

12.05 hrs.

RE : NOTICE OF MOTION FOR ADJOURNMENT

Filing of charge-sheet in the Ayodhya case

Title: Regarding notices of motion for adjournment on the issue of filing of charge-sheet by CBI in Ayodhya case (The Speaker disallowed the notices and gave his ruling).

MR. SPEAKER: Now, we go to Adjournment Motion notice and as decided yesterday in the Business Advisory Committee, Shri Priya Ranjan Dasmunsi is to speak.

SHRI PRIYA RANJAN DASMUNSI (RAIGANJ): Mr. Speaker Sir, I thank you very much. The Adjournment Motion notice that I submitted on behalf of our Party and several other colleagues from respective Opposition Parties reads as follows:

"Failure of Union Government in its executive action by CBI having wilful omission and suppression of facts arrived out of CBI's own investigation and confirmed submissions related to Babri Mosque demolition, while filing the chargesheet on 31.5.2003 at Rae Bareilly Court, in order to protect persons placed in high offices of Union Government, detrimental and prejudicial to the interest of the prosecution."

Sir, before I justify my grounds of admissibility of this motion, at your behest, I would also like to request you that within this House there is a rich tradition followed in the 'Possibility of Practice' in May's Parliamentary Practice that in a typical matter and serious situation, the concerned Minister is only to respond to the queries and not any other Minister. In the latest and ninth edition of May's Parliamentary Practice at page no. 331, it is stated very clearly:

"It is not in order to put to a Minister a question for which another Minister is more directly-responsible, or ask one Minister to influence the action of another."

Sir, the motion is related to CBI being misused or interfered by the Union Government in its Executive action. I draw your kind attention to the proceedings of 7.12.1999 just to narrate the hon. Prime Minister's own statement. I quote:

"Mr. Speaker, Sir, pending Ayodhya cases can be classified into two categories.

The first category is of cases relating to the title dispute. There are five such cases, two of which have remained pending since over 49 years.

The second category is of the case arising out of the happenings of December 6, 1992. In this case, charge sheets have been filed by the CBI against over fifty persons. This case is pending before the Special Additional Sessions Judge (Ayodhya *Prakaran*) since 5th October, 1993.

I would like to affirm that ever since I have assumed office in March, 1998, neither I nor my Government has ever interfered in this case, even though, the investigating agency, namely, the CBI is directly under me. As has already been indicated in another context, Government holds that interference in a pending prosecution is impermissible in law.

Neither the Constitution nor the law disqualifies a Minister from holding office merely because a charge sheet is filed by the police or formal charges are framed by the court.

The question as to who should be in the Council of Ministers is one of Prime Ministerial discretion, and sense of political propriety. Many circumstances are relevant to the final decision of the Prime Minister on these issues."

Why I quote this is because the issue was directly related to the CBI and the framing of charges. The Prime Minister with his full responsibility that he holds the desk of CBI also as Prime Minister, therefore, responded and replied. But I understand that in this House the hon. Prime Minister's responsibility, in contravention to the May's Parliamentary Practice and tradition in a selective case,

would be transferred though the Cabinet is collectively responsible, any Minister can interfere. I am not prejudiced. But in this case, I understand the hon. Prime Minister is not likely to respond. He will transfer the whole responsibility to his Law Minister. Therefore, I think, the first departure starts from here.

Sir, I will now come to justify whether the matter is of recent occurrence and of great importance or not. It is a matter of recent occurrence because between the last Session and this Session, the chargesheet was filed in Raebareli court on 31st May and after that we are meeting in this Session. Therefore, on the first day we brought it to your notice as to how the executive action was wrong and that is why it is a matter of recent occurrence.

On how important the issue is, I only like to quote you, Mr. Speaker, Sir. The other day, on 21st July, while we gave the notice for suspension of Question Hour, you were so generous to make your observation. Sir, you are the custodian of the House. Your discretion and your observations guide the destiny of this House and also of parliamentary democracy of the nation. Sir, I quote yourself.

"Shri Arun Jaitley, hon. Law Minister has sent me just now a letter, in response to this, which is as under :

"The Government has received notice of Adjournment Motion filed by several Members of this House on the alleged abuse of power by the CBI and the Government in relation to the charge-sheet in the Ayodhya case.

Besides dealing with a subject matter, which is *sub judice*, the CBI has not diluted any case, dropped any charge against any accused person. Section 120-B was never a charge in the Raebareli charge-sheet and the question of dropping it does not arise.' "

I will bring this matter in a separate motion appropriately as to how the House was misled by the hon. Minister. I will not discuss it with you today.

But, you were kind enough to say, interrupting two hon. Members in the House, that the issue is important and the nation is watching and it is nationally important. It is your comment. Therefore, the issue is a current issue and is nationally important where the nation wants to know of it. It is from your observation. Therefore, I think, you have substantially justified our motion of what we submitted before you pertaining to its importance.

Now, on the question of admissibility and the ground rule, I know the ground rule would be questioned by several Members of the ruling Party as well as the Minister who will respond. I still do not know whether the reply will be by the hon. Prime Minister or the hon. Minister of Law and Justice. I presume these days the rescue of the Government falls on Shri Arun Jaitley. Therefore, he might come to rescue.

Sir, the rules are very clear. I know the rule will be quoted by the Treasury Benches. Rule 58(vii) says :

"the motion shall not deal with any matter which is under adjudication by a court of law having jurisdiction in any part of India;"

The Proviso to Rule 59 says :

"Provided that the Speaker may in his discretion allow such matter being raised in the House as is concerned with the procedure or subject or stage of enquiry if the Speaker is satisfied that it is not likely to prejudice the consideration of such matter by the statutory tribunal, statutory authority, commission or court of inquiry."

So, it is your discretion. This discretion was applied in 1966. On 7th April, 1966 the distinguished parliamentarian of the country and a great freedom fighter, Prof. N.G. Ranga brought to the notice of the House the issue of Bastar district Scheduled Tribe inclusion areas and a murder case. Then, persons no less than Shri Gulzarilal Nanda, the then Minister of Home Affairs and many other leaders from the House did point out that this matter should not be taken up because the matter is before the court and the disturbance or murder took place. The hon. Speaker, after careful consideration, did allow the matter to be taken up and to be discussed considering that mere discussion on this ground of *sub judice* shall not prejudice the inquiry.

Again, after that, such an issue came on 16th November, 1971 involving the former Prime Minister, one of the respected leaders of the nation and a freedom fighter, Shri Morarji Desai. I had the privilege to remain in the House in 1971 as the youngest Member of the Lok Sabha in the Fifth Lok Sabha.

There, the late Morarji Desai did bring the issue of police atrocities in Jantar Mantar Road, where the FIR was filed and the case was registered, and similar arguments were engineered here that you could not bring it in any motion for discussion because it was *sub judice*. Again, the then speaker used his discretion and allowed the things to be taken up and the debate was held. Mr. Speaker, Sir, this House has witnessed acrimony and acrimonious debate in

the case of Bofors even after filing of the charge-sheet. This House has also witnessed the discussion, debate, intervention and interference in the matter of JMM case when it was before the court. This House has also witnessed the intervention, interference, discussion and exchange of views at the discretionary power of the Speaker in the case of Shri Kalpnath Rai which was before Shri Dhingra, the Sessions Judge in Delhi. This House has witnessed discussion on several matters pending before the court in other areas of this country. I do not like to take much of your time, Mr. Speaker, Sir, citing case after case. The rule-makers made a very clear provision, as it was stated by our Deputy Leader, respected Shri Shivraj Patil in the morning, after the intervention of the Prime Minister, that suspension of Question Hour cannot be a regular habit, but in the discretion of the Speaker, if he feels in some cases that it is required, that discretion shapes the destiny of this nation.

Even when the Prime Minister responded on 7th December, 1999 to the debate, giving full details of account of the case and the charge-sheet and all these things, that did not prejudice the inquiry, Mr. Speaker, Sir, and that is why, possibly, you had allowed it. When Shri Advani replied on December 6, 1999 to an intervention of Shri G.M. Banatwalla – I can quote the proceedings profusely – and gave full account of the case and the status, that did not prejudice the inquiry. The reply to me was given on 29th November in an Unstarred Question regarding the status of the case pertaining to Ayodhya and the Government replied that the case is very simple; these are the two charge-sheets filed in the court; *prima facie* charges have been framed by the court; and that the following are the accused. Even on that day, Mr. Speaker, Sir, when we interacted and the Prime Minister came to respond, that also did not prejudice the inquiry.

The question before us is this. Are we discussing in this motion any judicial pronouncement? No. Are we discussing in this motion the conduct of any judge? No. Are we discussing in this motion the facts of the case under trial? No. Are we discussing in this motion any matter related to FIR filed by State Government's Police? No. We are discussing a matter where the Government, in its own wisdom, referred a matter for investigation - Mr. Speaker, Sir, I remind the word investigation and not trial - by its own agency called CBI. The Delhi Special Police Establishment Act as passed by this very Parliament, a law that we have passed, gives the authority in special cases to deal with such matters, including lodging FIR and filing the charge-sheet.

Mr. Speaker, Sir, in this very House, several times, this was argued by the then Opposition, when Shri Vajpayee was on this side and we were on that side, that in civil matters, till the issue is not framed and in the criminal matters, till the charge is not framed, the subject can be taken for discussion. Now, the charge-sheet of 31.05.2003 is a charge-sheet and no trial has begun in Rae Bareli and no charges have been framed.

Our whole concept of submitting this motion before you, Sir, was not that we are discussing individuals, was not that we are trying to create a disharmonious situation in the House; it was the basic policy of the Government, a Government which is trusted by the Parliament and the People, the Government which is to handle a special situation created by its own investigating agency, CBI. If your own agency deposed before you, yesterday that 'X' has done this particular act of conspiracy under this provision of Indian Penal Code and if his submission is confirmed by the court, can it be, Mr. Speaker, Sir, that the same agency on the next day submit a charge-sheet of the same nature ignoring that confirmation?

Is it not an inaction and deliberate willful omission and suppression of facts by the executive agency in discharging its executive obligations? It is not a legal obligation, but it is an executive obligation : "I am to report to the court; I am to place the facts before the court." I do not question it. I say it with all authority at my command, Mr. Speaker Sir, that the Chargesheet of 31st May is the first Chargesheet to Raebareli Court. There was no Chargesheet earlier. Two Chargesheets were filed after the incident of 6th December. The first two FIRs, one at Ram Janambhumi Station, at a particular hour -- Case Number 197-- followed by another case -- Case Number 198 -- a few hours later by UP Police; and the Chargesheet in Lucknow and Lalitpur -- everyday the word is missing -- was filed by the UP Police. It was filed by the CID Branch of UP Police and the Lalitpur matter was later on transferred to Raebareli.

The CBI's first action was to file the Chargesheet at the direction of the Supreme Court to Raebareli on 31st May. It was the Counsel of the same CBI, Shri Choubey, and not Priya Ranjan Dasmunsi who went there as Counsel of Shri Advani or on behalf of the Babri Masjid people, who admitted and confirmed before the court that after investigation in the same Raebareli Court, the CBI pleaded : "Please give us some time for investigation to file our Final Report." The Raebareli Court granted it; and then the same CBI pleaded before the Lucknow Bench -- the same CBI of Prime Minister's own executive desk -- that they want to take up both the Chargesheets together, and the court confirmed.

The same CBI pleaded, after investigation that they found Section 120 b lies with the following persons now placed in high offices; and the same CBI, after the direction of the Supreme Court, went to Raebareli on 31st May and submitted a Chargesheet which totally lacked transparency, which was detrimental; and prejudicial to the fate of the prosecution. It was done just to protect the persons in high places.

Therefore, Mr. Speaker Sir, this particular Motion -- if in your discretion -- is considered to be taken; it will not only help the nation to understand the whole fact, but the Government should also come to understand as to how to discharge the executive obligation. The country was taken amazingly in a great surprise as to how it can be done. If the agency would have been different then I could understand that UP Police did it; or I could understand that the Lucknow Police did it, but it is the Central Bureau of Investigation (CBI) -- and an agency under the Prime Minister -- which according to the strength of the law passed by this Parliament to discharge its executive obligation.

Mr. Speaker Sir, -- you know several lawyers are here -- the FIR and the Chargesheets in the Criminal jurisprudence at the first instance is not given prior cognisance till the investigation is complete; and till the names are finalised to frame the charges.

Mr. Speaker Sir, there are many FIRs and there are many Chargesheets where after the investigation, it was found that the names in the FIR had been deleted, and new names came in. There are many instances. I can cite a number of examples.

Mr. Speaker Sir, in this particular case a deliberate story has been made by the Government that the Opposition Members are fooling the nation, as if something has not been done. When did the occasion of Raebareli Court Chargesheet by CBI come? It was not on 6th December 1992, when the lacuna of the Notification was not corrected by the then Chief Minister, Shri Rajnath Singh the present Union Minister, but by the present Chief Minister Ms. Mayawati, after the Supreme Court gave direction on the PIL. So, it was after that the CBI went to file a new Chargesheet. That new Chargesheet omitted his own conviction; his own affirmation; and his own submission of the fact of investigation. Was it not a dereliction of duty on the part of the Union Government of irresponsibly giving advice and direction to the executive agency? Does it not amount, through the Adjournment Motion, a censure on the functioning of the Government, and should it be accepted?

Mr. Speaker Sir, I quoted the discretion because I knew the *sub judice* issue would come. I can cite hundreds of examples.

We used to request the Chair to give a direction to the Minister not to reply to a question or a debate, which was *sub judice*. We have done that. The observation of the Chair used to be, "Yes, you can discuss it under Rule 193 or Rule 184, but do not discuss it under an Adjournment Motion." That is why, Mr. Speaker, Sir, I tried to cite before you the examples of 1966, 1971 and the provisions of Rule 59 of the Rules of Procedure and Conduct of Business today whereby you can apply your discretion, subject to your satisfaction.

Mr. Speaker, Sir, it is wrong to presume that we ourselves are assuming the task of the judiciary, while the trial is on. No. It is wrong to presume that we are interfering with the proceedings of the Court, while the trial is on. No. The Raebareli trial has not begun. It is wrong to believe that we will be prejudicing the investigations. If the day in, day out statements of the Prime Minister and Shri Advani did not interfere with the proceedings of the trial court for the title suit in Lucknow, if the Attorney General's submission on the *Shilanyas* issue, which was without the concurrence of the Government, as admitted here in the House, did not interfere, how could the intervention of the Members of this House, who represent the people, which is to highlight the fault of the executive action of the Government, be prejudicial to the whole process of the trial? On the other hand, Mr. Speaker, Sir, the very charge-sheet itself is detrimental and prejudicial to the prosecution because they have omitted or deliberately suppressed the basic thing which they found during the investigation. How did the CBI come up with Section 120 B? It was not influenced by me or anybody else. The CBI sought permission to investigate and the permission was granted by the Raebareli Court. Then, he confirmed, "Yes, I found so and so." I will not take the name today, but I will mention it when the debate on this issue takes place. According to him, so and so conspired in this.

