

>

Title: Statutory resolution regarding Disapproval of High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Ordinance, 2009 and High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Bill, 2008(Statutory Resoulution negatived and Government Bill-passed.).

MR. DEPUTY-SPEAKER: Now, we will take up Item Nos. 32 and 33 together. Item No. 32 relates to the Statutory Resolution, Shri Rasa Singh Rawat -- is also not present.

Shri Girdhari Lal Bhargava -- not present

Shri Varkala Radhakrishnan.

SHRI JAGDISH TYTLER (DELHI SADAR): Sir, most respectfully I would like to submit that since our Minister is on the way, I hope that you will be able to take up Item No. 31 after finishing Item No. 32.

MR. DEPUTY-SPEAKER: We will have to take up this Bill. Thereafter, I will take up that Bill.

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): I beg to move :

"That this House disapproves of the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Ordinance, 2009 (No. 1 of 2009) promulgated by the President on 9 January, 2009."

MR. DEPUTY-SPEAKER: Now, the hon. Minister to move for the consideration of the Bill.

THE MINISTER OF LAW AND JUSTICE (SHRI H.R. BHARDWAJ): I beg to move* :

"That the Bill further to amend the High Court Judges (Salaries and Conditions for Service) Act, 1954 and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958, be taken into consideration."

MR. DEPUTY-SPEAKER: Motions moved:

"That this House disapproves of the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Ordinance, 2009 (No. 1 of 2009) promulgated by the President on 9 January, 2009."

"That the Bill further to amend the High Court Judges (Salaries and Conditions for Service) Act, 1954 and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958, be taken into consideration."

MR. DEPUTY-SPEAKER: Mr. Radhakrishnan, now you are at liberty to speak.

SHRI VARKALA RADHAKRISHNAN : I moved the Resolution for disapproval under Article 123 of the Constitution. Shall I continue?

MR. DEPUTY-SPEAKER: Yes, now you can continue.

SHRI VARKALA RADHAKRISHNAN : This is a Bill ...(*Interruptions*)

श्री सैयद शाहनवाज़ हुसैन (भागलपुर): उपाध्यक्ष महोदय, वह बिल कब लिया जाएगा?...(*व्यवधान*)

MR. DEPUTY-SPEAKER: No, we will now have to conclude this Bill first, and we will think over it after this Bill.

Yes, please continue.

SHRI VARKALA RADHAKRISHNAN : Yes, I shall speak. But how can I speak when there is noise in the House? It is a very important issue. ...(*Interruptions*)

* Moved with the Recommendation of the President

Now, the hon. Minister has moved a Bill for salaries of the High Court Judges and Supreme Court Judges. I am very much annoyed when this Bill is moved because we in India are now under a very mysterious situation so far as the judiciary is concerned. ...(*Interruptions*)

PROF. M. RAMADASS (PONDICHERRY): What is that mysterious situation? ...(*Interruptions*)

SHRI VARKALA RADHAKRISHNAN : I will tell. ...(*Interruptions*) Now, the Executive is accountable to the House. ...(*Interruptions*)

PROF. M. RAMADASS : How is it accountable? Tell us about it. ...(*Interruptions*)

SHRI VARKALA RADHAKRISHNAN: No, I cannot tell it to you. ...(*Interruptions*)

MR. DEPUTY-SPEAKER: Please do not disturb the hon. Member while he is speaking. Please maintain silence in the House.

...(*Interruptions*)

SHRI VARKALA RADHAKRISHNAN : I will address the Chair. Now, the Executive is accountable to the House. ...(*Interruptions*)

PROF. M. RAMADASS : He was disturbing me today when I was speaking in the House. How did he intervene while I was speaking? ...(*Interruptions*)

MR. DEPUTY-SPEAKER: Please sit down.

...(*Interruptions*)

MR. DEPUTY-SPEAKER: Nothing should be recorded except the speech of Mr. Radhakrishnan.

(*Interruptions*)* â€

SHRI VARKALA RADHAKRISHNAN: I am sorry, but I do not have to answer you. I did not make any disturbance. I was simply following the Parliamentary practice available not only here, but in the world. ...(*Interruptions*)

* Not recorded

PROF. M. RAMADASS : You talk about India, and not about the world. ...(*Interruptions*)

SHRI VARKALA RADHAKRISHNAN : I am talking about India only. ...(*Interruptions*)

MR. DEPUTY-SPEAKER: Please do not disturb him.

...(*Interruptions*)[\[r14\]](#)

SHRI VARKALA RADHAKRISHNAN : When you are in a coalition, you cannot ask the Minister to withdraw his statement. You come out of the coalition and then say that. ...(*Interruptions*) I fully support his demand. Continuing in the UPA Government and asking the Minister to withdraw his statement is ...(*Interruptions*)

MR. DEPUTY-SPEAKER: Nothing will be recorded except the speech of Shri Radhakrishnan.

(Interruptions)*

SHRI VARKALA RADHAKRISHNAN : This is not parliamentary practice. I did not disturb anybody.

PROF. M. RAMADASS : You disturbed me.

SHRI VARKALA RADHAKRISHNAN: My dear, Sir, I did not disturb you. I am your supporter. But you are taking an opportunistic role, contrary to parliamentary principles.

MR. DEPUTY-SPEAKER: Shri Radhakrishnan, please address the Chair.

PROF. M. RAMADASS : India knows which Party is an opportunistic Party.

MR. DEPUTY-SPEAKER: Prof. Ramadass, nothing is going on record.

(Interruptions)*

प्रो. यसा सिंह रावत (अजमेर): उपाध्यक्ष महोदय, मैं क्षमा चाहता हूँ। पहले दिल्ली वाला बिल था। इस बिल पर हमें बोलना था।... (व्यवधान)

* Not recorded

उपाध्यक्ष महोदय : मैं आपको इनके बाद बोलने के लिए बुलाऊंगा।

(व्यवधान)

प्रो. यसा सिंह रावत : उपाध्यक्ष महोदय, मिनिस्टर साहब की गलती से हमें भुगतना पड़ रहा है। ... (व्यवधान) थोड़े वित्त से आये, तो हमें भुगतना पड़ रहा है। ... (व्यवधान)

उपाध्यक्ष महोदय : वरकला जी के बाद मैं आपका नाम बुलाऊंगा।

(व्यवधान)

MR. DEPUTY-SPEAKER: We shall take Items 32 and 33 together.

SHRI VARKALA RADHAKRISHNAN : Sir, the judiciary in India is not accountable to anybody. The only provision in this regard in the Constitution is article 133 subclause (iv) which provides for impeachment. And we have our bitter experience in the impeachment proceedings in the case of Justice Ramaswamy. Impeachment proceedings is not workable. It is a procedure which has never fructified. So, whenever a judge is appointed, he becomes permanent. There is no law in the land to control him. A judge is not accountable to anybody.

