

14.05 hrs.

Title: Introduction of the Salaries and Allowances of the Judicial Officers of the Union Territories Bill, 2003.

THE MINISTER OF LAW AND JUSTICE AND MINISTER OF COMMERCE AND INDUSTRY (SHRI ARUN JAITLEY): I beg to move for leave to introduce a Bill to provide for the regulation of the salaries and allowances of the judicial officers in the Union Territories and for matters connected therewith or incidental thereto.

MR. CHAIRMAN: Motion moved:

"That leave be granted to introduce a Bill to provide for the regulation of the salaries and allowances of the judicial officers in the Union Territories and for matters connected therewith or incidental thereto. "

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): Sir, I rise to object to the introduction of this Bill. The question is that he has sought exemption from the notice period. My submission is that it cannot be granted. In the first place, the Minister has given a Memorandum in which it is stated:

"As directed by the Supreme Court on 5th May, 2003 in the All India Judges Association case, an affidavit has to be filed in the supreme Court on 8th May, 2003 informing them about the contents of the Bill. "

So, it is clear that the Government has already filed an affidavit before the Supreme Court as per direction. If that be the truth, how can the contents of that Bill be the basis of an affidavit, without being introduced in the House? The Bill is being introduced only today, but the affidavit was filed on 8th May, 2003 about the contents of the Bill which is being introduced today. It appears that it is either a clear misrepresentation or a fraud committed by the Government of India in filing a wrong affidavit before the Court. ...(*Interruptions*) Let me complete ...(*Interruptions*)

* Published in the Gazette of India, Extraordinary, Part-II, Section-2, dt.9.5.2003

SHRI V. DHANANJAYA KUMAR (MANGALORE): How can this issue be discussed at the stage of introduction? ...(*Interruptions*)

SHRI PAWAN KUMAR BANSAL (CHANDIGARH): Do you want to do only what the Supreme Court says? ...(*Interruptions*)

SHRI V. DHANANJAYA KUMAR : Just now the Chairman has made a valid observation that we are wasting the time of the House....(*Interruptions*)

SHRI VARKALA RADHAKRISHNAN : The Chair has allowed me to speak. Let me complete. ...(*Interruptions*)

SHRI PAWAN KUMAR BANSAL : It has become the habit of the Government to state even in the Statement of Objects and Reasons 'as directed by the Supreme court'. ...(*Interruptions*)

MR. CHAIRMAN: Now, let me call upon the Minister.

...(*Interruptions*)

SHRI VARKALA RADHAKRISHNAN : Let me finish....(*Interruptions*)

SHRI PAWAN KUMAR BANSAL : It is the function of the Parliament to legislate laws. Others do not have to ask us to frame laws and also to say in the Statement of Objects and Reasons "as per the directions of the Supreme Court or High Court, we are doing this." ...(*Interruptions*)

SHRI VARKALA RADHAKRISHNAN : Due to interruption, I could not complete. Let me complete it first. In the first place, an affidavit cannot be filed without the introduction of the Bill in the House. If the contents of the Bill are to form part of the affidavit, the first thing to take place is the Bill must be introduced in the House. The Bill is not introduced. He further says in the Memorandum:

"As current Session of the Parliament is slated up to 9th May, 2003, it is necessary that the Bill is introduced on 8th May, 2003 in the current Session of the Parliament. "

But yesterday, he did not introduce this Bill; he is introducing it only today. It is a clear case of misrepresentation, and the House is being treated as a rubber stamp. The Executive cannot treat the House as a rubber stamp. But they have done it.

Not just that, but even in the case of the Airports Authority of India, they had done that. Two exemptions were given – notice exemption and discussion exemption.

MR. CHAIRMAN : Okay. Just wait for a minute.

SHRI VARKALA RADHAKRISHNAN : I have not finished. One more point I want to say.

MR. CHAIRMAN: No. Please sit down.

SHRI VARKALA RADHAKRISHNAN : Why are you in a hurry? Let me finish. These are all legal points.

MR. CHAIRMAN: Please wait for a minute. You said that in the Statement of Objects and Reasons, it is stated that the Supreme Court had directed the Government to introduce the Bill. I read the Statement of Objects and Reasons. But it is not there. Do not speak like that. No court can direct the Parliament to legislate in a particular way.

SHRI VARKALA RADHAKRISHNAN : That is another thing.

MR. CHAIRMAN: When it is not there, why did you say so?

SHRI VARKALA RADHAKRISHNAN : I will come to that.

MR. CHAIRMAN: You said that in the Statement of Objects and Reasons, it is stated so. When you said that, I was taken aback.

I rule that no court including the Supreme Court of India can direct the Parliament to legislate in a particular way. The Parliament is a sovereign body; it states the will of the people and it is the House of the People.

SHRI VARKALA RADHAKRISHNAN : I fully agree with you. Anyway, I am coming to that. My second point is that the court cannot give us directions.

MR. CHAIRMAN: It did not give us any direction. They are also knowledgeable people.

SHRI VARKALA RADHAKRISHNAN : There is a callous negligence on the part of the Central Government; the Supreme Court has given a direction to all the State Chief Secretaries to appear for not implementing the judicial officers' salaries. Tamil Nadu and other States have already implemented it. But the Union Territories had not implemented it because of their negligence.

Moreover, the first thing is that they cannot file an affidavit with the contents of a Bill, before introducing that Bill here. They filed the affidavit yesterday, according to the statement of the Minister. But the Bill is being introduced only today. At the most, what they could have done is to give only a draft of the Bill and not the entire contents.

MR. CHAIRMAN: Okay. You can reserve all other matters for deliberation purposes. Now, hon. Minister.

SHRI ARUN JAITLEY: At the stage of introduction, there are two possible objections – one, relating to the legislative competence of this House and second, whether the Bill is constitutionally *ultra virus*. ...(*Interruptions*) None of the objections that the hon. Member has raised relate to these two. Therefore these two objections really are not sustainable; and it is for the Chair to decide.

As far as the contents are concerned – since some observation was made by the hon. Member, Shri Pawan Kumar Bansal – I would say that this is precisely in accordance with the spirit of what he has said, that is, determining salaries is an Executive function and not a Judicial function. There were certain directions of the Supreme Court. Keeping all those factors in mind – because it is an Executive function to really give effect to the right of this legislature to decide what the salary structure should be – this Bill is being brought before this House. There may be some variance even with what the directions are because the Supreme Court had to be told; several State Assemblies have also legislated in this particular matter.

As far as the Union Government is concerned, its functions relate only to the Union Territories as far as the salary structures are concerned; and this Bill covers those contents. ...(*Interruptions*)

SHRI VARKALA RADHAKRISHNAN : Sir, how could he file an affidavit before introducing the Bill in the House? The House cannot be taken as a 'rubber stamp'.

MR. CHAIRMAN: The question is:

"That leave be granted to introduce a Bill to provide for the regulation of the salaries and allowances of the judicial officers in the Union Territories and for matters connected therewith or incidental thereto."

The motion was adopted.

SHRI ARUN JAITLEY: Sir, I introduce* the Bill.

Introduced with the recommendation of the President