Shri Arun Jaitley is an eminent lawyer. He knows that the conspiracy part is not revealed during the filing of FIR. Till the second FIR was lodged, the Mosque was not fully demolished. When Shri Ganga Tiwari filed his FIR, till then, the Mosque was not completely demolished. Therefore, before six days, how can the Sub-Inspector or a police office give this statement? During the course of investigation, it was found that the transaction did take place. They submitted 11 evidences. PW-11 evidences substantiated the conspiracy, which was confirmed by the Special Court and then upheld by the High Court. Then, suddenly, what has happened? Before the fall of Baghdad, Section 120 was mentioned and after the fall of Baghdad, the CBI found a new wisdom from Iraq and said that this was not there.

MR. SPEAKER: Shri Dasmunsi, how much time will you take?

SHRI PRIYA RANJAN DASMUNSI : I strongly plead with you to kindly admit the Motion. Your discretion will do justice to this. At the end, I will say that in 1972, the House of Commons, who are very rigid on these matters, have further stated that the discussion on civil matters, though *sub judice*, could be taken up if it does not prejudice, and the rule is very clear.

In *Kaul and Shakhdar*, it was clearly stated that the part which does not affect and prejudice, that part of the Motion could be taken up in the Adjournment Motion, and the part which the Speaker feels can affect cannot be taken up.

Therefore, Sir, I humbly appeal to you on behalf of the Opposition and our Party that our Motion does not say anything about the judiciary, about judicial pronouncements and about the facts of the case. It only narrates as to how the CBI followed a different route within 48 hours. With all the humility at my command, I appeal to the Government, through you, Sir, not to mislead the House. We will raise the other issue tomorrow and not today. The Raebareli charge-sheet was not filed by the CBI in 1992 after 6th of December, not even on 5.10.1993, but the Raebareli charge-sheet was filed on 31st of May when the CBI came to the conclusion during the investigation that there was a criminal conspiracy hatched by the senior leaders, a few of them are in high places of the Union Government today.

Therefore, my appeal to you, Mr. Speaker, Sir, is to kindly admit the Motion using your discretion, using your authority to give shape to the destiny of the Indian Parliament and also to make the executive decisions of the Government, in future, more transparent, without any prejudice or favour. This is my humble submission to you.

डॉ. रघुवंश प्रसाद सिंह (वैशाली) : इस विषय पर हम लोगों के भी नोटिस हैं। हम लोगों को भी सुन लीजिए। *â€*(व्यवधान)

अध्यक्ष महोदय : कल बिजनैस एडवाइजरी कमेटी की मीटिंग हुई थी। उसमें तय हुआ था कि अगर कोई पाइंट आफ आर्डर रोज करते हैं, तो रोज कर सकते हैं। उनको पाइंट आफ आर्डर रोज करने दीजिए।

श्री राम विलास पासवान (हाजीपुर) : उन्होंने पाइंट आफ आर्डर रोज कहाँ किया है?

अध्यक्ष महोदय : उन्होंने हाथ ऊपर किया, तो मैं समझा कि उन्होंने पाइंट ऑफ आर्डर रोज किया है।

डॉ. विजय कुमार मल्होत्रा (दक्षिण दिल्ली) : अध्यक्ष महोदय, अपोजीशन का एक तरीका है कि वे ही सिर्फ बोलें और सत्ता पक्ष को बोलने न दें। उन्होंने यह तरीका अपना रखा है, जिसकी मैं समझता हूँ कि निन्दा करनी चाहिए। *â€*(व्यवधान)

SHRI RAMESH CHENNITHALA (MAVELIKARA): There is no point of order in 'zero hour'....(*Interruptions*)

SHRI E. AHAMED (MANJERI): Sir, no point of order can be admitted in the 'zero hour'....(*Interruptions*)

अध्यक्ष महोदय : मैंने आपको बोलने की इजाजत दी है, आप बोलिए।

DR. VIJAY KUMAR MALHOTRA : Rule 60(1), Para 3 says:

"Provided further that where the Speaker is not in possession of full facts about the matter mentioned therein, he may before giving or refusing his consent read the notice of the motion and hear from the Minister and/or members concerned a brief statement on facts and then give his decision on the admissibility of the motion."

So, every Member, whomsoever the Speaker wants to listen to, has a right to put forward his point of view.

अध्यक्ष महोदय, श्री प्रियरंजन दासमुंशी जी ने कहा है कि मिनिस्टर कन्सर्न्ड ही बोल सकते हैं, दूसरे नहीं बोल सकते हैं। यह कोई रूल है? एडजार्नमेंट मोशन रूल में क्लियर लिखा है - "â€Minister and/or members concerned a brief statement on factsâ€" श्री प्रियरंजन दासमुंशीजी ने कुछ सवाल यहाँ पर उठाए हैं।

SHRI SOMNATH CHATTERJEE : Sir, he is misleading you.

MR. SPEAKER: Somnathji, he is on a point of order.

SHRI SOMNATH CHATTERJEE : It relates to you, Sir. They are misleading you.(*Interruptions*)

DR. VIJAY KUMAR MALHOTRA : He has mentioned certain facts and I am giving the other facts.(*Interruptions*)

SHRI SOMNATH CHATTERJEE : Sir, the Rule says, 'if the Speaker is not in possession of full facts'. Have you asked him to give facts to you? You have not said anything like that! How can he rely on this proviso?(*Interruptions*)

DR. VIJAY KUMAR MALHOTRA : He wants more facts because he has not(*Interruptions*)

SHRI SOMNATH CHATTERJEE : Hon. Speaker has not said that he wants more facts. He does not want more facts. This proviso does not apply here.(*Interruptions*)

अध्यक्ष महोदय : मैंने आपको इजाजत दी है, आप बोलिए।

डॉ. विजय कुमार मल्होत्रा : अध्यक्ष महोदय, एडजार्नमेंट मोशन रूल्स में स्पैसिफिकली दो बातें कही गई हैं। एक बात यह कही गई है - "The motion shall not revive discussion on a matter which has been discussed in the same session." कल और परसों, दो दिन उन्होंने इस सवाल पर एडजार्नमेंट मोशन मूव किया और आपने उसको रिजैक्ट कर दिया। रिजैक्शन के बाद आज फिर उसी सवाल को सदन में उठा रहे हैं। दूसरी बात, जिसका वे बार-बार जिक्र कर रहे हैं कि जब कोई केस सब्जुडिस हो, तो भी उठाया जा सकता है, यहां डिसकस हो सकता है और इस बारे में कई उदाहरण दिए। अयोध्या का मामला 1993 से कोर्ट में चल रहा है। इन 12 सालों में कम से कम 45 बार यह विषय सदन में डिसकस हो चुका है। हमने डिसकशन नहीं रोका है। 45 बार डिसकस किया गया है। इनके पास और कोई इशू नहीं है, लेकिन डिवायड ऑफ एनी इशू यहां सवाल उठा रहे हैं। **â€**(व्यवधान) श्री प्रियरंजन दासमुंशी जी आधा घंटे बोले हैं और हम उनकी बात को पिन्ड्रॉप साइलेंस होकर सुनते रहे हैं। आप हमारी बात पांच-सात मिनट तो सुनिए।

इतना ज्यादा न बौखलाएं कि बीच में किसी को बोलने न दें। इसमें एक बात यह कही गई है कि रीसेंट ऑकरेंस की कोई चीज होनी चाहिए जिस पर एडजार्नमेंट मोशन हो। इसमें रीसेंट ऑकरेंस क्या है? **â€**(व्यवधान)

SHRI ANIL BASU (ARAMBAGH): What is this?...*(Interruptions)*

डॉ. विजय कुमार मल्होत्रा : आपको बोलने के लिए किस ने कहा? रायबरेली की कोर्ट में न तो 120बी था। **â€**(व्यवधान) Please listen to me, I am making a point....*(Interruptions)* मुझे पूरी बात मालूम है इसलिए आप बैठिए। **â€**(व्यवधान) आप हर बार ऐसा करते हैं। अभी हमने एक घंटा भाग सुना। इस तरह से नहीं चलेगा। हम भी ऐसा कर सकते हैं। यह कौन सा तरीका है? **â€**(व्यवधान)

डॉ. रघुवंश प्रसाद सिंह : आप बिना नोटिस के बोल रहे हैं। यह कौन सा तरीका है? **â€**(व्यवधान)

अध्यक्ष महोदय: मैं सदन को एक बात समझाना चाहता हूं।

â€(व्यवधान)

अध्यक्ष महोदय: आप इस काम में मेरी मदद करिए।

â€(व्यवधान)

MR. SPEAKER: May I explain you the position?

...*(Interruptions)*

MR. SPEAKER: Please sit down.

...*(Interruptions)*

MR. SPEAKER: When Shri Priya Ranjan Dasmunsi was speaking, the whole House was silent. Everybody listened to him. Now, when this side of the House wants to make a submission on a point of order, the Speaker has a right to allow them also.

SHRI PRABODH PANDA (MIDNAPORE): His point of order is wrong....*(Interruptions)*

MR. SPEAKER: You cannot take a decision on this. I will take a decision as to whether a point of order is right or wrong. You have authorised me to take a decision as to whether a point of order is correct or not. Therefore, please sit down. I can listen to him.

...*(Interruptions)*

MR. SPEAKER: You cannot disturb the House. I have permitted him to speak.

...*(Interruptions)*

SHRI TARIT BARAN TOPDAR (BARRACKPORE): He cannot make it as a point of order....*(Interruptions)*

SHRI V. DHANANJAYA KUMAR : We have heard them patiently. Now, let them have patience....*(Interruptions)*

SHRI ANIL BASU (ARAMBAGH): What is the point of order? **â€** *(Interruptions)*

MR. SPEAKER: I have permitted him to speak. Other hon. Members must allow him to speak. If you want a reply first from the Minister, and thereafter ruling from the Chair, you must allow the Member whom I have permitted to speak.

...*(Interruptions)*

श्री वी.घनञ्जय कुमार : इनकी इस तरह खड़े होकर बोलने की आदत बन गई है। **â€**(व्यवधान)

डॉ. विजय कुमार मल्होत्रा : अध्यक्ष महोदय, यह आपकी बात भी सुनने के लिए तैयार नहीं हैं। **â€**(व्यवधान) ये जब चाहें हमें बोलने दें और जब न चाहें न बोलने दें। क्या हमें हाउस में बोलने का अधिकार नहीं है?

डॉ. रघुवंश प्रसाद सिंह : प्वाइंट ऑफ ऑर्डर में भाग करने की इजाजत नहीं दी जाती है। (व्यवधान)

अध्यक्ष महोदय: यह मैं डिसाइड करूंगा। आप अभी चेयर पर नहीं है। आप जब चेयर पर होंगे तब डिसाइड करें।

(व्यवधान)

डॉ. रघुवंश प्रसाद सिंह : मेरा नोटिस है लेकिन इनका नोटिस नहीं है। (व्यवधान) इन्हें मुझ से पहले किस आधार पर बोलने का अधिकार दिया गया है। यह बिना नोटिस के कैसे बोलेंगे? (व्यवधान)

अध्यक्ष महोदय: आप इस सदन के बहुत अच्छे मੈम्बर हैं।

...(Interruptions)

MR. SPEAKER: Dr. Vijay Kumar Malhotra will speak now. Please sit down.

...(Interruptions)

डॉ. विजय कुमार मल्होत्रा : अध्यक्ष जी, एडजर्नमेंट मोशन रिसैंट हैपनिंग की किसी चीज पर होना चाहिए। रायबरेली के जिस केस का यहां जिक्र किया जा रहा है वहां न कोई 120बी की कोई क्लॉज थी और न ही कॉन्सिपरेसी की कोई बात थी। लखनऊ हाई कोर्ट जिस का यह जिक्र कर रहे हैं वहां यह क्लॉज थी। उस क्लॉज को 2001 में क्वेश किया गया है। 2001 में यूपी गवर्नमेंट ने सीबीआई में कहा कि आप इसे फाइल करिए। यह दो साल कहां सोए रहे? इन्होंने दो साल यह सवाल नहीं उठाया। ऑल ऑफ सदन एक दिन सारी ऑपोजिशन इकट्ठी हुई और सोचा क्या करें, इसी सवाल को उठा दो। यह रिसैंट हैपनिंग क्या है?

श्री रामजीलाल सुमन (फिरोजाबाद) : अध्यक्ष जी, श्री मलहोत्रा जो बोल रहे हैं, क्या वह व्यवस्था का प्रश्न है? यह अनावश्यक मुद्दे पर समय की बर्बादी है। मैंने भी नोटिस दिया हुआ है (व्यवधान)

अध्यक्ष महोदय : आप बैठिये। आप भी प्रश्न उठाने जा रहे हैं।

SHRI ANIL BASU : Sir, I am on a point of order....(Interruptions)

डॉ. विजय कुमार मल्होत्रा : अध्यक्ष जी, मैं आपसे कहना चाहता हूँ कि (व्यवधान)

श्री चन्द्रकांत खैरे (औरंगाबाद, महाराष्ट्र) : अध्यक्ष जी, बार-बार बसु जी क्यों खड़े हो जाते हैं? आपने इनको परमिशन नहीं दी है फिर क्यों खड़े हो रहे हैं? (व्यवधान)

DR. VIJAY KUMAR MALHOTRA : He cannot raise a point of order on a point of order....(Interruptions)

MR. SPEAKER: It is the right of a Member to raise a point of order. The Member can always narrate the reasons for raising the point of order. In my discretion I have decided to permit him. He is rightly on his legs and he can continue to speak and give reasons for raising the point of order.

...(Interruptions)

DR. C. KRISHNAN (POLLACHI): May I know under what rule he is speaking?...(Interruptions)

SHRI ANIL BASU : Sir, I am on a point of order. Kindly read Rule 56....(Interruptions)

MR. SPEAKER: He has already quoted the rule. He is on his legs. Please do not try to disturb like this. Please do not try to pressurise the Chair. I have permitted him to speak. He may go ahead with his submission.