The Chief Justice of India says that there is corruption in the judiciary. Corruption is prevalent in the judiciary and there is no procedure to control their actions. Suppose a few judges are corrupt, the Chief Justice is unable to take any action. He can only report the matter to the President. Suppose a judge is accepting gratification publicly, no action can be taken against that particular person who is corrupt. That is the procedure in our country. And you are going on like this. Now the judges' salaries Bill has come before us.

Our judiciary has given a very peculiar interpretation to a word in English language. The framers of the Constitution never thought that the judiciary will give an interpretation to the word 'consult' to mean 'consent'. In the appointment of judges, the procedure is that the Chief Justice of India in the case of Supreme Court and the Chief Justice of High Court in the case of a judge of High Court should be consulted. 'Consult'; is the only word that is used. They have interpreted it as 'consent'. When we refer to the Chambers Dictionary of English language, we do not find any meaning as consent to the word consult.

Justice Nariman came before the Committee in which I am a member. When he was asked about this he said that there is no such meaning for that word in the English language. Wherever English language is used in any part of the world, there is no meaning of consent to the word consult. But unfortunately our judiciary has given a new meaning to the word consult as consent. So, now whenever the Executive wants to appoint any judge, they must get the consent of the respective Chief Justice. Without their consent the President becomes helpless. [KMR15]

[s16] So, the Judges appoint themselves. They decide their own service conditions; they decide their own salaries; they decide when they should retire. The age of superannuation is decided by them. Appointment is decided by them. Conditions of service are also decided by the Judges of the country. This is the position in our country. Nowhere in the world, there is such a procedure.

In the parliamentary democracy, you cannot find a parallel that the Judges appoint themselves in India. This is the position. They decide their own things. Now, the hon. Minister has come with a Bill. We should decide their salaries. Only for fixing salary, they have come. But about their conditions of service, they themselves decide – who should be appointed as the Chief Justice? Who should be appointed as the Justice? That is the law of the land. They have given the interpretation – for consult, they have interpreted as consent. This is the position in our country.

My honourable friend, who is a lawyer, and who is very much accustomed with this, has come before this House with this Bill for fixing salary as if we are having no other duties but to fix their salaries. They themselves will decide their conditions of service. That is the law of the land because of the interpretation of the word 'consult' as 'consent'. We cannot presume that the Judiciary will be independent only if the appointment of Judges is made by Judges themselves. That is the condition for a precedent. We want independent Judiciary. There is no doubt. It is nothing but two sides of the same coin. We want an independent Judiciary; we want an accountable Judiciary. There is no accountable Judiciary in our land. We have made many attempts in this regard but we failed.

In 1962, this Parliament passed a Bill for taking some action. Only action provided then is impeachment - removal from service – which is not possible. So, in 1968, we had the Judges Inquiry Act, which was also not properly taken up. The hon. friend and gentleman, who is before me, has brought the Judges Inquiry Bill of 2006 putting certain restriction and suspension, some control over the appointment of Judges. We examined all the persons concerned. I was Member of that Committee. We examined Justice Nariman; we examined Justice Sabarwal; we examined the Chief Justices of different High Courts and we had examined Jurists from all over the country. Then, we recommended and submitted a Report to him. What has happened? It is kept in the cold storage.

The 2006 Judges Inquiry Act which has been referred to our Committee, for which we have taken evidence and submitted a Report. What happened to that Report? Where is it? He is keeping it in the cold storage. He is bringing another Bill for fixing their salaries. The 2000 Bill is kept in the cold storage. He is not prepared to proceed with the Bill. Why? It is because he is afraid of the Judges. He is afraid of the Supreme Court Judge. We cannot proceed with that. We have recommended certain things. That Bill is not a very big thing but we have unanimously recommended certain matters because the Bill as it is moved, will take away the powers of impeachment by Parliament. [s17][p18] In the ultimate analysis, we find that a complaint procedure was adopted in the 2006 Bill – when somebody is complaining, that will go to them. Only the judges will do that; they would not allow anybody else to do it.

MR. DEPUTY-SPEAKER: Okay, thank you.

SHRI VARKALA RADHAKRISHNAN : It is a very important matter; let me complete.

The question is, he did not act on that basis; he did not bring that Bill before the House. A Bill was prepared on the recommendation of the Law Commission. The Government appointed the Law Commission; and it has, in consultation with the Supreme Court, drafted certain recommendations, and the Bill was moved by this gentleman in this House. He has not done anything; it is kept in the cold storage.

MR. DEPUTY-SPEAKER: You are repeating the same point, over and over again.

SHRI VARKALA RADHAKRISHNAN : The Chief Justice of India recently declared that he would not proceed with the judge who is under a cloud or under suspicion.

MR. DEPUTY-SPEAKER: You may please conclude.

SHRI VARKALA RADHAKRISHNAN : If some Judges are involved in some corruption cases, as in the case of the PF issue, where some Judges were involved, the Chief Justice of India had given a direction to the CBI to question the Judge. That was also done in India.

They have evolved in-house proceedings. Now, the Judges, in 1999, evolved a formula to review the 1968 Bill, so that they themselves would decide the course of action. They will decide what should be done in a matter of complaint. That is called the in-house proceedings. As per the in-house proceedings, the Chief Justice will ask the concerned Judge either to retire or to resign. But when the present Chief Justice of India asked the concerned Judge to take leave, he refused. So,

that procedure also failed.

In another case involving the PF, a Supreme Court Judge and a Judge of the Allahabad High Court were asked to resign, but they refused because they do not have a statutory power or a statutory authority to take action against a particular Judge. The Chief Justice is helpless in taking action against his colleagues. The Chief Justice cannot take any action because there is no role; there can be no suspension and there can be no warning. So, suspension or warning to a Judge is not possible in India. There is only impeachment. Why is it so? Are we living in a fool's paradise?

MR. DEPUTY-SPEAKER: Please sit down.

SHRI VARKALA RADHAKRISHNAN : This is the situation prevailing in our country and this gentleman, the learned friend, the Law Minister is coming here and asking us to pass this Bill. What about their appointments? Why should he not bring in a Bill to appoint a Commission to decide their conditions of services, etc.? A National Judicial Commission will have to be appointed. There were Bills previously also. The National Judicial Commission is necessary.

MR. DEPUTY-SPEAKER: Okay; thank you. Now, I would request you to sit down.

SHRI VARKALA RADHAKRISHNAN : This gentleman has forgotten about the 2006 Bill. It is ridiculous – he is coming and asking us to decide their salary.

MR. DEPUTY-SPEAKER: Okay, sit down now.

SHRI VARKALA RADHAKRISHNAN : We do not have any voice in their appointments; nobody is having a voice in their appointments. They appoint themselves and why should we fix their salaries? The Judges themselves appoint other Judges. It is the collegium of Judges who decide who should be the Chief Justice and who should be appointed as other Judges, and the result is that the father will be a Judge, the son will be a Judge and the son-in-law will be a Judge and this will become a hereditary family system of judiciary in India. [\[p19\]](#)

THE MINISTER OF OVERSEAS INDIAN AFFAIRS AND MINISTER OF PARLIAMENTARY AFFAIRS (SHRI VAYALAR RAVI): Sir, let the Minister reply.

