is this the first Session of the Parliament or not?