डॉ. विजय कुमार मल्होत्रा : अध्यक्ष जी, मैं आपसे कह रहा था कि कोई रिसैंट हैपनिंग नहीं है। यदि अयोध्या मुद्दे पर डिसकशन करना चाहते हैं, तो करें, हमें कोई एतराज नहीं है। यह कह रहे हैं कि सी.बी.आई. का मिसयूज़ कर रहे हैं लेकिन मैं आपसे कहना चाहूंगा कि सी.बी.आई. का मिसयूज़ 1993 में निर्दोष लोगों पर केस बनाने में किया गया। जब ये लोग पॉवर में थे, तब सी.बी.आई. का मिसयूज़ किया गया। इन लोगों ने सी.बी.आई. के हाथों से निर्दोष लोगों पर मुकदमा बनाने के लिये एक जाली केस बनाया CBI was misused by them when they were in power. CBI has not been misused by us. अगर सरकार को न्याय करना होता तो ये सारे केस वापस कर लेने चाहिये थे These cases do not even stand for anything at all. इन केसेज़ को करने की जरूरत नहीं थी क्योंकि सरकार ने कोई इंटरवीन नहीं किया और सरकार ने सारे केसेज़ चलने दिये। बजाय इसके कि ये सरकार की तारीफ करते, ये कह रहे हैं कि उन्होंने 120(बी) ड्रॉप किया। अगर कोई एप्लीकेशन दे और कहे कि इस क्लॉज को ड्रॉप कर दो और या कोई कहे कि 120(बी) को इसमें लागू न किया जाये। जबरदस्ती वहां जो चीज है नहीं, उसको बीच में डालकर इतना लम्बा-चौड़ा मामला बनाया जाये, मैं समझता हूँ कि एडजर्नमेंट मोशन का मामला बना ही नहीं और it should be thrown away.

श्री अनिल बसु : अध्यक्ष जी, जब भी मैंने हाथ उठाया, समझ लो मेरा पाइंट ऑफ ऑर्डर आया।

अध्यक्ष महोदय : मैं आपके पाइंट ऑफ ऑर्डर की बात सुनूंगा।

SHRI ANIL BASU : Please hear me, Sir.

MR. SPEAKER: I am permitting you to raise a point of order.

SHRI ANIL BASU: It is Rule 56, in Chapter 9 on Adjournment Motion. It says, 'discussing a definite matter of urgent public importance of recent occurrence'. The point which he is raising is not of recent occurrence.â€¦ (Interruptions)

DR. VIJAY KUMAR MALHOTRA : The words are: 'recent occurrence involvingâ€¦'...(Interruptions)

MR. SPEAKER: Why are you replying him? I am there to reply him. Please sit down.

...(Interruptions)

श्री मुलायम सिंह यादव (सम्मल) : अध्यक्ष जी, इन लोगों के पास और कोई काम नहीं है।

अध्यक्ष महोदय : मुलायम सिंह जी, आप क्यों डिस्टर्ब करते हैं, वह आपके मित्र हैं।

SHRI SOMNATH CHATTERJEE : Sir, in their desperation, this Government is not only misusing the CBI but also misusing Shri Vijay Kumar Malhotra and the Rule Book. The Rule which he has read out is a reflection on you, Sir. The second proviso to Rule 60 says: " Provided further that where the Speaker is not in possession of full facts about the matter mentioned therein, he may before giving or refusing his consent ask the Member to speak"....(Interruptions)

DR. VIJAY KUMAR MALHOTRA : This is what he has done.â€¦ (Interruptions)

SHRI SOMNATH CHATTERJEE : You are not in that category. Hon. Speaker did not ask you to speak. You only wanted to raise a point of order and you have made a mockery of the point of order....(Interruptions)

DR. VIJAY KUMAR MALHOTRA : I am sorry, Sir. I think he should not use such words. Otherwise, I may say that the Communist Party is a mockery in this country....(Interruptions)

SHRI SOMNATH CHATTERJEE : Sir, I have succeeded in my attempt. I have rattled him a bit....(Interruptions)

MR. SPEAKER: You have succeeded in provoking him.

...(Interruptions)

SHRI SOMNATH CHATTERJEE : He is already disturbed because he knows the weakness of his case.

The question is of definite matter of urgent public importance. So far as urgency is concerned, this was the first occasion when we could raise it. The question is about the propriety of CBI's charge sheet that was filed, as has rightly been pointed out, on the 31st of May this year. After that, we have sat only day before yesterday. It was raised on the first occasion.

Secondly, so far as the matter of public importance is concerned, fortunately, Shri Vijay Kumar Malhotra even in his great loyalty to the cause of RSS did not contest that point. We have got a judicial verdict which was delivered after considering the arguments of all the lawyers of all the very celebrated prime accused people. I would read it from a very good publication made by my Party which is just nothing but a re-print of the learned Additional Sessions Judge, Shri J.P. Srivastava's order of 9th September, 1997 on Ayodhya episode . It says that on the basis of evidence produced by the prosecution, a *prima facie* case under Section 120B of IPC read with Sections 153A and 153B – that is regarding arousing communal feelings – is made out against Sarvashri so and so – I am omitting the first name as they will feel disturbed – Lal Krishna Advani, Ashok Singhal, Vinay Katiyar, Murl Manohar Joshi and so many other names are there. I am not discussing their conscience, if they have any. After considering everything, the learned judge says:

"From our description it is concluded that in the present case a criminal conspiracy to demolish the disputed structure of Ram Janambhoomi/Babri Masjid was hatched by the accused persons in the beginning of 1990 and it was completed on 6th December, 1992. Shri Lal Krishna Advani and others hatched criminal conspiracy to demolish the disputed premises on the different times and at different places. Therefore, I find a *prima facie* case to charge Sarvashri so and so including Shri Lal Krishna Advani. "

DR. VIJAY KUMAR MALHOTRA : What is the date of this judgement? Please read the date of this judgement.

SHRI SOMNATH CHATTERJEE : It is 9th September, 1997.

DR. VIJAY KUMAR MALHOTRA : What has happened today? What is recent in this? An Adjournment Motion could be raised on a matter of recent occurring. He is making a mockery of this rule.

SHRI SOMNATH CHATTERJEE : I can well understand the future. I know what will be the future of NDA and BJP...(Interruptions). With such an ignoramus spokesman what more they can have.

Sir, this is a case where a competent judicial authority has held a *prima facie* case of criminal conspiracy along with other offences. Now this subsisted all through. What happened in Allahabad High Court?

THE MINISTER OF LAW AND JUSTICE AND MINISTER OF COMMERCE AND INDUSTRY (SHRI ARUN JAITLEY): My learned friend, Shri Chatterjee is a very senior Member of Parliament. He cited the order of Sessions Judge, Shri Srivastava of 1997 and then he made a statement that this order is subsisting throughout. Please factually check this fact because it is totally erroneous. It has been set aside by the High Court.

SHRI SOMNATH CHATTERJEE : Kindly hold a little patience. I know you all are very upset about it. You are all very nervous...(Interruptions). All right. It remained in full operation until Justice Bhalla of Allahabad High Court gave the judgement.

What did he say? I was going to read it. That has not been changed. I quote:

"The High Court upheld a decision of the Lucknow Special Court to entertain CBI's composite chargesheet. Justice Bhalla ruled that "no illegality has been committed by the Special Court while taking cognisance of "a joint/consolidated chargesheet" on three important grounds. First, all the offences were committed "in the course of the same transaction and to accomplish the conspiracy". Second, that the evidence for all the offences "is almost the same" therefore, these offences "cannot be separated from each other" irrespective of the fact that 49 FIRs, (besides FIR Nos. 197 and 198 there were 47 cases booked by assaulted journalists) were lodged on the basis of which 49 criminal cases were registered by the police."

Therefore, it is totally wrong to say that it is misleading and that on merits, the learned Judge has set aside the judgement. The learned judge said that it was a right decision on merit but there was a technical flaw. With regard to No. 198 there was no consent taken of the Chief Justice of the Allahabad High Court.

Sir, what was said then? It was said that you can rectify it. Then another conspiracy was hatched by this Government along with the then Chief Minister of Uttar Pradesh, Shri Rajnath Singh and the present Chief Minister. They fought against each other before the elections. But they have become great pals today. They are giving lectures about alliances. They did not take the simple step of filing an application to get it rectified. On merits, there was no decision to the contrary of the Allahabad High Court. They did not do it. When the matter came up before the Supreme Court, when the Lucknow court was there where the cases of FIR Nos. 197, 198 were to go on, suddenly a new Rae Bareilly special court was constituted. Why was it done? What was the reason? The Supreme Court had said, 'very well, since for that purpose a special court has been constituted, you go there.' The CBI had to file a chargesheet there. The CBI had contended before the learned Magistrate, the Judge, that there was, in fact, a conspiracy. It is a long judgement. There were arguments made by the learned Counsel, lawyers of the accused, including Shri Lal Krishna Advani and others. In spite of that the Judge said that, yes, there was more than a *prima facie* case of conspiracy which has been upheld by Justice Bhalla of Allahabad High Court. Now, on what basis, on what material the CBI could omit the charge of criminal conspiracy under section 120 (B)? That is the point.

Sir, this is an Executive act. Who was in-charge of the CBI? We would like to know about it. If the Government has any honesty of purpose, then let them disclose that file here. Let the hon. Prime Minister explain to this country on what basis the chargesheet was filed in the Rae Bareilly special court on 31st of May, 2003. On what basis was it done? Who decided it? What discussions took place?

Sir, initially the matter was being conducted by the Uttar Pradesh police. Then the Government found that there was a sham of an enquiry going on because the BJP Government was there in Uttar Pradesh. Therefore, CBI was entrusted with this job...(Interruptions) The CBI was entrusted with this job and nobody can dispute it.

श्री अरुण जेटली : हमारी गवर्नमेंट थोड़े ही थी।

श्री सोमनाथ चटर्जी : अरे, छोड़ो मई।

अध्यक्ष महोदय : वह कुछ भी गलत कह रहे हैं तो मिनिस्टर उत्तर में उसे क्लियर करेंगे। आप क्यों बोल रहे हैं?

SHRI V. DHANANJAYA KUMAR : Sir, what is this? Are we into a full length discussion on this?... (Interruptions) He is supposed to convince the Chair only about the admissibility of the Adjournment Motion! (Interruptions) Are we into a full length discussion?... (Interruptions)

MR. SPEAKER: That is in the interest of the House.

...(Interruptions)

SHRI PRAKASH MANI TRIPATHI (DEORIA): It is an incorrect statement...(Interruptions)

MR. SPEAKER: If it is incorrect, then the hon. Minister will correct him.

...(Interruptions)

SHRI V. DHANANJAYA KUMAR : Sir, he is into a full length discussion. The Adjournment Motion has not yet been admitted by you. He is only supposed to convince the Chair about the admissibility of the motion.

SHRI SOMNATH CHATTERJEE : I am trying to show that this is a matter of greatest public importance in this country.

SHRI V. DHANANJAYA KUMAR : आप सब बोलते जाएंगे और लम्बा भाण करते जाएंगे, तो ऐसा कैसे चलेगा। In the course of his submissions he is making scathing remarks on anybody and everybody by taking their names. I would like to know whether such a submission is allowed. He is a senior Member of this House. He has got the 'Best Parliamentarian' award and we are supposed to follow suit.

SHRI SOMNATH CHATTERJEE : Either he should be a *pro tem* Speaker or he should be on a Point of Order. It is neither. But he is still speaking! What is all this?

SHRI V. DHANANJAYA KUMAR : As a Member of this House I have a right to know whether the Chair has allowed a full-length discussion on the subject.

SHRI SOMNATH CHATTERJEE : But you have no right to interrupt.

SHRI RUPCHAND PAL (HOOGLY): He has not yielded to you.

SHRI V. DHANANJAYA KUMAR : I am not addressing you. I am only addressing the Chair.

SHRI SOMNATH CHATTERJEE) : If only you had a little patience, you could have come and discussed it with us outside!

I am only trying to show that this is a matter of great public importance. If some of the hon. Ministers of this Government are accused under certain grave and heinous offences, can I not say that this is a matter of public importance? Can anybody say that this is a matter of no importance? Ministers are accused of heinous crimes and judicially it has been found that there has been a *prima facie* case, which finding has not been altered by any higher court of law. Shri Arun Jaitley was very right in saying that it is no longer in substance. It was said only because of the technical reason. But I say it is still subsisting with regard to the merits of finding a *prima facie* case. To that extent I was right and I still continue to say that I am right.

This is a matter of public importance. Shall I tell the hon. Member what are the nature of charges under sections 153(a) and 153(b)? Shall I trouble you by taking a little time? Is our conscience not being disturbed? The section says: 'Promoting enmity between the groups on grounds of religion, place of birth, residence, language and doings acts prejudicial to maintenance of harmony'. The Home Minister of this country is charged with this. He has to maintain harmony; but he is himself accused of disturbing harmony! ...(Interruptions)

Therefore, I thought there is no answer to the contention that this is an urgent matter of great public importance. I charge that this Government wants to suppress facts. This Government is trying to mislead the people of this country. But, so long as this Parliament will function under the Constitution of India, we have our rights and we shall not allow them to continue in this fashion. Therefore, I demand that this Adjournment Motion be allowed and considered and you allow a full discussion.

MR. SPEAKER: Shri Arun Jaitley.

...(Interruptions)

श्री रामजीलाल सुमन : अध्यक्ष महोदय, हमारा भी नाम है। कल आपने बी.ए.सी. में कमिटमेंट की थी कि आप पांच-छः लोगों को इस विषय में सुनेंगे। हम ज्यादा नहीं बोलेंगे। सिर्फ दो मिनट बोलेंगे। हमें भी सुनिए।

अध्यक्ष महोदय : मैं केवल दो सदस्यों को बोलने की इजाजत देना चाहता हूँ। I cannot allow each and every Member to speak though they have given notices.

श्री रामजीलाल सुमन : हम केवल दो मिनट ही बोलना चाहते हैं।

श्री मुलायम सिंह यादव : अध्यक्ष महोदय, हमारे बिना तो चर्चा अधूरी रहेगी।

श्री रामजीलाल सुमन : अध्यक्ष महोदय, हमारा तो नोटिस है।

अध्यक्ष महोदय : नोटिस तो बहुत लोगों का है। It is already one o'clock and I have constraint of time.

...(Interruptions)

MR. SPEAKER: Please go to your seat.

...(व्यवधान)

अध्यक्ष महोदय : डॉ. रघुवंश प्रसाद सिंह, आप इस भाग में नहीं बोल सकते।

...(व्यवधान)

13.00 hrs.

अध्यक्ष महोदय : रघुवंश जी, आप क्या कर रहे हैं, चेयर को इस तरह से बोलते हैं, इस तरह एड्रेस करते हैं, यह नहीं चलेगा। आप अपनी जगह पर जाइए। I am not going to tolerate this behaviour.

â€¦ (व्यवधान)

अध्यक्ष महोदय : रघुवंश जी, आप अपनी जगह पर जाकर बोलिए तो मैं आपकी बात सुनूंगा।

â€¦ (व्यवधान)

अध्यक्ष महोदय : आप मुझे रिकवेस्ट कर सकते हैं, इस भाग में नहीं बोल सकते। क्या आपका रिकवेस्ट करने का यही तरीका है? आप अपनी जगह पर जाइए।

â€¦ (व्यवधान)

अध्यक्ष महोदय : आप मुझे विनती कर सकते हैं। You can always request the Chair.

...(Interruptions)

MR. SPEAKER: I have warned him enough. Please sit down.