MR. DEPUTY-SPEAKER: Now, the hon. Minister will reply.

SHRI VARKALA RADHAKRISHNAN : They must be independent and at the same time accountable. There is no accountability in India. There is only independence and that too to the extreme. I do not understand the significance or the logic behind this. When I do not have a voice in their appointment, when nobody is having a voice in their appointment why should we criticize their salaries? At the same time we must realise...(*Interruptions*)

MR. DEPUTY-SPEAKER: I have heard your point of view three or four times. Please sit down now.

...(*Interruptions*)

SHRI VARKALA RADHAKRISHNAN : What was the purpose behind issuing the Ordinance?...(*Interruptions*)

MR. DEPUTY-SPEAKER: Please sit down now. I have heard you. This has already come on record.

...(*Interruptions*)

SHRI VARKALA RADHAKRISHNAN : Why can they not decide their salaries also? Why should they ask us for it?

SHRI H.R. BHARDWAJ : Hon. Deputy-Speaker, Sir, I have very high regards for my learned friend and I have no dispute with what he said during his speech. He has raised three points. One is about 1993 judgement of the Supreme Court in Advocate on record case that the judges have interpreted the Constitution wrongly by saying that the advice of the Cabinet rendered to the President is circumscribed by the consent of the judiciary.

Sir, I have spoken publicly on this issue saying that we do not accept that and that this is not the correct way in which the Supreme Court has interpreted it. It is the President of India who can appoint judges on the advice of the Cabinet. I do not think any Member of this House will go against this because the President of India...(*Interruptions*) Please allow me to speak. Let me reply....(*Interruptions*)

MR. DEPUTY-SPEAKER: Nothing will go on record.

*(Interruptions)**

* Not recorded

SHRI H.R. BHARDWAJ: Let me reply now. You are such a senior Member. I do not think it is proper.

So, Sir, this judgement was in interpretation of the Constitution and those judges who interpreted it have themselves said that in their view this judgement was wrong. What is the method to correct it? It was to amend the Constitution. After 1993, there have been several Governments and time has not reached where we are able to amend this Constitution. I am very happy if this matter is taken up in Parliament and once for all this interpretation is annulled by an amendment of the Constitution. Without that, Sir, we are aware that the Supreme Court is the final court in the country and there is no appeal after that. Therefore, there is no dispute between what the hon. Member has said and what I am setting before the House, that the power to appoint judges of High Court and Supreme Court vests in the President of India on the aid and advice of the Council of Ministers right from Shamsher Singh's case. This is an issue which is not relevant at this stage. We will take it after a consensus is reached. This is with regard to the appointment.[\[R20\]](#)

[\[R21\]](#) With regard to their removal, I would again say that according to the Constitution of India the power to remove vests in this House by a process of impeachment by a two-third majority in both the Houses. The founding fathers kept judiciary at a very high pedestal. Independence of judiciary was discussed by the founding fathers in great detail. It is not I that am responsible for making this institution so high. It is the founding fathers who kept the judiciary at a very high pedestal. I would like to quote Pandit Nehru when he said in the Constituent Assembly in 1939 when the debate on Supreme Court was going on. He intervened to say:

"We should frame such rules so that the judges of the Supreme Court and the High Court are appointed one man of integrity and independent even to go against the Government. "

This is the commitment of our founding fathers Dr. Ambedkar, Nehru and others. Unanimously, independence of judiciary is acceptable in all civilized societies. Governments after Government have never criticized it and whatever facilities have to be provided to the judges they are granted unanimously. This is the precedent in this as well as the other House.

Now I come to the procedure of their removal. I agree that some cases of corruption have come to light and it is of great concern. There is a public disquiet on it and there is a public criticism going on particularly in Media. We are cognizant of it. I am not a Minister who will shirk his work. I had immediately, without any reservation of the House, dug into the case law provisions in the United States, England, Canada, all democratic societies to find out as to what provisions we can supplement for the impeachment proceedings. I have also studied a Commission's Report in the USA during Bill Clinton's time with regard to augmenting the impeachment proceeding by another system. I have immediately consulted all the stakeholders including judiciary, lawyers and others and drafted the Bill. It is I who drafted that Bill and introduced it in this very House in 2006. This is not a matter you can rush in. This is a matter which we have to tread very cautiously. Tinkering with judiciary is very difficult. Independence of Judiciary is a matter which the House is always supporting. So, I had introduced that Bill to seek the opinion of the Standing Committee. I am very happy that the Standing Committee of my Ministry made a detailed study and made several recommendations almost changing the whole complexion of the drafted law. I have already taken it to the Cabinet....*(Interruptions)*

MR. DEPUTY-SPEAKER: Please do not disturb.

SHRI H.R. BHARDWAJ: It is not fair.

SHRI VARKALA RADHAKRISHNAN : What has happened to that Bill?

SHRI H.R. BHARDWAJ: You are a senior Member. I am explaining that but you are not allowing me to speak....*(Interruptions)*

MR. DEPUTY-SPEAKER: Whatever Shri Radhakrishnan says will not go on record.

*(Interruptions)**

MR. DEPUTY-SPEAKER: Shri Radhakrishnan, nothing is going on record. You are a senior Member. You should at least address the Chair.

(Interruptions) â€¦*

MR. DEPUTY-SPEAKER: Shri Radhakrishnan, first of all, you are requested to go to your seat.

...(Interruptions)

SHRI H.R. BHARDWAJ: So, Sir, the Standing Committee cleared that Bill...*(Interruptions)*

MR. DEPUTY-SPEAKER: Please wait for a minute. Shri Radhakrishnan, you are requested to go to your seat.

...(Interruptions)

SHRI VARKALA RADHAKRISHNAN : It is the Parliament. We have to seriously conduct the Business....*(Interruptions)*

MR. DEPUTY-SPEAKER: You have to first go to your seat.

SHRI H.R. BHARDWAJ: There is a procedure in the Parliament. When a Bill goes to the Standing Committee, we are bound by the recommendations of the Standing Committee...*(Interruptions)*

MR. DEPUTY-SPEAKER: Shri Ramjilal Suman, let him go to his seat. Shri Radhakrishnan, please go to your seat. [\[R22\]](#)

SHRI H.R. BHARDWAJ: When the Standing Committee made the recommendation, we went in-depth into those recommendations. When the amendments to the original Bill were received, I got them approved from the Cabinet. The recommendations are so large that the whole complexion of the Bill has changed. I am now making another Bill by improving upon the earlier Bill.

* Not recorded

So, I will come to the House as and when the House gives me time. It is not in my hand to rush to the House. He is not allowing a small measure for raising their salaries. But that Bill is a very complex Bill. That will have to be debated at least for a day or two. The House has got this privilege. So, it is not that we are sleeping over that. I have requested the Chief Justice of India that your in-house procedure has weakened and that now we will have to give you the backing of statutory provisions as is happening in other countries because corruption in judiciary is a very serious matter. The country would like that the judiciary should have zero tolerance in matters relating to corruption. So, I would like to give an assurance to this House that very soon at an appropriate time this House will discuss this issue and provide measures in addition to impeachment.

Now the third point is with regard to impeachment. I need not dwell upon it as all the hon. Members are aware that except for the constitutional provision, there is no other law which can deal with the corruption in judiciary because it was never thought of in our country as the judiciary was so clean. During British days, the judges of the High Court and the Supreme Court were appointed at the pleasure of the Her Majesty's Government. Later on, by an Act of 1935, the Britishers changed it and they used to appoint the judges until their behaviour is good. They could be removed only when there was misbehaviour. So, it was done through an Act of 1935 during British days and our founding fathers bodily lifted that provision and put that into the Constitution...*(Interruptions)*. So, unless we amend the Constitution, there is no other provision by which you can deal with corruption in judiciary. These three points are there.

Now coming to the present, the Executive has been given the new pay scales as recommended by the Pay Commission. But the judges have not got it. So, I immediately provided it through this Ordinance so that they do not have grievance against the Parliament that we have not given due consideration. It is because who will argue the case of judges. This House is the master. That is why, I rushed with it...*(Interruptions)*

SHRI VARKALA RADHAKRISHNAN : Please do not speak like a *(Interruptions)* â€¦*

SHRI H.R. BHARDWAJ: Please do not use *(Interruptions)* â€¦*

Now you please keep quiet. This is hardly the way to speak in Parliament. Sir, this gentleman should be taught a lesson...*(Interruptions)*

MR. DEPPUTY-SPEAKER: Please sit down.

SHRI H.R. BHARDWAJ: I would only request you to consider it. The whole world is watching us. What are we discussing? All the officers of the Executive have been given the hike after the recommendations of the Pay Commission. So consistent with those recommendations, we have brought in line the pay and perks of the High Court and Supreme Court judges. It is always the privilege of this House to give it because their salaries are decided here. What is wrong? Now it is 2009. The salaries of all others have been revised. So, how can I neglect my work by not giving whatever is due to the judiciary? This will be a disservice to the country. Never such a debate has taken place in Parliament. I have been a Minister for 20 years. Never such a debate has taken place when you say that the judges should not be paid the salary for their work. Therefore, there is nothing unusual and any objection at this time will be seen in poor light. So, I would request the whole House to agree to this noble cause. Winston Churchill had said about the salaries of judges that we cannot measure the service rendered by the judiciary in pounds sterling. We should straightaway give whatever is desired and whatever we can afford. We are not giving anything unusual to judges. They are all Secretary and Cabinet Secretary level people. Therefore, the same has been provided for the judiciary. We are not giving any unusual hike at all. Therefore, I would request all the hon. Members with folded hands that we have other matters of controversy. Judiciary has done very well in this country therefore we should not make it a matter of controversy.

* Not recorded

प्रो. रासा सिंह रावत (अजमेर): उपाध्यक्ष महोदय, जहां तक बिल का प्रश्न है, हमारी पूर्ण सहमति है। क्योंकि उच्च न्यायालय और उच्चतम न्यायालय न्यायाधीश (वेतन और सेवा शर्त) संशोधन विधेयक, 2008 का हमारी पार्टी और हम सब समर्थन करते हैं और निश्चित रूप से जैसा कि अभी मंत्री जी ने कहा कि अब तक जो परम्परा रही है, उस परम्परा का पालन होना चाहिए। हम केवल ऑर्डिनैन्स वाली जो बात थी कि ऑर्डिनैन्स नहीं लाना चाहिए और बिल लाने का जो तरीका था, मैं समझता हूँ कि जब हाउस चलने वाला था तो उसमें कोई ऐसी बात नहीं थी। बाकी हम इस बिल का पूरा समर्थन करते हैं।

महोदय, मैं एक-दो बातें आपके माध्यम से कहना चाहूँगा। हिंदुस्तान के लिए यह बहुत गर्व की बात है कि यहां की न्यायपालिका राजनैतिक दबाव से काफी मुक्त रही है और जनता का विश्वास भी न्यायपालिका की निष्पक्षता में बना हुआ है। हमारी सरकारी से प्रार्थना है कि न्यायपालिका की यह गरिमा बनी रहनी चाहिए। हमारा देश दुनिया का सबसे बड़ा लोकतंत्र है और इस लोकतंत्र के तीन आधार स्तम्भ हैं - न्यायपालिका, विधायिका और कार्यपालिका। इन तीनों में जो लक्ष्मण रेखा है, उसका उल्लंघन किसी भी तरफ से नहीं होना चाहिए और सब अपनी-अपनी मर्यादा में रहकर राष्ट्र के गौरव को बढ़ाने के लिए अपने-अपने सेवा कार्य करते रहें।

मैं एक बात और कहना चाहूँगा कि हम सैलरी वाली बात का पूर्ण समर्थन करते हैं। अभी छठा वेतन आयोग लागू हुआ है तो निश्चित रूप से उन्हें भी इसका लाभ दिया जाना चाहिए। यह हमारा कर्तव्य है और अब तक की परम्परा का पालन होना चाहिए। अपने पेंशन, कुटुम्ब पेंशन, एलाउंसेज या उनके वेतन के बारे में जो कुछ भी उच्च न्यायालय, सर्वोच्च न्यायालय के न्यायाधीशों के बारे में इस बिल में दिया है, हम सब उसका पूरा समर्थन करते हैं। मैं एक चीज जानना चाहूँगा कि जस्टिस डिलेड, जस्टिस डिनाइड, न्याय में जो विलम्ब किया जाता है तो मानो न्याय से इनकार किया जाता है। देश के सामने बड़ा दुर्भाग्य है कि न्यायालयों के सामने जो लम्बित प्रकरण हैं, 17 अक्टूबर, 2008 को एक अतारांकित प्रश्न संख्या 69 लोक सभा में पूछा गया था और उत्तर दिया गया था कि हाईकोर्ट के अंदर 31 लाख 26 हजार, 825 सिविल मामले और दांडिक मामले 7,55,249 और कुल 38,82,074 मामले हाईकोर्ट्स में पेंडिंग हैं। सुप्रीम कोर्ट में 29,273 गृहीत मामले चल रहे थे। जो मामले गृहण किये हुए थे और जिनकी नियमित सुनवाई हो रही थी, वे 19,565 मामले थे। अर्थात् 48,838 मामले पेंडिंग थे। यह उच्च न्यायालय और सर्वोच्च न्यायालय की स्थिति है। न्यायाधीशों के बारे में आप पिछले दिनों जो बिल लाये थे और सर्वोच्च न्यायालय के न्यायाधीशों की संख्या को भी आपने बढ़ाकर 25 से 30 किया था। लेकिन मैं जानना चाहता हूँ कि आज उच्च न्यायालय और सर्वोच्च न्यायालयों में कितने पद रिक्त हैं? प्रत्येक उच्च न्यायालय और माननीय सर्वोच्च न्यायालय के लिए जो पद निर्धारित हैं, क्या वे सारे पद भर दिये गये हैं?