...(Interruptions)

अध्यक्ष महोदय : कृपया आप बैठ जाइए।

â€¦ (व्यवधान)

MR. SPEAKER: Dr. Raghuvansh Prasad Singh, this is not a good behaviour in the House. Please sit down.

...(Interruptions)

श्री चन्द्रकांत खैरे : अध्यक्ष जी, ये इस तरह बिहेव नहीं कर सकते।â€¦ (व्यवधान)

अध्यक्ष महोदय : खैरे जी, आप बैठ जाइए। देखिए, मुझे जो कहना था, मैंने कह दिया। आप अपनी जगह पर जाइए।

â€¦ (व्यवधान)

MR. SPEAKER: My only submission to the Member is that they can always request the Chair. The Chair is prepared to consider the Member's request. But there should be some method by which it should be done. This is not the way that a Member should come and threaten the Chair. I am the last man to tolerate these things. Please remember it. अगर कोई यह सोचे कि हम जोर से बोलेंगे, सदन में तो मैं सुनने वाला नहीं हूँ। आप अपनी जगह पर खड़े होकर मुझे बार-बार रिकवेस्ट कर सकते हैं, मैं सुनने के लिए तैयार हूँ। आप बहुत सीनियर मेम्बर हैं, आप ऐसे क्यों करते हैं? कृपया आप बैठ जाइए।

â€¦ (व्यवधान)

अध्यक्ष महोदय : मैं सब मैम्बर्स को बोलने के लिए कैसे समय दे सकता हूँ।

â€¦ (व्यवधान)

MR. SPEAKER: Shri Suman, I would give you two minutes to speak and after two minutes, you should stop speaking.

...(Interruptions)

डॉ. रघुवंश प्रसाद सिंह : अध्यक्ष महोदय, कृपया हमारी बात को भी सुना जाए। (व्यवधान)

अध्यक्ष महोदय : आप ऐसे रिकवेस्ट करें न।

(व्यवधान)

MR. SPEAKER: I have already warned him. Please sit down. He is going to listen to me.

...(Interruptions)

अध्यक्ष महोदय : खैरे जी, आप बैठ जाइए। मुझे सदन में काम करना है।

(व्यवधान)

SHRI PRAKASH MANI TRIPATHI : Sir, when he was speaking, he was making gesticulations against the Chair.
...(Interruptions)

MR. SPEAKER: I have already warned him and he has understood it. Please sit down.

...(Interruptions)

अध्यक्ष महोदय : मैंने सदन में जो कुछ कहा है वह केवल रघुवंश जी को नहीं कहा, मैं सभी माननीय सदस्यों को कहना चाहता हूँ कि हाउस का डिसिप्लिन न तोड़ें।

(व्यवधान)

MR. SPEAKER: Shri Jadhav, please sit down. कृपया आप बैठ जाइए। मैंने जो कुछ कहना था, वह कहा है। मुझे हाउस का बिजनेस आगे चलाना है। Please co-operate with me.

(व्यवधान)

अध्यक्ष महोदय : कृपया आप बैठ जाइए। इस सदन में कभी-कभी मेम्बर्स उत्तेजित होकर जो कुछ करते हैं, मैं उन्हें समझने की कोशिश करता हूँ।

श्री शंकर प्रसाद जायसवाल (वाराणसी) : अध्यक्ष जी, ये माफी मांगें। (व्यवधान)

श्री जी.एम.बनातवाला (पोन्नानी) : अध्यक्ष जी, मैंने एडजर्नमेंट मोशन भी दिया है और मैंने प्रिवलेज मोशन भी दिया है, लेकिन मुझे कुछ कहने की इजाजत नहीं मिली है। मेरा प्रिवलेज मोशन भी वजीरे कानून के खिलाफ है और एडजर्नमेंट मोशन भी है और मुझे आप कुछ कहने की इजाजत नहीं दे रहे हैं। मुझे भी अपनी बात रखने की इजाजत दें। (व्यवधान)

अध्यक्ष महोदय : प्रिवलेज के समय मैं आपको बोलने का मौका दूंगा।

श्री रामजीलाल सुमन (फिरोजाबाद) : अध्यक्ष महोदय, बाबरी मस्जिद की शहादत के बाद अपराध संख्या 197/92 और 198/92 में अपराध पंजीकृत हुए, इस अपराध के पंजीकृत होने के बाद केन्द्रीय जांच ब्यूरो की जो भूमिका रही, इस सम्बन्ध में जो कार्यस्थगन प्रस्ताव है, उस पर श्री सोमनाथ चटर्जी और श्री प्रियरंजन दासमुंशी ने अपनी बात रखी। श्री विजय कुमार मल्होत्रा यहां नहीं हैं, वे तो व्यवस्था के सवाल पर अपनी बात कहकर चले गये, जबकि सही मायने में कोई व्यवस्था के प्रश्न का सम्बन्ध इससे नहीं था। यह अत्यधिक गम्भीर सवाल है और श्री विजय कुमार मल्होत्रा ने कहा कि रीसेंट हैपनिंग का यह मामला नहीं बनता।

अध्यक्ष महोदय, सी.बी.आई. की जो कार्यप्रणाली है, उस सी.बी.आई. की कार्यप्रणाली पर एक सवालिया निशान लगता है। पूरा देश और यह संसद यह जानना चाहती हैं कि पिछली सुनवाई के दौरान जब सी.बी.आई. के वकील ने कहा कि श्री लालकृष्ण आडवाणी, श्री मुरली मनोहर जोशी और सुश्री उमा भारती एवं अन्य आठ लोगों के खिलाफ 120(बी) का अपराध बनता है। ये अपराध में शामिल थे और इसके सम्बन्ध में हमारे पास पर्याप्त साक्ष्य हैं, कैसेट्स हैं, वीडियो टेप हैं, अखबारों की कतरन हैं। देश यह जानना चाहता है कि इस बीच में तत्काल ऐसी कौन सी परिस्थितियां पैदा हो गईं, जिनके चलते सी.बी.आई. ने कहा कि 120(बी) का मामला बनता ही नहीं है। जैसा मैंने पहले आपसे निवेदन किया कि सी.बी.आई. प्रधानमंत्री के अधीन आता है और मैं आपसे निवेदन करना चाहूंगा कि सी.बी.आई. ने अपनी जो प्रारम्भिक रिपोर्ट पांच अक्टूबर, 1993 को दी, उस प्रारम्भिक रिपोर्ट में सी.बी.आई. ने लिखा कि 120(बी) के तहत इयंत्र का मामला बनता है, इसमें श्री लालकृष्ण आडवाणी, श्री मुरली मनोहर जोशी, सुश्री उमा भारती एवं अन्य आठ लोगों के खिलाफ आरोप लगाये गये थे। नौ सितम्बर, 1997 को, जैसा कि श्री सोमनाथ चटर्जी ने कहा कि जो लखनऊ की विशेष अदालत के जज न्यायमूर्ति श्री जे.पी. श्रीवास्तव थे, उन्होंने भी कहा कि 120(बी) के तहत आरोप का तय करना ठीक था। यह बहुत गम्भीर मामला है।

मैं आपकी मार्फत निवेदन करना चाहूंगा कि जब इसी प्रकार का कार्यस्थगन प्रस्ताव राज्य सभा में आया था तो राज्य सभा के सभापति महोदय ने इस सम्बन्ध में जो

व्यवस्था दी है, उन्होंने जो पहले व्यवस्था दी थी, उस व्यवस्था में सुधार किया है, परिवर्तन किया है। इस देश में सी.बी.आई. का प्रयोग अपने राजनैतिक हितों के लिए किया जा रहा है।

अध्यक्ष महोदय : मैं दो-दो मिनट सब को देना चाहता हूँ, प्लीज बैठिये।

श्री रामजीलाल सुमन : मैं आधा मिनट में खत्म कर रहा हूँ। (व्यवधान)

अध्यक्ष महोदय : मैंने इन्हें आधा मिनट और दिया है।

श्री रामजीलाल सुमन : अध्यक्ष महोदय, सी.बी.आई. से सम्बन्धित यह अकेला मामला नहीं है। 11 साल पहले श्री माधव सिंह सोलंकी, जो विदेश मंत्री थे, उनके खिलाफ आरोप था कि बोफोर्स के मामले में श्री माधव सिंह सोलंकी ने कुछ तथ्यों को दबाने की कोशिश की है। आज 11 साल बाद श्री माधव सिंह सोलंकी को नोटिस मिला है, यह एक सवालिया निशान लगाता है। डी.डी.ए. में भ्रष्टाचार हुआ, यहां लोक सभा के एक सम्मानित सदस्य हैं, वे डी.डी.ए. के चेयरमैन के अभिन्न मित्र थे। जो डी.डी.ए. के आरोपी थे, उनकी जमानत हो गई, क्योंकि सी.बी.आई. ने समय से चार्जशीट दाखिल नहीं की। सवाल यह है कि इस देश में सी.बी.आई. का जिस तरह से दुरुपयोग अपने हितों के लिए किया जा रहा है, यह एक बहुत गम्भीर सवाल है। हम सदन में और सदन के बाहर बराबर यह मांग करते थे कि इस मामले की सी.बी.आई. जांच हो, लेकिन अगर इस संस्था की साख पर सवालिया निशान लग जायेगा तो यह एक बहुत गम्भीर सवाल होगा। जिन माननीय सदस्यों ने इस सवाल को उठाया है, उनके साथ मैं अपने को जोड़ता हूँ। (व्यवधान)

अध्यक्ष महोदय : मैं सब को एक-एक मिनट दे रहा हूँ, जिनको बोलना है, वे एक मिनट में अपना पक्ष रखें।

श्री रामजीलाल सुमन : मैं समझता हूँ कि जो तथ्य और तर्क प्रस्तुत किये गये हैं, वे अपनी जगह बिल्कुल सही हैं।

श्री मुलायम सिंह यादव : अयोध्या का मामला मेरे बिना कैसे पूरा होगा ? आप मुझे भी बोलने का मौका दें। (व्यवधान)

अध्यक्ष महोदय : मैं एक मिनट दे दूंगा।

...(व्यवधान)

श्री राम विलास पासवान (हाजीपुर) : अध्यक्ष महोदय, मैं दो मिनट में अपनी बात समाप्त करूंगा। यह मानकर चला जाता है कि सी.बी.आई. एक निपक्ष संस्था है लेकिन जो तथ्य सामने आये हैं उससे यह बात साबित हो गयी है कि एन.डी.ए. सरकार उसको एक सुपर थाना बनाने की कोशिश कर रही है। एक स्टेट का जो ढांचा था, उस ढांचे के ऊपर सी.बी.आई. को इसलिए बनाया गया ताकि वह एक सुपर थाना बने। इस घटना के संबंध में श्री प्रियरंजन दास मुंशी और सोमनाथ चटर्जी ने काफी विस्तार से बताया है। मैं कहना चाहता हूँ कि ठीक इसी तरह की घटना श्री हरिन पांड्या की हत्या के संबंध में हुई है। उनके पिता ने कहा है कि यह नाटक हो रहा है। (व्यवधान) मैं एक ही बात कहना चाहता हूँ कि सरकार इस संस्था को निपक्ष रहने दे और सदन यह फैसला करे कि सी.बी.आई. एक निपक्ष संस्था रहेगी। यदि सी.बी.आई. का उपयोग, दुरुपयोग राजनैतिक लोगों को या भ्रष्ट लोगों को बचाने के लिए किया गया (व्यवधान) सबसे अचरज की बात यह है कि इस सरकार का जो उप प्रधान मंत्री है, उसके खिलाफ यदि सी.बी.आई. चार्जशीट देती है तो उसको उसी दिन अपने पद से हटना चाहिए था लेकिन उसके बाद भी वे नहीं हटे। (व्यवधान) मैं आपसे मांग करता हूँ कि सी.बी.आई. को या तो एक निपक्ष संस्था बनाया जाये नहीं तो सी.बी.आई. को बंद कर देना चाहिए।

SHRI AJAY CHAKRABORTY (BASIRHAT): Sir, the CBI has filed a charge-sheet before the Special Court. Under the FIR 198, it has levelled charges, including the conspiracy charges, against Shri L.K. Advani, Dr. Murli Manohar Joshi, Kumari Uma Bharati and others. On 9th September, 1997, the Special Judge of the Lucknow Court Shri P. Srivastava, after hearing both the sides and after scrutinising all the materials and evidence available before him, was pleased to frame charges under Section 120B - dealing with criminal conspiracy - against Shri Advani and others. He wanted the trial to commence. The aggrieved party rushed before the august High Court at Allahabad - headed by hon. Justice Bhalla - and requested that it should drop the FIR 198 on procedural and technical grounds. The hon. Judge also opined that the technical defect is curable. He advised the State Government to come forward and cure the technical defect .

...(Interruptions) But it is a sorry state of affairs that the Rajnath Singh Government and the Mayawati Government have not taken steps to clear the procedural defects....(Interruptions) The Rajnath Singh Government and the Mayawati Government have not come forward to cure the procedural defects.

Further, the FIR 197 is pending before the Lucknow Special Court. In spite of that, the present Government headed by Ms. Mayawati, has filed a special petition to drop the FIR 197 for the purpose of dropping the charges framed against Shri Advani and others from the charge-sheet. This is a long-drawn conspiracy played by the BJP to clear Shri Advani, Dr. Joshi, Kumari, Uma Bharati and others from the conspiracy charges. ...(Interruptions) Shri Advani started the conspiracy through the Rath Yatra. Even the Allahabad High Court opined that there was sufficient material for framing charges - including the conspiracy charges - under FIR 197. Despite that, the same agency, the CBI, dropped the charges against Shri Advani and others. Earlier, the same CBI opined that there was sufficient ground for framing charges. This is my submission.

श्री चन्द्रकांत खैरे : अध्यक्ष महोदय, यह पहले आपसे माफी मांगे। (व्यवधान)

अध्यक्ष महोदय : आप अपने मन को बड़ा कीजिये। अभी आप बैठिये।

...(व्यवधान)

अध्यक्ष महोदय : रघुवंश प्रसाद जी, मैंने आपका नाम पुकारा है।

...(व्यवधान)

अध्यक्ष महोदय : अब श्री अजय चक्रवर्ती का भाण रिकार्ड में नहीं जायेगा।

...(व्यवधान)

अध्यक्ष महोदय : अजय चक्रवर्ती जी, आपका भाग रिकार्ड में नहीं जा रहा फिर आप क्यों बोल रहे हैं ?