अभी हमारे साथियों ने चयन के बारे में कहा। मैं चयन के बारे में इतना ही कहना चाहता हूँ कि चयन में पारदर्शिता रहे। न्यायपालिका स्वतंत्र रहे, जवाबदेह रहे, लेकिन न्यायपालिका की नियुक्ति में पारदर्शिता रहे, उसमें गोपनीयता के नाम पर कुछ गड़बड़ न हो। इसके अलावा जो कोलेजियम बना है, 1993 से जो सिस्टम चल रहा है, मैं समझता हूँ कि उस सिस्टम की पालना विधिवत ढंग से हो और बाद में जब कोई ऐसा उपाय हो तो इसमें और भी ज्यादा पारदर्शिता बढ़े।

मैं एक बात और कहना चाहूँगा कि अभी न्यायपालिका को राइट टू इंफॉर्मेशन के परव्यू में लाने का प्रयास किया गया तो वहां काफी आलोचना हुई। इस संदर्भ में जब मंत्री जी जवाब दें तो राइट टू इंफॉर्मेशन के अंदर हमारे न्यायालय, उच्च न्यायालय या सर्वोच्च न्यायालय में एविजव्यूटिज का क्या दृष्टिकोण है, इसके बारे में भी थोड़ा प्रकाश डालने का कष्ट करें। तीन करोड़ मामले सब-ऑर्डिनैट, छोटे न्यायालयों में लम्बित हैं। जहां हम चाहते हैं कि जनता को सहज न्याय, सुलभ न्याय उपलब्ध हो, लेकिन वहां अभी छः करोड़ और मामले लम्बित हैं तो ऐसी स्थिति में वहां जजेज की संख्या बढ़ाई जानी चाहिए।[\[BS23\]](#)

एविजव्यूटिव को जजों की नियुक्ति के लिये, जजों को सुविधाओं देने के लिये, उनके आवास के लिये और जहां मोबाईल कोर्ट्स हैं या फास्ट ट्रेक कोर्ट्स हैं, चाहे वह किसी भी प्रकार की कोर्ट हो, उन सब के लिये धन का प्रावधान करना चाहिये। वे सब राज्य सरकारों की तरफ देखते हैं। परिणामस्वरूप न्यायालयों और न्यायाधीशों की संख्या बढ़नी चाहिये और न्यायाधीशों की नियुक्ति होनी चाहिये। न्यायाधीशों की नियुक्ति नहीं होने से जनता को समय पर न्याय नहीं मिलता है। मेरा आपके माध्यम से सरकार से अनुरोध है कि इस मामले में सरकार ध्यान दे।

उपाध्यक्ष जी, आज देश के कई हिस्सों से यह आवाज उठती रहती है कि राज्य में न्यायालय की एक अस्थायी पीठ होनी चाहिये। हाई कोर्ट की ऐसी बेंच कहां काम करनी चाहिये या कहां नहीं करनी चाहिये, इसके लिये एक मानदंड निर्धारित किया जाना चाहिये कि कहां अस्थायी बेंच बनायी जा सकती है ताकि अनावश्यक विवाद पैदा न हो।

उपाध्यक्ष जी, मैं अंतिम बात कहकर अपना वक्तव्य समाप्त कर दूँगा। आज देश की आबादी बहुत तेजी से बढ़ रही है। उसके साथ जुर्म भी बढ़ गये हैं। लोगों में भी कानून के प्रति जागरूकता पैदा हो गई है। जब कोई कानून बन गया तो उसके आधार पर न्यायालय भी बढ़ाये जा सकते हैं जिनमें न्यायाधीशों की संख्या भी

बढ़ायी जा सकती है जिससे स्वतः न्याय, शीघ्र न्याय, सुलभ न्याय, सहज न्याय और सस्ता न्याय मिल सके।

इन्हीं शब्दों के साथ मैं इस बिल का समर्थन करता हूँ।

SHRI S.K. KHARVENTHAN (PALANI): Sir, I thank the Chair for giving me this opportunity to participate in the discussion on the High Court and Supreme Court Judges Salaries and Conditions of Service (Amendment) Bill, 2008.

As per our Constitution, Supreme Court of India is the highest Court in the land and it is the final authority for appeal in Indian Judiciary. Next to it is the various High Courts.

Now, the present Bill is aimed to increase salary and other benefits to High Court and Supreme Court Judges. Pursuant to the Sixth Pay Commission submitting its Report to the Government, the Chief Justice of India constituted a Committee of three judges to recommend appropriate and revised salaries, allowances and other service conditions for Chief Justice of India, Judges of Supreme Court and High Courts. Based on the Committee's recommendations, our Government revised the salaries of judges.

I want to mention certain facts about the salary of High Court and Supreme Court Judges. Now the salary of the Chief Justice of India is Rs. 33,000. Our Government has decided to increase the salary of the Chief Justice of India from Rs. 33,000 to Rs. 1 lakh. Sir, the pathetic situation in the country is that the Secretaries working under the Supreme Court are drawing more salary than the judges. I feel it is not sufficient in keeping with the current inflation trend. It is lesser than the Governor's salary. Hence, Chief Justice's salary should also be at par with Governor's salary. The Committee of Judges have proposed to raise the salary from Rs. 33,000 to Rs. 1.10 lakh but the Ministry of Finance restricted it to Rs. 1 lakh. It is not correct. It should be raised to Rs. 1.10 lakh and simultaneously for other judges.

It is pathetic to note that the Subordinate Judicial Officers are getting only Rs. 9000 per month. This is lesser than the salary drawn by the Class IV employees in the Union of India. Hence their salary has also to be increased to not less than Rs. 25,000 per month.

During 1956, the strength of judges in the Supreme Court was 11 including the Chief Justice. In 1960, it was raised to 14 and in 1977, it was 18 and later in 1986, it was increased to 26. Now our Government raised it to 30. In our judicial system throughout the country, actual strength of High Court Judges are 886 but we are having only 620 judges and 266 posts are lying vacant. Due to non-filling of vacancies, nearly 37.1 lakh cases are pending in 21 High Courts in the country. Now, we had increased the strength but so far we have failed to fill up the sanctioned strength.