...(व्यवधान)

अध्यक्ष महोदय : रघुवंश प्रसाद जी, क्या आप बोलना नहीं चाहते ? उनका भाग रिकार्ड में नहीं जा रहा है इसलिए आप बोलिये।

...(व्यवधान)

श्री वी.घनञ्जय कुमार : अध्यक्ष महोदय, उनको पहले आपसे माफी मांगनी चाहिए। आप उन्हें बोलने की इजाजत दे रहे हैं। **â€** (व्यवधान)

डॉ. रघुवंश प्रसाद सिंह : अध्यक्ष महोदय, इनको मंत्री पद से बर्खास्त किया गया है। ये क्यों बोल रहे हैं **â€** (व्यवधान) ये लोग कौन हैं और क्या चाहते हैं ? **â€** (व्यवधान)

प्रो. रीता वर्मा : अध्यक्ष महोदय, इनको चेयरमैन के पैनल से हटाया जाये। **â€** (व्यवधान)

डॉ. रघुवंश प्रसाद सिंह : अध्यक्ष महोदय, ये हमारे बोलने से क्यों डर रहे हैं ? **â€** (व्यवधान)

अध्यक्ष महोदय : जैसी आपकी भावना है वैसी उनकी भावना है। आप बोलिये।

...(व्यवधान)

प्रो. रीता वर्मा : अध्यक्ष महोदय, इनको चेयरमैन के पैनल से हटाया जाना चाहिए। **â€** (व्यवधान) यह पहले आपसे माफी मांगे। **â€** (व्यवधान)

MR. SPEAKER: Prof. Rita Verma, I have understood your sentiments. Let the debate be over.

â€ (व्यवधान)

प्रो. रीता वर्मा : यह आपकी कुर्सी की प्रतिठा का सवाल है। **â€** (व्यवधान)

श्री खारबेल स्वाई (बालासोर) : अध्यक्ष महोदय, पहले ये माफी मांगें, उसके बाद बोलें। **â€** (व्यवधान)

श्री चन्द्रकांत खैरे : आपके बारे में इनका बिहेवियर ठीक नहीं था। **â€** (व्यवधान)

अध्यक्ष महोदय : मैंने कहा कि यह बिहेवियर ठीक नहीं था लेकिन अभी इनको बोलने को कहा है तो रोकना भी ठीक नहीं है।

â€ (व्यवधान)

डॉ. रघुवंश प्रसाद सिंह : अध्यक्ष महोदय, हम आपकी इजाजत से बोल रहे हैं, ये कौन हैं। **â€** (व्यवधान)

अध्यक्ष महोदय : बाकी कुछ रिकार्ड में नहीं जाएगा, आप बोलिए।

â€ (व्यवधान)

अध्यक्ष महोदय : आप सुनिए, ये क्या बोल रहे हैं।

â€ (व्यवधान)

श्री प्रकाश मणि त्रिपाठी : अध्यक्ष महोदय, इस तरह यहां जंगल राज हो जाएगा। **â€** (व्यवधान)

अध्यक्ष महोदय : कृपया बोलिए।

â€ (व्यवधान)

अध्यक्ष महोदय : मैं आप सबका आभारी हूं। कृपया बैठिए।

â€ (व्यवधान)

अध्यक्ष महोदय : मैं आपकी भावना समझता हूं और मैंने उन्हें वार्निंग भी दी है। आगे ठीक हो जाएगा।

â€ (व्यवधान)

डॉ. रघुवंश प्रसाद सिंह : **â€*** महोदय। **â€** (व्यवधान)

अध्यक्ष महोदय : अब आप अपना भाग दीजिए।

मानव संसाधन विकास मंत्रालय में राज्य मंत्री (श्री अशोक प्रधान) : अभी भी कह रहे हैं कि **

डॉ. रघुवंश प्रसाद सिंह : देखा जाए, * मंत्री से बरखास्त हो गई।

प्रो. रीता वर्मा : यह क्या तरीका है।

डॉ. रघुवंश प्रसाद सिंह : * ...

आपने बड़ी कृपा की है कि मुझे बोलने की इजाजत दी। अध्यक्ष महोदय, नियम कहता है कि ऐडजर्नमेंट मोशन के लिए जो घटना लोक महत्व की हो, शीर्ष घटना हो, स्पेसिफिक हो और सरकार की जबाबदेही बनती हो, जिसमें सरकार की विफलता हो - इन चार बातों के होने से आप कृपा करते हैं और ऐडजर्नमेंट मोशन का नोटिस मंजूर करते हैं, बहस की इजाजत देते हैं। माननीय श्री प्रिय रंजन दासमुंशी, सोमनाथ दादा, श्री सुमन और श्री राम विलास पासवान ने सवाल उठाए हैं कि इसमें केवल सरकार की विफलता नहीं है, इसमें सीबीआई का दुरुपयोग किया गया है, इयंत्र किया गया है। सरकार के दो मंत्री इसमें अभियुक्त हैं। पहले तीन थे, एक बरखास्त हो गए। कई यहां बरखास्त होकर बैठे हैं। लेकिन दो मंत्री अभी बरकरार हैं। इसमें ज्यादा बिन्दु नहीं हैं। इसमें एक कानून मंत्री बरखास्त हो गए थे, फिर वापिस आ गए। यह हेराफेरी करने के लिए क्या जवाब देंगे। एफआईआर में आरोप लगाए गए कि कौन्सपीरेसी है। कौन्सपीरेसी के चार्ज का एफआईआर 197 हुआ। 198 में भी एक्यूज्ड हैं जो सरकार के मंत्री हैं। सोमनाथ दादा ने पढ़कर सुनाया। कोर्ट ने प्राइमा-फेसी मंत्री को इयंत्र करने का कसूरवार पाया। देश और दुनिया के लोग कह रहे हैं कि क्या कानून का राज चलेगा।

* Expunged as ordered by the Chair

में एक सवाल उठाना चाहता हूं। सरकार यह स्पष्ट करे कि होम मिनिस्टर ने सीबीआई का विभाग झपट लिया था। बाद में जब लोगों को जानकारी हुई कि अपने को बचाने के लिए सीबीआई पर दबाव डालेंगे, कैसे सीबीआई विभाग ले लिया। बाद में फिर वह सीबीआई विभाग प्रधान मंत्री के पास आया। यह बात सही है या नहीं, सरकार के लोग बताएं। इसीलिए यह सरकार दोहरा मापदंड अख्तियार कर रही है। इसी कौन्सपीरेसी के चार्ज में लालू प्रसाद यादव को बार-बार जेल हुई क्योंकि वे गरीब घर के हैं। ये लोग सरकार में मंत्री बने हुए हैं और आरोपित हैं।

चार्जशीट में एक्यूज्ड है। क्रिमिनल कांसपिरेसी है। वहां न्याय कैसे होगा?

अध्यक्ष महोदय : अब आप बैठिए। मैंने आपको इजाजत दे दी है।

डॉ. रघुवंश प्रसाद सिंह : इसलिए सदन में आप बहस की इजाजत देकर दूध का दूध और पानी का पानी करें तो न्याय होगा। सदन में बहस की इजाजत दी जाए और काम रोको प्रस्ताव की स्वीकृति दी जाए, यही हम आपसे प्रार्थना करते हैं।

श्री चन्द्रकांत खैरे : चारा घोटाला भी सीबीआई ने छोड़ दिया न ?

SHRI SUDIP BANDYOPADHYAY (CALCUTTA NORTH WEST): Mr. Speaker, Sir, the people of this country still have confidence in an organisation called, the CBI. If the CBI is criticised in this manner in this House, its image, its credibility, its reliability will be lowered in the estimation of the people of the country. This type of comments should not be uttered on the floor of this House by which a prestigious organisation's image is being lowered. The people of this country still have confidence on a few organisations and out of that CBI is one of them. If any investigation is required, we still demand that it should be inquired into by the CBI. The CBI has its own status and credibility till now in this country. There may be allegations and counter allegations, but the CBI should not be criticised to such a level by which its image will be totally lowered in the estimation of the people of this country.

MR. SPEAKER: Shri Sudip Bandopadyay, you have made your point. Please take your seat. Shri Banatwalla will speak now.

श्री जी.एम.बनातवाला : जनाब स्पीकर साहब, मैंने एडजर्नमेंट मोशन दिया है और मैंने वज़ीरे-कानून के खिलाफ प्रीविलेज मोशन भी दिया है कि उन्होंने हाउस को मिसलीड किया। प्रीविलेज मोशन आप एडजर्नमेंट मोशन के बाद लीजिएगा। उस वक्त मैं आपकी इजाजत लेकर कहूंगा। आज प्रियरंजन दासमुंशी साहब ने मुकदमे की पूरी तारीख ईवान के सामने रख दी है। यह हकीकत है कि हमारे मुल्क में रूल ऑफ लॉ, कानून की हुकमरानी और इंसाफ के साथ खिलवाड़ किया जा रहा है और धोखा दिया जा रहा है। इस हकीकत से इंकार नहीं किया जा सकता कि 4 अक्टूबर, 1993 को खुद सीबीआई ने एडीशनल ज्वाइंट जो चार्जशीट लखनऊ अदालत के सामने दाखिल की, उसके अंदर 120 (बी) यानी साजिश का इल्जाम लगाया। उसमें कहा गया कि तमाम 49 मुल्ज़मीन जिसमें आडवाणी जी, मुरली मनोहर जोशी जी और चोटी के तमाम लोग मौजूद हैं,

अध्यक्ष महोदय : अनिल बसु जी, आप बोलिए।

â€¦ (व्यवधान)

MR. SPEAKER: Shri Banatwalla, please conclude now. Shri Anil Basu will speak now and he will be the last speaker. After him, the Minister will speak.

श्री जी.एम.बनातवाला : अध्यक्ष जी, एक जुमला मुझे और कहने दीजिए कि अदालतों ने, सबने इस बात को माना है। ... (व्यवधान) हाई-कोर्ट ने माना है, सेशनस कोर्ट ने माना है कि आज सीबीआई अपनी तफतीश के खिलाफ जा रही है। â€¦ (व्यवधान) ऐसा क्यों? â€¦ (व्यवधान)

अध्यक्ष महोदय : बनातवाला जी, मैंने दो मिनट आपको दे दिये हैं।

â€¦ (व्यवधान)

श्री जी.एम.बनातवाला : हमारी मांग है कि यह सैक्शन 120 (बी) बढ़ाया जाए और पूरी ईमानदारी के साथ मुकदमा चलाया जाए। â€¦ (व्यवधान)

अध्यक्ष महोदय : रामदास जी, आप कल बोलना।

â€¦ (व्यवधान)

SHRI ANIL BASU : Mr. Speaker, Sir, regarding admissibility of the Adjournment Motion under Rule 56, everything has been explained by our esteemed senior colleagues. I only want to submit before you that the top executive of the Government, in collusion with the top executive of the CBI, has compelled the top executive of the CBI to drop the charges under Section 120 (B) of Indian Penal Code, which is clearly in violation of the Constitution of India. The top executive of the Government has favoured his Cabinet colleagues and compelled the CBI to drop the charges. This is a clear case of urgent public important. So, my submission before you is, you kindly admit the Adjournment Motion and allow the discussion.

SHRI K. FRANCIS GEORGE (IDUKKI): Mr. Speaker, Sir, I have given a notice and I may be permitted to speak.

MR. SPEAKER: I have received a number of notices, but I am not permitting everybody due to paucity of time.

SHRI ARUN JAITLEY: Mr. Speaker, Sir, I rise to oppose the admissibility of the Adjournment Motion on several grounds.

श्री मुलायम सिंह यादव : अध्यक्ष जी, हमें भी बोलना है। â€¦ (व्यवधान)

अध्यक्ष महोदय : मुलायम सिंह जी, आपको सचमुच बोलना है? एक मिनट, मुलायम सिंह जी क्या बोलना चाहते हैं ?

श्री मुलायम सिंह यादव : अब बोलने दीजिए। अब कोई बात नहीं है लेकिन मेरे बिना यह अधूरा है। चलिए अब बोलिए। अब इनको नहीं बैठाएंगे। â€¦ (व्यवधान)

श्री रामदास आठवले : मुझे भी दो मिनट का समय दे दें।

अध्यक्ष महोदय : रामदास जी, आप बैठ जाएं। बहुत समय हो गया है, खाना खाने के लिए भी समय नहीं है। अब मंत्री जी बोलेंगे।

...(Interruptions)

MR. SPEAKER: Shri Paranjpe, please sit down now. Now, the hon. Minister will speak.

SHRI ARUN JAITLEY: Sir, I rise to oppose the admissibility of this Motion primarily on two grounds. The first that the facts stated in this Motion as framed squarely cover an issue that is *sub judice*. Under Rule 58, such a Motion cannot be admitted or allowed to be discussed.

My second submission is that let alone be a matter of public importance, the motion is based, as the submissions have revealed, on facts which are totally factually erroneous.

Shri Dasmunsi's Motion states four basic premises: The first is that there is a criminal case in relation to the alleged demolition of the disputed structure. The second is that a charge-sheet has been filed before a court. The third is that there is a suppression of material facts in that charge-sheet. The fourth is that there is an attempt to protect certain persons who are accused in that particular charge-sheet. Whichever way, by playing with words, the Motion is drafted, in substance, the Motion is that the contents of the charge-sheet itself should make out a certain case and an effort has been made by the CBI to delete certain charges as far as the charge-sheet is concerned.

Today, there cannot be a better illustration for the applicability of the rule of *sub judice* than the present case because of precedents which are given. I can understand on matters of public importance, what should be done with the disputed site at Ayodhya. The matter may be in the court. It is an issue. Therefore, Ayodhya is discussed. But never has this House nor has any precedent been cited that where there is a case of individual culpability, there is a charge-sheet. The framing of the charge is being argued in court on the basis of a given evidence and there should be a parallel debate in this House whether the evidence stated in the charge-sheet should make out the framing of charge under which particular sections of the penal code. ... (Interruptions)

MR. SPEAKER: Hon. Members, listen to him.

SHRI PRIYA RANJAN DASMUNSI : Will the Minister yield for a minute?

SHRI ARUN JAITLEY: No, I am not yielding, Shri Dasmunsi. ...(*Interruptions*)

When you spoke, our Members did not disturb you.

SHRI PRIYA RANJAN DASMUNSI : Did CBI submit before the Court in Lucknow: "We plead you to include 120-B"?

SHRI ARUN JAITLEY: I am aware of it. ...(*Interruptions*)

SHRI PRIYA RANJAN DASMUNSI : Did that agency plead for including 120-B or not? ...(*Interruptions*) Do not mislead the Chair.

The question is this. Did CBI plead before the Court: "We want '120-B' to be included"? ...(*Interruptions*)

SHRI ARUN JAITLEY: If Shri Dasmunsi kindly has the patience to wait, I will not only answer this question but I would also tell him - when I say this is factually erroneous - facts which may be even more uncomfortable as far as you are concerned.

Today, what is the substance of the matter being argued in the court at Raebareli. On the basis of the entire evidence, documents, charge-sheets, what should be the charge that should be framed against the accused persons? We live in a society governed by the rule of law. We do not allow trials to be prejudiced by a parallel political debate in a forum that has absolutely no jurisdiction in the matter of framing a charge. ...(*Interruptions*)

MR. SPEAKER: Now, you must allow the Minister to speak.

SHRI ARUN JAITLEY: After listening to all the arguments that CBI has concluded its case, the lawyer for the accused is going to argue his case, the Judge's powers are very wide. The Judge can say: "I accept the contention of the CBI and I am prepared to frame the charges mentioned by the CBI." The Judge can go a step further and say: "Well on the basis of this entire evidence, some more sections, including section 120-B, can be added to it." ...(*Interruptions*)

MR. SPEAKER: Please sit down.

...(*Interruptions*)

MR. SPEAKER: I am not going to allow any Member to disturb the hon. Minister. Please sit down.

...(*Interruptions*)

SHRI ARUN JAITLEY: The judge can follow the third option and say, 'I frame charges...(*Interruptions*)

MR. SPEAKER: I gave enough opportunity to all the Opposition Members to speak. Now, please take your seats.

...(*Interruptions*)

SHRI ARUN JAITLEY: The judge can say, 'I frame charges under certain sections and not under certain sections.' The judge can say, on the basis of the entire chargesheet, a charge is not made out. These are all options which are open to a judge. If the CBI has done its job properly, the judge can accept the contention and the judge can also go into the question...(*Interruptions*)

SHRI PRIYA RANJAN DASMUNSI : The judge can also say that I would like to delete it.

SHRI ARUN JAITLEY: If I am permitted to continue, this entirely is a function on the basis of a chargesheet and an evidence which the Magistrate in question has to perform.

Now, why this House should not discuss this subject? It is because (a) This is not a function which belongs to the parliamentary forum as to under what section a charge must be framed...(*Interruptions*) This is the function which is entirely to be performed by the judge...(*Interruptions*)

MR. SPEAKER: This is not fair.

...(*Interruptions*)

SHRI ANIL BASU : The chargesheet was there.

श्री तरित बरण तोपदार (बैरकपुर) : सर, जज के लिए भी कानून होता है। (व्यवधान) जज कानून के बाहर नहीं है।

SHRI PRIYA RANJAN DASMUNSI : Sir, we would like to know whether the CBI is accountable to the Parliament or not... (Interruptions)

SHRI MANI SHANKAR AIYAR (MAYILADUTURAI): Sir, the hon. Minister is required to speak on the Motion. He is giving us a lecture on law. The core of the issue is, can the CBI, which is an Executive body, take one stand at one time and another stand at another where there has been no material change in between? He should answer that instead of thinking that he is a professor of law... (Interruptions)

SHRI ARUN JAITLEY: I will answer that question much to the embarrassment of what his party will then have to answer... (Interruptions) The framing of the charge and under what section is entirely the prerogative of the court. In the first instance, it is to the satisfaction of the CBI as to what charge is to be framed.

SHRI ANIL BASU : Charges can be framed on the basis of the case diary.

SHRI ARUN JAITLEY: What charge is to be framed, eventually which is a judicial function, under what section the accused are to be charged, this House has never in the past discussed matters of individual culpability because they are clearly covered in the *sub judice* rules.

SHRI SOMNATH CHATTERJEE : We have never said that. In the chargesheet it is not there.

SHRI PRIYA RANJAN DASMUNSI : We never said it... (Interruptions)

SHRI ARUN JAITLEY: Let me now come to second point... (Interruptions)

MR. SPEAKER: Please sit down. Let him speak. How can it be that the Members from the Opposition will speak and the hon. Minister is not allowed to speak?

...(Interruptions)

MR. SPEAKER: No please. I will not allow anybody to speak now. Mr. Minister, you can go ahead with your submission.

...(Interruptions)

SHRI ARUN JAITLEY: Let me now come to second point... (Interruptions)

SHRI ANIL BASU : Charges can be framed on the basis of the case diary. Why is he avoiding that point?

SHRI PRIYA RANJAN DASMUNSI : Mr. Speaker Sir, if the Government has the guts, let all the files be produced before you. You examine them and give your ruling. Let the facts be placed before you and let us have your ruling on that... (Interruptions) Let him accept the challenge. We will prove it how deliberately it has been done... (Interruptions)

SHRI ARUN JAITLEY: As far as the facts are concerned, let me just point out three-four basic facts. The incident took place... (Interruptions)

MR. SPEAKER: I have to listen to the hon. Minister. You cannot speak.

SHRI ARUN JAITLEY: The incident took place on 6th December 1992. On 27th of February 1993, the first chargesheet was filed. There was no government of either Kum. Mayawati or Shri Rajnath Singh in UP... (Interruptions)

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): Sir, we are not discussing the evidence. We are discussing whether the CBI has been misused or not. That is the primary question.

MR. SPEAKER: There is no point of order. Please sit down.

SHRI ARUN JAITLEY: Let us, once and for all in this House, even if the matter is *sub judice*, resolve this whole mystery of Section 120 B. Then, I am sure, Shri Dasmunsi's Party will have a lot to answer.

...(Interruptions)

MR. SPEAKER: Please sit down. The Minister is giving reply.

SHRI ARUN JAITLEY: Sir, the incident took place on the 6th of December, 1992. On 27th of February, 1993, a

Chargesheet was filed against Shri L.K. Advani and 7 others at the court in Lalitpur. This case is then transferred to Raebareli. There was no Government of Ms. Mayawati or Shri Rajnath Singh in UP at that time. UP was under President's Rule. The Central Government was the Government of the Congress Party. The Chargesheet was filed. Statements of evidence were filed. At least 60 such Statements are on record in that Chargesheet where 60 witnesses say that Shri L.K. Advani and some others stood up and made appeals to the crowd not to damage the disputed structure. In fact there is a statementâ€¦ (Interruptions)

SHRI PRIYA RANJAN DASMUNSI : I will read page by page. We have to put it as had happened.

SHRI ARUN JAITLEY: The material on record was that Shri L.K. Advani...(Interruptions)

SHRI SATYAVRAT CHATURVEDI (KHAJURAHO): Mr. Speaker Sirâ€¦ (Interruptions)

MR. SPEAKER: I am not permitting you.

SHRI PRIYA RANJAN DASMUNSI : I shall also read out the statement. It is here. You have to protect me. If the Minister goes through the merit of the statement, why should I not go para by para.

MR. SPEAKER: Let him complete his speech. Thereafter I will permit you and not at this stage and not the way in which you want to do it.

...(Interruptions)

SHRI ARUN JAITLEY: I am only confining myself to this mystery of Section 120 B. It is because despite all this evidence, obviously there could be no Section 120 B. The then investigating agency could not be filing it under Section 120 B.

SHRI SOMNATH CHATTERJEE : This is very serious. He is trying to ...(Interruptions)

MR. SPEAKER: Mr. Minister, you complete your speech. You go ahead.

I will allow you to ask questions after he completes his speech, not before that. Let him complete his speech. Thereafter I will allow you to put a question to the Minister. Not the way in which you want to put it. Please sit down.

...(Interruptions)

SHRI S. JAIPAL REDDY : He is a Law Minister. He is trying to give clean chit to the Home Minister who is an accused. He is trying to process the enquiry as if he is conducting the enquiry.

SHRI ARUN JAITLEY: No, Sir. I am only stating as a matter of fact that in the February, 1993, Chargesheet ...(Interruptions)

MR. SPEAKER: He is only giving me the facts of 1993 Chargesheet. What is wrong in it? If he is speaking anything wrong, you can put him questions.

SHRI PRIYA RANJAN DASMUNSI : This is how the Prime Minister gave a clean chit to Shri George Fernandes earlier.

MR. SPEAKER; This is a different issue. Please sit down.

SHRI ARUN JAITLEY: I take the responsibility for every fact I am stating.

SHRI S. JAIPAL REDDY : Sir, the Law Minister is giving certain opinion on a matter...(Interruptions)

SHRI ARUN JAITLEY: I will only state five facts to show that how CBI acted with utmost propriety in the present Chargesheet in February 1993...(Interruptions)

SHRI E.M. SUDARSANA NATCHIAPPAN (SIVAGANGA): I am on the point of order. I may be permitted to read Rule 58.

Sir, Rule 58 talks about the right to move the Adjournment Motion. Now, we are debating that point. I would like to quote Rule 58 (vii):

"The motion shall not deal with any matter which is under adjudication by a court of law having jurisdiction in any part of India. "

MR. SPEAKER: This goes against you. You have moved it. This will go against you.

SHRI E.M. SUDARSANA NATCHIAPPAN : Sir, I may be heard. We are within the rule. For the first time, the Minister of Law is violating the rule and he is bringing forward the evidence which is now *sub judice*. He is telling about Section 120 (B) and he is bringing forward the evidence part of it, which is now *sub judice*. Therefore, he is violating the rule. This cannot be allowed. ...(*Interruptions*)

MR. SPEAKER: I do not agree with you.

SHRI ARUN JAITLEY: On the question of Section 120 (B) ...(*Interruptions*)

SHRI E.M. SUDARSANA NATCHIAPPAN : Sir, he is bringing forward the evidence part of it. ...(*Interruptions*)

MR. SPEAKER: I have ruled out your point of order. Please sit down.

SHRI ARUN JAITLEY: My friend may ignore any evidence.

I will just state five basic facts in relation to this Section 120 (B). I stand by the correctness of each one of them.

In the first instance, on the 27th February, 1993, when the charge-sheet was filed ...(*Interruptions*)

SHRI S. JAIPAL REDDY : By whom?

SHRI ARUN JAITLEY: It was filed by the UP CID ...(*Interruptions*)

SHRI S. JAIPAL REDDY : It was not filed by CBI. ...(*Interruptions*)

SHRI ARUN JAITLEY: Shri Jaipal Reddy, do not be excited. Please wait for three more minutes and you will have a lot to answer.

The charge-sheet was filed by CBCID of UP; UP was under the President's Rule; a prominent leader of their party was at that time the Governor and the Central Government was ruled by the Congress Party. The charge, which was filed, was not a charge under Section 120 (B). ...(*Interruptions*)

SHRI MANI SHANKAR AIYAR : So what? ...(*Interruptions*)

SHRI ARUN JAITLEY: The second fact is that when the investigation was transferred to CBI, there was already a pre-existing charge-sheet against some people filed in a court. The court had taken cognisance. There was a particular procedure to be gone into while transferring this case to the Lucknow court. The matter, Sir, of issuance of a notification to combine the two cases - and I stand by the veracity of this fact - has not come up either before Shri Rajnath Singh or Kumari Mayawati for the first time. ...(*Interruptions*)

SHRI SOMNATH CHATTERJEE : Sir, how does he know? ...(*Interruptions*)

SHRI ARUN JAITLEY: It came up before the Governor, UP in 1993. After giving detailed reasons, on 9th September, 1993, the Governor's Office records detailed reasons that such a notification on several legal grounds cannot be allowed to be issued. The Governor declined it but it remains a mystery till today, because there was no Section 120 (B) in Shri Advani's charge-sheet, that despite the absence of the Governor's consent, despite the absence of the High Court's permission, Section 11 of the Cr.PC very clearly says ...(*Interruptions*)

SHRI SOMNATH CHATTERJEE : Sir, I am on a point of order. He is referring to a document without producing it. He cannot refer to that. ...(*Interruptions*)

MR. SPEAKER: He takes the responsibility of producing it.

SHRI SOMNATH CHATTERJEE : He is talking about the Governor's opinion. ...(*Interruptions*)

SHRI ARUN JAITLEY: I proceeded my statement by saying that I take the responsibility to what I say. ...(*Interruptions*)

SHRI MANI SHANKAR AIYAR : He is not simply allowed to do it. There is a Law Minister who violates the law. ...(*Interruptions*)

SHRI ARUN JAITLEY: It is a very uncomfortable fact and, therefore, I can see their agitation to it. ...(*Interruptions*)

SHRI S. JAIPAL REDDY : How do we know that it is a fact? ...(*Interruptions*)

SHRI ARUN JAITLEY: You will come to know that. ...(*Interruptions*)

श्री सत्यव्रत चतुर्वेदी : अध्यक्ष महोदय, यह जो चाहे बोल लें लेकिन हमारे एक सवाल का जवाब दिलवा दीजिए।

SHRI ANIL BASU : Sir, without producing the document, he cannot refer to it. ...*(Interruptions)*

MR. SPEAKER: You can speak, but I want to complete the debate.

SHRI ARUN JAITLEY: I need five more minutes' time.

श्री चन्द्रशेखर (बलिया, उ.प्र.) : अध्यक्ष जी, मैं यह जानना चाहता हूँ कि लॉ मिनिस्टर यहां पर वक्तव्य दे रहे हैं, कोर्ट में वकालत नहीं कर रहे हैं। ये पार्लियामेंट के सामने बोल रहे हैं। पार्लियामेंट का नियम है कि अगर कोई किसी डोक्यूमेंट को कोर्ट करता है तो वह सदन के सामने डोक्यूमेंट रखा जाना चाहिये।

श्री वी. धननंजय कुमार : अध्यक्ष जी, इन्होंने कोर्ट नहीं किया। He has never quoted ...*(Interruptions)*

MR. SPEAKER: The Minister is replying. Why are you disturbing? Please sit down.

श्री अरुण जेटली : अध्यक्ष जी, मैं श्री चन्द्रशेखर जी का आदर करता हूँ। वे बहस उस विषय पर कराना चाहते हैं जो विषय केवल अदालत के अंदर विचाराधीन है। जब कानूनी विषय पर बहस होगी तो स्वाभाविक है कि कानून पहलु इस पर रखे जायेंगे।

श्री चन्द्रशेखर : अध्यक्ष जी, या तो मुझे बोलने दिया जाये या इन लोगों को बोलने दें। मैंने तो कभी नहीं कहा कि उसमें चार्ज-शीट लगनी चाहिये लेकिन एक बात जरूर है कि किसी मिनिस्टर को सॉइंट नहीं कि वह हमें यह सीख दे कि कोर्ट में जो हो रहा है, उस बात पर यहां डिसकस नहीं करना चाहिये। क्या उन्हें यह सीख नहीं लेनी चाहिये कि जो गवर्नर के डोक्यूमेंट या रिपोर्ट है, उसे कोर्ट नहीं करना चाहिये या उसका उद्धरण देते हुये यहां पर कोई बात कर सकते हैं? क्या मिनिस्टर को यह सॉइंट है कि वह पार्लियामेंट के रूल को अनदेखा करे?

SHRI MANI SHANKAR AIYAR : He is a lawyer but an inexperienced master batsman...*(Interruptions)*

SHRI V. DHANANJAYA KUMAR : This should be withdrawn. Why is he making a personal remark?...*(Interruptions)*
No personal remarks should be made. Then, we will also make personal remarks.

SHRI ANIL BASU : Sir, what is your ruling on this?

SHRI CHANDRA SHEKHAR : The ruling is that the Minister can say anything; he can plead like a lawyer in Parliament; and he has no responsibility to the Parliament....*(Interruptions)*

MR. SPEAKER: Mr. Minister, please go on speaking.