Filling up of the vacancies in various High Courts is a continuous process as vacancies keep arising due to retirements., resignations, etc. In pursuant to the Supreme Court judgement dated 6.10.1993 in the case of Supreme Court Advocates Record and Anr Vs. Union of India, the entire process of initiation of proposal for appointment of a judge in High Court is vested with the Chief Justice [\[U24\]](#) of the respective High Court.

Even though the Government of India is continuously reminding the various High Courts, they are not taking any concrete steps to fill up the vacancies. Throughout the country, we are having the entire list of judges' retirement dates. At least three months before their retirement, the respective High Court has to start the process of new appointments. It is alarming in the case of subordinate judiciary. The sanctioned strength in subordinate judiciary is 15,399, out of which only 12,368 judges are working and 3,031 posts are vacant. The total number of cases pending in subordinate courts are 3.45 crore. The total number of cases pending in the Supreme Court alone is 41,708.

At this juncture, I want to emphasise the Union Government to persuade the Chief Justice of India to constitute a Supreme Court for southern region of the country, at Chennai. It will help the poor litigants coming all the way from far southern States to New Delhi to file cases in the Supreme Court.

On considering all the above aspects, I am welcoming, supporting this Bill and concluding my speech with congratulating the hon. Minister.

SHRI PRASANNA ACHARYA (SAMBALPUR): Mr. Deputy-Speaker, Sir, there is no dispute over this Bill which has been brought forth to increase the salaries of hon. Judges of the Supreme Court and High Courts. I am supporting this Bill. But my only contention is that why the hon. Law Minister was in such a hurry to promulgate an Ordinance. When the Bill had already been introduced during the last Session in this House, what was the hurry to come up with an Ordinance? I could not follow this. When the hon. Speaker from the Chair remarked something, the hon. Law Minister, in his reply said, "We do not want to belittle the judiciary." Nobody in this country wants to belittle the judiciary. Everybody highly respects the

judiciary and the judges. But when the Bill was already introduced and moreover when the increase would be given retrospective effect, when all their dues will be cleared by the Government, there was no necessity of coming up with an Ordinance. That is my contention.

If the hon. Minister had come out with a proposal for more increase in their salaries, nobody would have objected to this. Everybody wants that the judges should be highly placed, well respected and well paid. All their necessities should be fulfilled because they are occupying the highest position in this land. But only by increasing the salaries and allowances of the judges, we are not going to solve the problem.

As mentioned by many hon. Members, huge number of cases are pending in the Supreme Court and in High Courts for various reasons. In the last Session we have passed a Bill to increase the number of judges of the Supreme Court from 26, including the Chief Justice of India, to 31. But that is not enough. A number of posts of judges are pending in the subordinate courts. All of us are aware of that. Many times the hon. Chief Justice of India had urged upon the Central Government and the State Governments to come forward with steps to fill up the vacancies in the subordinate courts. But no step has been taken. I am not going to further comment on the system of appointing judges. Now, judges have the power to appoint judges. As far as I know, nowhere in the world this system of judges appointing judges prevails. Likewise, in India, the legislatures decide their own salaries. Both the systems are bad. Let not the legislatures decide their own salaries and let not the judges appoint judges. It is a very bad system. I do not know when the Government will come out with a Bill to amend the Constitution to correct this mistake. I am not going into its details. [\[MSOffice25\]](#)

But my proposition is how many holidays the judges are enjoying in a year. The Supreme Court and High Courts are not the High Schools or the Secondary Elementary Schools. I fear they are enjoying as much holidays as the school children are enjoying. On the one hand, there is a backlog and crores and lakhs of cases are pending, and on the other hand, the judges are enjoying a number of holidays. So, this is quite contradictory. The Government has to think over this, the hon. Chief Justice has to think over this.

Now, there is one good thing is that in some States evening courts have been introduced. So, why not it is done in all the States? My dear colleague, Prof. Rasa Singh Rawat has mentioned earlier that in a number of States now there is an agitation going on regarding setting of either Circuit Courts or Benches of the High Court. So, why not the Government, in consultation with the hon. Supreme Court, come out with the concrete formula where to set up High Court Benches and where not to set up? If we go on setting more number of High Court Benches in different States, the number of cases will reduce which are pending in different High Courts. There are instances where not only decades even generation after generation in a family people are running to High Courts and Supreme Courts and still the cases are pending.

There is one more thing. I do not know what is the guideline of the Supreme Court towards the High Court. Sir, you will be astonished to know and it is seen that in different High Courts, even long after completion of hearing of an appeal either in the criminal case or in the civil appellate case, the judgments are not delivered. The hearing is over, but the High Courts are not delivering judgments and it is kept reserved not for one or two years, but for several years. So, let the hon. Supreme Court come out with a specific guideline to the High Courts that in such cases where hearing is over, why they are keeping it reserved for years together and putting the litigants into trouble. Why not they come out with their judgements? I am not accusing the High Court and the Supreme Court, but it is the onerous responsibility of the High Court and Supreme Court. Shri Varkala Radhakrishnan was reiterating earlier that only by increasing the salary it is not going to solve the problem.

The hon. Law Minister said that they have listened to the court. Yes, and after the recommendations of the Sixth Pay Commission it is obvious that the judges' salaries have to be increased. But corruption is mounting and allegations of corruption against judges are mounting everyday. I remember a few days back the hon. Chief Justice of the Supreme Court wrote a letter to the hon. Prime Minister recommending to bring an impeachment motion against an hon. High Court judge of the West Bengal. So, why is the Government sitting over it? Is not the Government by ignoring the recommendation of the Supreme Court Chief Justice trying to belittle the hon. Chief Justice of the Supreme Court and patronising the corruption? When the hon. Chief Justice of the Supreme Court expressed his higher concern over the alleged corruption against the judges and recommending

MR. DEPUTY-SPEAKER: Honest judges are also there.

SHRI PRASANNA ACHARYA : Yes, no doubt. Most of the judges are honest. We are indeed proud of our judiciary. But when the head of the family, when the head of the judges, the hon. Chief Justice of the Supreme Court categorically and specifically getting all the past records and writing to the hon. Prime Minister suggesting to bring the impeachment motion against one of its own judges, why is the Government sitting over it? Who is encouraging corruption in the judiciary? We

cannot go on accusing the judges only. Does not the Government have a responsibility in this regard? So, why the Government is sitting over this? So, by this we are belittling the judiciary. I hope when the hon. Minister will be giving his final reply, he will enlighten the House on this matter.

Sir, it is alleged that there is no transparency in the appointment of judges. It is all right that a few days back it was a different system. The bureaucracy and the political class have an upper hand in the appointment of judges. The hon. Law Minister has very clearly explained about it. He has clearly said that without a constitutional amendment, we cannot surpass the Supreme Court orders.[\[a26\]](#)

15.00 hrs.[\[R27\]](#)

But I think the Government has to take a serious note of it. There is indeed no transparency. What is the reason for vacancies of judges in the High Courts and the Supreme Court? What are the High Court Collegium and the Supreme Court Collegium doing about it? I think the Government should have a dialogue with the Supreme Court in this regard also. Unless we fill up the vacancies, the number of cases pending in different courts will be piling up.

With these words, I support this Bill. I wish that within a short period of time, maybe after the forthcoming election, the Government comes out with another amendment to further increase the salaries of the Judges of the High Courts and the Supreme Court. We should keep them in a very comfortable position because they are the hon. Judges of this country. But regarding the other points mentioned here, the Government should have a serious look into them.

श्री रेवती रमन सिंह (इलाहाबाद) : माननीय उपाध्यक्ष महोदय, मैं इस बिल का समर्थन करता हूँ, लेकिन हमें एक बात समझ में नहीं आती। मुझे याद है कि कुछ दिनों पहले इसी सदन में स्पीकर साहब ने काबिल लॉ मिनिस्टर साहब से पूछा था कि क्या दुनिया में ऐसा कोई अन्य देश है, जहां जज स्वयं को एपाइंट करते हैं तो मुझे याद है कि माननीय मंत्री जी ने खड़े होकर कहा कि दुनिया में कहीं किसी देश में ऐसा प्रोसिज़र नहीं है। यह हिन्दुस्तान में ही है कि स्वयं को जज बनाने का काम यहां के जज लोग ही करते हैं। हमें एक बात समझ में नहीं आती है कि हमारे कांस्टीट्यूशन में इस बात का प्रावधान है कि कोई भी संविधान के ऊपर नहीं है, लेकिन यहां पर देखने में यह आता है कि ज्यूडिशियरी के ऊपर कोई भी लॉ, चाहे हमारी पार्लियामेंट हो, लॉ मिनिस्टर हों, सेंट्रल गवर्नमेंट हो या प्रेसीडेंट ऑफ इंडिया हो, उनके ऊपर किसी का कोई अंकुश नहीं है। अंकुश होना भी नहीं चाहिए, मैं मानता हूँ, ज्यूडिशियरी इनडिपेंडेंट होनी चाहिए। हमारे प्रेसीडेंट ऑफ इंडिया और प्राइम मिनिस्टर को भी अपनी प्रोपर्टी का हिसाब देना पड़ता है, जिससे पूरी जनता को पता लग जाए कि हमारी प्रोपर्टी क्या है। मैं किसी का नाम नहीं लेना चाहता, यहां पर यह है कि प्रोपर्टी का हिसाब हम नहीं देंगे, क्यों नहीं देंगे? Why? Are they not accountable to the people of India? Are they not accountable to the Parliament?

उपाध्यक्ष महोदय, आर्टीआई एक्ट हमारे ऊपर लागू नहीं होता है, यह क्यों नहीं लागू होता है? आर्टीआई एक्ट पार्लियामेंट से पास हुआ है और वह सब के लिए बराबर है - चाहे कॉमन आदमी हो, जज हो या कोई भी हो। लेकिन वे कह देते हैं कि हमारे ऊपर लागू नहीं होता। अभी पीएफ स्केम गाजियाबाद में हुआ। इतना बड़ा स्केम हुआ कि सुप्रीम कोर्ट और हाईकोर्ट के जज, तमाम अन्य सबोर्डिनेट कोर्ट के जज, जिनके ऊपर अंगुली उठी, उनकी सीबीआई जांच भी कर रही है। मैं यह कहना चाहता हूँ कि अगर आप सैलरी बढ़ाए, जैसा हमारे माननीय सदस्यों ने कहा कि सैलरी और ज्यादा बढ़ा दीजिए, हमें एतराज़ नहीं है। They should be accountable. यासा सिंह रावत जी ने कहा कि केसेस बढ़ते जा रहें हैं, लेकिन ये जो केसेस बढ़ते जा रहे हैं उनके लिए कौन एकाउंटेबल हैं? Who is accountable? क्या यह कहीं तय होगा कि एक कोर्ट में इतने फैसले होंगे, कहीं कोई लिमिट है। जज एपाइंट करते जाइए और उनकी संख्या बढ़ाते जाइए और हमारे पैडेंसी ऑफ केसेस बढ़ते जाएं। What is the accountability?

उपाध्यक्ष महोदय, मैं आपसे आग्रह करना चाहता हूँ, अभी काबिल लॉ मिनिस्टर साहब ने कहा है कि हम एक कॉंप्रिहेंसिव बिल ला रहे हैं, लेकिन अभी वह सदन में नहीं आ पाएगा। अगले सदन में ऐसा एक बिल आना चाहिए, जिसमें कि ज्यूडिशियरी एबव बोर्ड हो। मैं मानता हूँ और चाहता भी हूँ कि ज्यूडिशियरी पर करप्शन के चार्जेज़ न लगे।[\[S28\]](#)

मान्यवर, मुझे याद है कि एक चीफ जस्टिस की एपाइंटमेंट में हमारे प्रेसीडेंट ने कंसेंट नहीं दी। प्रेसीडेंट के कंसेंट नहीं देने के बावजूद, लॉ मिनिस्टर साहब, वे एक जगह के चीफ जस्टिस बना दिए गए। मैं किसी का नाम नहीं लेना चाहता हूँ, लेकिन जब प्रेसीडेंट के कंसेंट न देने पर, उनके ववैरी करने पर भी, उसे ओवरलुक किया जा सकता है, तो यह सिस्टम चल नहीं पाएगा। हमें यह सोचना पड़ेगा और इस सिस्टम को फूलपूफ बनाना पड़ेगा।

मान्यवर, श्री राधाकृष्णन जी ने जो बात कही थी कि इम्पीचमेंट नहीं हो सकती है। मैं उससे सहमत हूँ, क्योंकि हमने रामारवामी वाले केस में यह देखा कि लाख चाहते हुए भी, गवर्नमेंट चाहे, तो भी इम्पीचमेंट नहीं कर सकती। अभी हमारे उड़ीसा के एक नेता बोल रहे थे कि चीफ जस्टिस ने एक जस्टिस की इम्पीचमेंट के बारे में लिखा है। इम्पीचमेंट हो ही नहीं सकती। उसके जो प्रावधान हैं, उनके अनुसार लॉ मिनिस्टर भी चाहे, पूरी गवर्नमेंट भी चाहे, तो भी इम्पीचमेंट इम्पॉसिबल है। कभी किसी जज का इम्पीचमेंट हो नहीं सकता।

मान्यवर, मैं आपके माध्यम से सरकार से चाहूंगा और सभी सदस्यों से निवेदन करना चाहूंगा कि जजों का हम सब लोग आदर करते हैं, लेकिन पब्लिक में जजों के प्रति विश्वास होना चाहिए। उनके प्रति जनता में आदर का भाव होना चाहिए। उसका खात्मा होता जा रहा है और उनके ऊपर अंगुलियां उठ रही हैं। हमें यह देखना पड़ेगा कि हम ऐसा कानून लाएं, जिससे कि इन बातों का समाधान हो सके और जो गड़बड़ियां हुई हैं, भविष्य में इस तरह की गड़बड़ियां न हो सकें। मैं इसी विचार से इस बिल का समर्थन करता हूँ।

SHRI AJOY CHAKRABORTY (BASIRHAT): Thank you hon. Deputy-Speaker Sir. First of all, in principal I raise the objection to the promulgation of the Ordinance. Why the Government was in so hurry to increase the salaries of High Courts and Supreme Court judges? They are already taking luxurious salaries and other facilities.