...*(Interruptions)*

SHRI ANIL BASU : Sir, what is your ruling on this issue?

MR. SPEAKER: There is no point of order raised. Please sit down. आप यह बार-बार क्या कर रहे हैं? He has not raised the point of order. If he had said it is a point of order, I will give the ruling.

...*(Interruptions)*

SHRI RUPCHAND PAL : How can we continue like this? He is referring to some documents....*(Interruptions)*

MR. SPEAKER: Shri Arun Jaitley, please go ahead.

SHRI ARUN JAITLEY: The second fact is this. The conditions for a Notification were that the State Government must issue a Notification and the High Court must consent it. Despite that not being done, a charge-sheet in which there was no Section 120B, contrary to law, got merged with the charge-sheet in which there was Section 120B....*(Interruptions)*

SHRI PRIYA RANJAN DASMUNSI : This is completely unprecedented. He is giving his own judicial pronouncement on the matter which is completely unbearable. What is this? He is giving a judgement on the issue. How can the Law Minister give his judgement?...*(Interruptions)*

MR. SPEAKER: That can be his opinion. It cannot be a judgement from him.

...*(Interruptions)*

SHRI PRIYA RANJAN DASMUNSI : He is saying that. What is this?

MR. SPEAKER: I think this is what you plead about in general.

...*(Interruptions)*

SHRI S. JAIPAL REDDY : Mr. Speaker, Sir, I am on a point of order.

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): Under which rule?

SHRI S. JAIPAL REDDY : Mr. Speaker, Sir, he is the Law Minister. He is supposed to mention the facts, but he has, in the formulation that he made, cast an aspersion on the action of the CBI in 1993. So, can the Law Minister cast an aspersion on the CBI? If this is the considered view of the Government, what is the action taken by the Government on the CBI? Can he express an opinion without taking an action? Is he representing himself or the Government of India?...*(Interruptions)*

SHRI ARUN JAITLEY: May I re-state? I re-state what I have said that in the absence of a Notification by the State Government, in the absence of a consent of the High Court, a charge-sheet in which there was no Section 120B got merged with the charge-sheet in which there was Section 120B.

SHRI S. JAIPAL REDDY : By whom was it merged? ...*(Interruptions)*

SHRI ARUN JAITLEY: Shri Jaipal Reddy, none of us were born yesterday. We know by whom it was done and we know whose was the Government in power then. Neither were you born yesterday and nor was I born yesterday. ...*(Interruptions)*

SHRI S. JAIPAL REDDY : Sir, a Minister cannot cast an aspersion on the CBI. ...*(Interruptions)*

SHRI ARUN JAITLEY: It is this precise illegality which came to the notice of the Allahabad High Court and while upholding the framing of the charges against others, those who had been brought in by this route that merged into a chargesheet without a notification, the High Court said, 'While charges against others are upheld, insofar as 48 cases referred to in the schedule are concerned, the impugned order, that is, framing of charge is set aside with respect to crime No.198 of 1992.' ...*(Interruptions)*

SHRI SOMNATH CHATTERJEE : Let him admit that. He is misleading us on merits. ...*(Interruptions)*

SHRI ARUN JAITLEY: Sir, here we are discussing the role of the CBI. ...*(Interruptions)*

श्री सत्यव्रत चतुर्वेदी : अध्यक्ष महोदय, इन्हें बोलिये यह पूरा पैरा पढ़ें और बतायें इसमें आगे क्या लिखा है।

SHRI SOMNATH CHATTERJEE : This is a very sad day for Parliament because of the way the Minister is misleading the House deliberately. ...*(Interruptions)* It is shameful.

SHRI ARUN JAITLEY: The CBI even after this judgement wrote ...*(Interruptions)*

SHRI ANIL BASU : Sir, I am on a point of order under rule 352, which says:

"A member while speaking shall not --

(i) refer to any matter of fact on which a judicial decision is pending;"

SHRI ARUN JAITLEY: Thank you very much. I am very grateful.

श्री अनिल बसु : वह लॉ मिनिस्टर हैं, ...*

* Expunged as ordered by the Chair

SHRI SHIVRAJ V. PATIL (LATUR): This matter is before this House and this House and your goodself have to decide whether this is admissible or not, whether this notice is admissible or not and whether it should be taken up for discussion on an Adjournment Motion or not.

The arguments which were advanced by Shri Priya Ranjan Dasmunsi related only to that point. He did not refer to the evidence. He did not refer to the files. He did not make any mention about the so many documents which might have been there in the files. Now, in reply to these arguments, we are getting arguments based on merits, the point which he has not argued at all. Now, we have a situation in this House in which nothing has been argued on the basis of merits but we are getting a reply on the basis of so-called 'merit'. So, it is one-sided and this cannot be allowed. If you allow Shri Dasmunsi to speak on the basis of merit, to refer to the documents and to refer to the evidence, let the hon. Minister reply to it, but if the hon. Minister is referring to the evidence, the documents in the

files of the Governor and to many other things without Shri Dasmunsi having referred to them, how can this go on? That is why my request is that let the admissibility be decided. That is why, my request is that let the admissibility be decided. ...(*Interruptions*) I would request that either the hon. Law Minister sticks to it or you please give him a direction. ...(*Interruptions*)

MR. SPEAKER: Normally, it is expected that only the merits of a matter can be discussed during the discussion. Here the question is why the Adjournment Motion is to be admitted. I would request Shri Arun Jaitley to restrict his remarks only to that.

...(*Interruptions*)

श्री राम विलास पासवान : यह भी बतलाइए कि मस्जिद तोड़ने के एक दिन पहले क्या हुआ था कटियार जी के यहां। कौन कौन लोग बैठे थे? जो प्लानिंग हुई थी, वह वहीं हुई थी। उस पर तो बोल नहीं रहे हैं। **â€**(*व्यवधान*)

13.56 hrs.(Dr. Raghuvansh Prasad Singh in the Chair)

SHRI ARUN JAITLEY: After the judgment of the Allahabad High Court, since we are discussing the conduct of the CBI, the CBI again wrote to the State Government seeking the issuance of a notification. **â€**(*Interruptions*)

SHRI SOMNATH CHATTERJEE : Sir, he is referring to the documents and letters written by the CBI. Where are they before us? ...(*Interruptions*)

SHRI ARUN JAITLEY: Shri Somnath Chaterjee has again and again stated as to why the State Government**â€**....(*Interruptions*)

SHRI SOMNATH CHATTERJEE : Sir, he is referring to the documents and letters written by the CBI. ...(*Interruptions*)

श्री राम विलास पासवान : आप रूलिंग क्यों नहीं देते हैं?

समापति महोदय : जो प्रश्न उठाया गया है, मंत्री जी उसका उत्तर दे रहे हैं।

...(*व्यवधान*)

श्री अरुण जेटली : समापति जी, सोमनाथ जी ने यही प्रश्न उठाया कि हाई कोर्ट ने कहा कि इसको क्योर कर दो जब सैट असाइड किया। तब सीबीआई ने क्या कहा? सीबीआई ने एक बार फिर राज्य सरकार को लिखा और राज्य सरकार को कहा कि आप नोटिफिकेशन इश्यू कीजिए। **â€**(*व्यवधान*)राज्य सरकार ने पूरे कारण लिखते हुए, जिसमें एक मूल कारण यह भी था कि इस विषय पर सन् 1993 में भी एक मत लिया जा चुका है, इसलिए उसकी अनुमति नहीं दी। **â€**(*व्यवधान*)

समापति महोदय : बीच में इंटरप्ट मत कीजिए। उनको कहने दीजिए।

...(*व्यवधान*)

SHRI PRIYA RANJAN DASMUNSI : Sir, I would like to ask only one question from the hon. Minister. Did the CBI at any point of time submit before the court to include Section 120(B) in the charge sheet? ...(*Interruptions*) That is what we want to know and nothing else. This is the only point we want to know from him. ...(*Interruptions*)

SHRI ARUN JAITLEY: Yes, Shri Priya Ranjan Dasmunsi is right. The CBI went to the Lucknow court without the notification. That is precisely what was quashed by the High Court. ...(*Interruptions*)

13.58 hrs. (Mr. Speaker in the Chair)

SHRI PRIYA RANJAN DASMUNSI : Sir, again, he is misleading. ...(*Interruptions*)

SHRI ARUN JAITLEY: All that I will say is, after the judgment, after no new notification being issued, all the charge sheets of 1993 have revived, the CBI has filed a supplementary documentary charge sheet, and that is the case which is being argued. ...(*Interruptions*) Therefore, there is no case of diluting of any charge whatsoever by the CBI. So, this Adjournment Motion should be rejected. ...(*Interruptions*)

SHRI SOMNATH CHATTERJEE : It is shameful. We cannot accept this. ...(*Interruptions*)

SHRI MANI SHANKAR AIYAR : Sir, I am on a point of order.

Under Rule 380 and Rule 381 of the Rules of Procedure and Conduct of Business in Lok Sabha, I request the hon. Speaker to kindly consider all that is unparliamentary in what the Law Minister said and it is to be expunged from the records. I do not think we shall listen to all the ...* that the Law Minister has said. **â€** ...(*Interruptions*)

SHRI TARIT BARAN TOPDAR : I think, he is a good lawyer but a bad Minister. He proved to be bad in both.

...(Interruptions)

श्री सत्यव्रत चतुर्वेदी : अध्यक्ष महोदय, आपके माध्यम से मैंने एक प्रश्न पूछने की इजाज़त चाही थी। अभी तक सारा तिलस्मी किस्सा जो इन्होंने सुनाया, हमने चुपचाप सुना।

श्री अरुण जेटली : चुपचाप नहीं सुना। सुना ही नहीं। आप तो चिल्ला रहे थे।

अध्यक्ष महोदय : थोड़ा-थोड़ा सुना है।

* Expunged as ordered by the Chair

श्री सत्यव्रत चतुर्वेदी : महोदय, एक प्रश्न स्पेसिफिक में पूछना चाहूँगा परंतु उसके पहले आपसे निवेदन करना चाहूँगा कि जितना मेरा प्रश्न सीधा है, मैं अपेक्षा करूँगा और आप संरक्षण देंगे कि उसका उत्तर भी उतना ही सीधा हो।

14.00 hrs.

अध्यक्ष महोदय : आप सीधी बात पूछें।

श्री सत्यव्रत चतुर्वेदी : क्या यह बात सही नहीं है कि सत्र न्यायालय के अंदर, विशेष न्यायालय अयोध्या प्रकरण के अंदर, उसके बाद उच्च न्यायालय के अंदर और उसके बाद सर्वोच्च न्यायालय में, तीनों जगहों पर सी.बी.आई. के वकील ने निरन्तर इन तीनों मंत्रियों और नेताओं पर आपराधिक ङडयंत्र रचने का आरोप लगाया और बार-बार वेहिमेंटली, दोहराकर कहा कि ये धारा 120 बी के अंदर आरोपी हैं, दोषी हैं ? ... (Interruptions)

DR. VIJAY KUMAR MALHOTRA : Sir, when will your ruling come? वही बात दुबारा दोहरा रहे हैं। ... (Interruptions)

MR. SPEAKER : It will be after Shri Priya Ranjan Dasmunsi speaks as I have permitted him.

...(Interruptions)

SHRI PRIYA RANJAN DASMUNSI : Sir, the question raised by hon. Member Shri Satyavrat Chaturvedi may be noted by the hon. Minister of Law and Justice and replied to. My question is very simple. Sir, I have maintained decorum today in not referring to any facts regarding this matter. The issue which the hon. Minister of Law and Justice did not reply till now is — (Interruptions)

SHRI ARUN JAITLEY: You might not have understood, but I replied.

SHRI PRIYA RANJAN DASMUNSI : The issue is, before the High Court judgement has set aside Section 198, whether it is not a fact that the CBI got permission from Raebareli court to investigate the matter and after investigation pleaded before the special court to include Section 120-B out of the outcome of the investigation and it was confirmed and whether it is not a fact that the High Court Judge did not question Section 198 on merits and after the notification upheld all the charges framed by the court. ... (Interruptions)

श्री वी.घनञ्जय कुमार : अध्यक्ष महोदय, यह तो वही बात हो गई कि पूरी रामायण खत्म हो गई और इन्हें यही पता नहीं लगा कि सीता राम की बहन थी या पत्नी। (व्यवधान)

श्री मुलायम सिंह यादव : अध्यक्ष महोदय, हम दो सवाल करना चाहते हैं। आमतौर पर सारे समाचारपत्रों में, सारी पत्रिकाओं में आ चुका है और कोर्ट के सामने भी आ चुका है कि 5 दिसम्बर, 1992 को माननीय संसद सदस्य विनय कटियार जी के घर बैठक हुई और उसमें यह निर्णय लिया गया कि हर हालत में मस्जिद को ढहा दिया जाएगा। उस मीटिंग में आडवाणी जी थे। (व्यवधान)

श्री वी.घनञ्जय कुमार : आप इसका डाक्युमेंट्री प्रूफ प्रस्तुत करिए। (व्यवधान)

श्री मुलायम सिंह यादव : मैंने तो प्रधान मंत्री को गिरफ्तार किया था।

अध्यक्ष महोदय, मेरा दूसरा स्पेसिफिक प्रश्न यह है कि क्या यह सत्य नहीं है कि कल्याण सिंह जी के वकीलों ने कहा और कल्याण सिंह जी स्वयं यह बोल रहे थे कि जब मैं इस्तीफा देना चाहता था तो आडवाणी जी ने कल्याण सिंह जी से कहा था कि जब तक मस्जिद न गिर जाए, तब तक इस्तीफा मत देना। कोर्ट के अंदर कार-सेवकों ने कहा कि आडवाणी जी हमें फंसा रहे हैं और आडवाणी जी ने चिल्ला-चिल्ला कर कहा कि मस्जिद को ढहा दो, क्या यह तथ्य सही नहीं हैं ? (व्यवधान)

MR. SPEAKER : Please do not disturb him. Let him ask the question.

श्री मुलायम सिंह यादव : मुझे आपके प्रधान मंत्री माननीय आडवाणी जी को गिरफ्तार कर के जेल में डालना पड़ा। शंकराचार्य जी को भी गिरफ्तार कर के जेल में

डालना पड़ा। (व्यवधान)

DR. VIJAY KUMAR MALHOTRA : Sir, it is totally false. (Interruptions)

श्री मुलायम सिंह यादव : इन्होंने पूरा का पूरा वातावरण ही हर तरह से खराब किया है। हमें आपके नेताओं को जेल में डालना पड़ा। मल्होत्रा साहब नहीं पहुंच पाए थे। (व्यवधान)

स्वास्थ्य और परिवार कल्याण मंत्री तथा संसदीय कार्य मंत्री (श्रीमती सुमा स्वराज) : अध्यक्ष जी, आपको विपक्ष के कुछ साथियों ने कार्य-स्थगन के प्रस्ताव का नोटिस दिया है। सदन में इस समय केवल इस बिन्दु पर चर्चा होनी है कि यह प्रस्ताव नियमानुकूल है या नहीं। इस प्रस्ताव को चर्चा के लिए स्वीकृत किया जाना चाहिए या नहीं। चूंकि सोमनाथ चटर्जी जी द्वारा चर्चा का दायरा व्यापक कर दिया गया था, इसलिए विधि मंत्री जी को थोड़ा व्यापक उत्तर देना पड़ा। (व्यवधान)

SHRI SOMNATH CHATTERJEE : Sir, I only read out the charges that have been framed. (व्यवधान) क्या विस्तार किया?

श्रीमती सुमा स्वराज : आपने फ़ैक्ट्स के ऊपर बात की और वह यह कहना चाहते थे कि यह फ़ैक्ट्स गलत हैं। मेरा आपसे विनम्र निवेदन है कि एडजर्नमेंट मोशन किन बिन्दुओं पर स्वीकृत किया जाना चाहिए और किन पर नहीं किया जाना चाहिए, यह बहुत स्पष्टता से रूल बुक में लिखा है - Rule 58 deals with restrictions on right to move Adjournment Motion. रूल 58 और 58 का सब-रूल (7) बहुत साफ कहता है कि अगर कोई प्रकरण न्यायालय के अधीन है, सब-ज्यूडिस है तो उसे चर्चा के लिए स्वीकृत नहीं किया जा सकता, और किसी भी तथ्य पर विवाद हो सकता है लेकिन इस तथ्य पर नहीं हो सकता तो इस समय भी मामला केवल सब-ज्यूडिस नहीं है, बल्कि उसी बिन्दु पर, जिस पर विधि मंत्री जी ने जोर देकर कहा कि इसी बिन्दु पर वहां चर्चा चल रही है, आर्गुमेंट हो रहे हैं। इस समय बहस महज़ इसी बिन्दु पर हो रही है कि टोटल बाद में क्या चार्जज लगा, क्या नहीं लगा। ये बिन्दु अपने आप में इस प्रस्ताव को अस्वीकृत करने के लिए काफी है। इसलिए मैं संसदीय कार्य मंत्री के नाते आपसे निवेदन करती हूँ कि रूल 58, सब रूल 7 के अंतर्गत आप इस प्रस्ताव को अस्वीकृत कर दीजिए। यह प्रस्ताव चर्चा के लिए स्वीकृत नहीं किया जा सकता। (व्यवधान)

SHRI PRIYA RANJAN DASMUNSI : Sir, she should take care of the health of the Law Minister instead of defending him! ... (Interruptions)

MR. SPEAKER: Hon. Members, I am, now, addressing the House for my ruling on a very important point of order which has been raised.

...(Interruptions)

श्री सत्यव्रत चतुर्वेदी : महोदय, हमारे प्रश्न का जवाब नहीं आया। (व्यवधान)

अध्यक्ष महोदय : आप प्रश्न पूछ सकते हैं, उसका जवाब देना या नहीं देना, यह मंत्री जी तय करेंगे।

(व्यवधान)

MR. SPEAKER: I cannot force him to reply.

...(Interruptions)

MR. SPEAKER: The point of order which is raised by Shri Priya Ranjan Dasmunsi (व्यवधान).

...(Interruptions)

श्री सत्यव्रत चतुर्वेदी : हमने जो प्रश्न किया, अगर उसका जवाब मंत्री जी नहीं दे सकते तो इसका मतलब बिलकुल साफ है। (व्यवधान)

MR. SPEAKER: You know the rule.

...(Interruptions)

MR. SPEAKER: I have allowed him to ask a question.

...(Interruptions)

MR. SPEAKER: Please listen to me.

...(Interruptions)

SHRI PRIYA RANJAN DASMUNSI : Sir, he is not responding to the questions we have raised. ... (Interruptions)

MR. SPEAKER: That is what I am asking him, but will you permit me to ask him?

...(Interruptions)

MR. SPEAKER: Hon. Minister, would you like to reply to the question raised by him?

...(Interruptions)

SHRI SATYAVRAT CHATURVEDI : I have raised a straight question and I want a straight answer. ...*(Interruptions)*

SHRI ARUN JAITLEY: Sir, I have already answered the question posed by my very distinguished colleague, but since apparently there was some inability on my part to be more explicit, I am grateful to him for having posed this question once again. In 1993, ...*(Interruptions)* I have understood it. ...*(Interruptions)*

श्री सत्यव्रत चतुर्वेदी : मैं प्रश्न स्पष्ट कर दूँ।*(व्यवधान)*

श्री अरुण जेटली : आप पहले मेरी पूरी बात सुन लीजिए।*(व्यवधान)*

SHRI PRIYA RANJAN DASMUNSI : Sir, this is the way we co-operate. ...*(Interruptions)* My question was not about 1993 issue. My question was specific. Did CBI on its own, after submitting its investigation report, plead to include section 120B in Lucknow Court or not? This is my question. Why is he not answering?*(व्यवधान)*

श्री सत्यव्रत चतुर्वेदी : मेरा सवाल बिलकुल सीधा है कि क्या उच्च न्यायालय और उसके बाद सर्वोच्च न्यायालय ने, सीबीआई के वकील ने इस बात को प्लीड किया कि इनके विरुद्ध आपराधिक ङ्घंत्र का मुकदमा है।*(व्यवधान)* यह बात सही है या गलत, इसका जवाब आप हाँ या न में दें।*(व्यवधान)*

SHRI ARUN JAITLEY: Sir, I am afraid that if I had not yielded to Shri Mani Shankar Aiyar ...*(Interruptions)*

MR. SPEAKER: Shri Arun Jaitley, I have permitted you to reply.

...*(Interruptions)*

SHRI MANI SHANKAR AIYAR : Sir, he should reply in 'yes' or 'no'. ...*(Interruptions)*

SHRI SATYAVRAT CHATURVEDI : Sir, he should say 'yes' or 'no'. ...*(Interruptions)*

SHRI PRIYA RANJAN DASMUNSI : Sir, he should reply in 'yes' or 'no'. ...*(Interruptions)*

SHRI ARUN JAITLEY: I will not oblige you. I will give an answer which I want to give. ...*(Interruptions)*

SHRI PRIYA RANJAN DASMUNSI : Sir, this is not proper. ...*(Interruptions)*

SHRI ARUN JAITLEY: Sir, he is not to decide what answer I give. ...*(Interruptions)* Sir, this is unprecedented. ...*(Interruptions)*

MR. SPEAKER: Please sit down.

...*(Interruptions)*

MR. SPEAKER: There are two questions asked.

...*(Interruptions)*

MR. SPEAKER: Please sit down. There are two questions asked, and the Minister is ready to reply.

SHRI SATYAVRAT CHATURVEDI : Let him reply to my question in 'yes' or 'no'. ...*(Interruptions)*

MR. SPEAKER: No. He is replying, but not in the manner of 'yes' or 'no'. Let him reply. That is what he said.

श्री प्रियरंजन दासमुंशी : मेरा सवाल मैं फिर स्पष्ट करता हूँ, क्या सी.बी.आई. लखनऊ कोर्ट में 120(बी) लगाने के पक्ष में थी या नहीं, यह कह दीजिए।

MR. SPEAKER: You cannot force him to say whether 'yes' or 'no'. प्लीज सुनिये, अब मिनिस्टर रिप्लाई दे रहे हैं। Please sit down.

...*(Interruptions)*

MR. SPEAKER: Please sit down. मिनिस्टर को आपके प्रश्न का उत्तर देना है। वे उत्तर देने के लिए खड़े हैं और आप उत्तर नहीं देने देंगे तो कैसे काम चलेगा।

SHRI ARUN JAITLEY : Sir, in the 1993 Chargesheet, there was no Section 120 B. When this Chargesheet was first filed, and Section 120 B was introduced, it was set aside by the High Court, and now the original Chargesheet ...*(Interruptions)*

SHRI PRIYA RANJAN DASMUNSI : No, Sir. ...*(Interruptions)*

MR. SPEAKER: Now, I am going to give my ruling on this issue.

...*(Interruptions)*

MR. SPEAKER: I have received a number of Adjournment Motions, and the arguments also have been made by Members like Shri Priya Ranjan Dasmunsi

...(Interruptions)

MR. SPEAKER: I am giving my ruling. Please sit down. Whatever reply he thought proper, he has already given that. Please sit down.

...(Interruptions)

MR. SPEAKER: Shri Dasmunsi started arguing as to why he wanted Adjournment Motion to be admitted, and he made the first point to me that the Prime Minister is in-charge of the CBI. I do not think that the Prime Minister has any objection in accepting it. Thereafter, he has also mentioned in the House that this matter is of national importance. I had already said that really the matter is of national importance.

...(Interruptions)

MR. SPEAKER: Please behave properly than what you are doing now.

...(Interruptions)

MR. SPEAKER: The matter is really of national importance and the issue has been discussed threadbare. I am not going into the merits of the case. My ruling will be restricted only to a question whether this Adjournment Motion which is submitted, and the other Adjournment Motions that are there can be admitted in the form of Adjournment Motions. I agree with Shri Dasmunsi when he said merely because this matter is *sub judice*, and it is a serious matter, can it be rejected? He has raised a point that any matter merely because it is *sub judice*, cannot be rejected. That is what his point was. I think, this would always depend from case to case, and the matter can be discussed in this particular regard.

Friends, the issue was discussed at large, and thereafter I also have gone through all the rules; and according to the rules; I will be giving a judgement. I am not going into the merits and demerits of the case, and the facts that are brought before us. But, fortunately Kaul and Shakti has also made the position quite clear, and depending on the Kaul and Shakti and also on the facts which have been received from the Government, my ruling will be given to you now.

Hon. Members, Rule 58 of the Rules of Procedure and Conduct of Business in Lok Sabha provides that the motion for Adjournment of the House shall be "Restricted to a matter of recent occurrence involving responsibility of the Government of India." The rule also provides that : "The Motion shall not deal with the matter which is under adjudication by a court of law having jurisdiction in any part of India."

As the hon. Members are aware, the matter sought to be raised by a Motion of Adjournment should, *inter alia*, be definite; it should be of urgent public importance; it should relate to a specific matter of recent development and it should have factual basis.

Kaul and Shakti -- whose name I just now referred -- have further stated: "There is no objection *per se* to the notice of an Adjournment Motion being given simply because it happens to be based on a newspaper report, but the Speaker before accepting the Motion must be in possession of further facts. Press reports, unless admitted by Government, cannot be accepted as authoritative for the purpose of an Adjournment Motion. An Adjournment Motion does not lie when facts are in dispute, or before they are available. When Government dispute the facts stated in the notice of the Adjournment Motion, the Speaker accepts the Government version of the facts." This is what Kaul and Shakti have said.

The notices given by the hon. Members today, of course, relate to a specific matter of recent occurrence involving the responsibility of the Government of India.

The notices are based on Press reports. The notices of Adjournment Motion received on 21st July, 2003 on the same subject were referred by me to the Government for facts and since the Government had disputed the factual basis of the notices, I had disallowed them. The notices of Adjournment Motion received today have also been referred to the Government for facts. The comments of the Government are awaited.

I have also now heard the Members from the Opposition and the Government side.

The contention of the Opposition side, stated very briefly, is that the charge of conspiracy has been dropped from the charge-sheet filed by the CBI in Raebareilly Court against some Union Ministers and others. The Government have disputed this contention.

It is a fact that the matter is presently pending before a court in Raebareli and arguments on framing of charges are being heard. The issue of framing charges under specific offences ought to be decided by the court and not by this House. If a discussion takes place in the House on this matter by way of an Adjournment Motion culminating in a decision by the House, the possibility of the court being influenced thereby cannot be ruled out.

As I said, the Government have disputed the facts on which the notices are based. There are numerous rulings of my worthy predecessors where the notices of Adjournment Motion were disallowed since the Government had disputed the facts given in the Adjournment Motion.

I am, therefore, inclined to disallow the notices of Adjournment Motion.

...(Interruptions)

MR. SPEAKER: I have not yet completed my ruling.

SHRI PRIYA RANJAN DASMUNSI : The hon. Minister is deliberately misleading the House.

14.17 hrs

(At this stage, Shri Priya Ranjan Dasmunsi and some other
hon. Members left the House.)

MR. SPEAKER: Please listen to me. I am, however, prepared, if the House agrees, if the Business Advisory Committee agrees, to allow a Short Duration Discussion on the matter as it would not culminate in a decision from the House.

During the discussion, whenever it takes place, the Members would, however, not say anything which would influence the court in its consideration of the matter.

14.18 hrs.

The Lok Sabha then adjourned till Fifteen of the Clock.

15.02 hrs.

The Lok Sabha re-assembled at two minutes past Fifteen of the Clock.

(Mr. Deputy-Speaker in the Chair)

SHRI K. YERRANNAIDU : Mr. Deputy-Speaker, Sir, I gave notice of motion for suspension of Question Hour this morning and the hon. Speaker had given ruling that this matter would be admitted today. Discussion on Taj Heritage Corridor is already listed in today's business. If you admit a discussion on the issue raised by us tomorrow, I would not have any objection. This is my request.

If you admit a discussion under Rule 193, the other side also can participate in it. I will explain my case, they will explain their case and then the Government will reply. So, let there be a discussion tomorrow on the issue raised by us and let there be no further delay.

MR. DEPUTY-SPEAKER: If the hon. Speaker has given his consent, you will be accommodated.

SHRI K. YERRANNAIDU : At the time of discussions, hon. Speaker categorically said that a discussion would be allowed.

MR. DEPUTY-SPEAKER: If he has already made a commitment, he will definitely allow it.

Now, the House shall take up Matters under Rule 377.

SHRI R.L. JALAPPA (CHIKABALLAPUR): Sir, why cannot Shri Yerrannaidu start right now?

SHRI K. YERRANNAIDU : I am ready. We can start right now.

MR. DEPUTY-SPEAKER: Let me tell you Shri Yerrannaidu, it is not a bilateral issue between you and Shri Jalappa.

Let me also come into the picture.

SHRI K. YERRANNAIDU : Since my good friend Shri Jalappa was saying that, I said that I was ready.

MR. DEPUTY-SPEAKER: Now, let us go on to Matters under Rule 377. Shri Laxman Gilua.

श्री रामजी लाल सुमन (फिरोजाबाद) : उपाध्यक्ष महोदय, नियम 377 के अधीन मामलों को सभा पटल पर ले करवा दें, पांच बजे प्रधान मंत्री जी का स्टेटमेंट है और यह सवाल बहुत महत्वपूर्ण है।

उपाध्यक्ष महोदय : कल भी ले किए गए थे। ज्यादा नहीं हैं। Let us have them read out. I have already called the Member.