Sir, one Bill, namely, The Judges Enquiry Bill, was submitted by the hon. Law Minister before this House. Ultimately, it was sent to the Standing Committee and long back the Standing Committee has made a recommendation to the concerned Ministry and to the Government also, but it was kept in the cold storage. Why is the Government so silent in bringing this Bill before this House? The tenure of this House is about to be over. We have no objection in raising the salaries of the judges of the High Courts and the Supreme Court. But I am sorry to say that there are so many cases of corruption and malpractices among the judges of the High Courts, the highest tribunals of States, and Supreme Court, the highest tribunal of the country.

It appeared in the newspapers, print media and electronic media, that the Chief Justice of the Supreme Court was very much aggrieved and has stated that the cases of corruption among the judges of the High Courts and Supreme Court is known to everybody in the country. People have lost their faith in the judges of the High Courts and Supreme Court because their dealing, their behaviour and their activities are very much suspicious. I am not saying that all the judges are involved but some are involved in the cases of corruption. Some judges are very honest. But some judges are involved in cases of malpractices and their behaviour, their code of conduct, etc. is not at all satisfactory. The same is case with some of the lawyers of the High Courts and Supreme Court Bars.

I would say that the High Courts and Supreme Court are the highest judicature of the country. We are not raising any objection, but the cases are long pending in High Courts and Supreme Court, people are coming and going but cases are still pending. Suppose, I file a case or an appeal before the High Court or the Supreme Court, nobody knows when it will be disposed of. I will ultimately expire, my son will come, he will also expire and his son will come, but there will be no disposal of the cases in the High Courts and the Supreme Court. This is in the original side of the Kolkata, Mumbai and Madras High Courts.

[RP30] If somebody preferred an appeal in some other High Courts also, there is no disposal. There are long-pending cases. There is no question of disposal. The Government should take care of this sort of practice. There should be a mechanism so that there is disposal of cases as early as possible, within a stipulated period; otherwise delay defeats the law.

Not only that, another problems is that the number of High Court Benches should be increased. It is because it is not possible for the village people to come to the capital cities. They can file their suit, they can prefer their appeal in the different Benches in the remote corners of the country. Otherwise, poor people cannot get relief. So I would request the Government to set up more Benches in the different districts headquarters. If it is not possible to set up High Court Benches in all the district headquarters, at least in some district headquarters the Benches should be set up. Justice delayed is justice denied. Delay defeats the law. He knows it better than me because he is not only the Law Minister; he is a prudent lawyer also. I would like to humbly submit before the Law Minister to look into the matter. Kindly bring faith among the people of the country so that they have prestige and faith on the Judiciary of the country. Judiciary already lost the faith of the people. It is the highest tribunal. It is a funny thing that they are appointing their own Judges. Is it possible as per the Constitution of India? I am not an expert of the Constitution, but so far as my knowledge is concerned, it is beyond the capacity of the Constitutional provisions that they themselves are appointing their Judges. The President of India is answerable to the people of the country but Judges are holy cow; they are not answerable to the people of the country. They deny to declare their assets. I personally know that some Judges have so much affluence; they are increasing their property and other wealth after being appointed as Judges of the High Courts and the Supreme Court also.

Lastly, I would say that to bring the faith in the Judiciary system, the Government should consider. Cutting across the party lines, from this side or that side, all the Members say in the same voice regarding the position of the Judiciary. That is why, the Government should take it seriously; consider seriously on this matter.

श्री बची सिंह रावत 'बचदा' (अल्मोड़ा) : माननीय उपाध्यक्ष जी, मैं बिल का अपनी ओर से पूरा-पूरा समर्थन करता हूँ जो विषय यहाँ पर उठाये गये हैं, वे कर्षण

से सम्बन्धित हैं, जो वास्तव में चिन्ता का विषय है। इस बिल के द्वारा वर्तमान सैलरी से लगभग तीन गुना वृद्धि करने का विषय आया है, लेकिन बढ़ी हुई मंहगाई को देखते हुए, छोटे वेतन आयोग की सिफारिशों को देखते हुए इसी सदन में और संसद में पहले कार्यपालिका का और आज हम न्यायपालिका के जजेज़ की वेतन वृद्धि का विधेयक पारित कर रहे हैं।...[\(व्यवधान\)](#)

उपाध्यक्ष महोदय : फिर आपका भी पास होगा।

श्री बची सिंह रावत 'बचदा' : लोकतंत्र में हमारा तीसरा अंग है। हमारे देश में तीन व्यवस्थाएं हैं, एक कार्यपालिका है, एक न्यायपालिका है और तीसरी हमारी विधायिका है। विधायिका के सम्बन्ध में जब-जब वेतन वृद्धि की बात आई है, तब-तब उसकी अति कटु आलोचना होती है, क्योंकि तब हम अपने बारे में स्वयं विचार कर रहे होते हैं। मीडिया के माध्यम से और हमारे वामपंथी दलों के माध्यम से उसकी तीव्र आलोचना की जाती है।[\[R31\]](#) भले ही फिर वेतन आहरण करते समय सभी वही वेतन आहरित करते हैं जो मंहगाई है या कंज्यूमर प्राइस इंडेक्स है, देश की परिस्थितियां हैं, इन्फ्लेशन का रेट है, यह अगर प्रभावित करता है, तो पूरे तीन के तीन अंग इससे प्रभावित होते हैं।

हालांकि मैं यह मानता हूँ कि माननीय विधि मंत्री जी से यह संबंधित विषय नहीं है, लेकिन चूंकि वेतन वृद्धि का विषय लेकर, न्यायपालिका का मामला लाये हैं, तो जो संसदीय कार्य मंत्री जी हैं, उन तक ज्वाइंट पार्लियामेंटरी कमेटी ऑन मेंबर्स सेलरी एंड एलाउंस है, उन्होंने लगातार अपनी बैठकें करके यह संस्तुति की है और यह आग्रह किया है कि इसी सत्र में सांसदों से संबंधित विधेयक में संशोधन और उनकी वेतन वृद्धि का प्रस्ताव स्वीकृत होना चाहिए और वह भी वर्ष 2006 से आनवर्ल्स हो, जिस प्रकार से अन्य व्यवस्थाएँ हुयी हैं, वह होना चाहिए। इसके अतिरिक्त पीठ से, माननीय अध्यक्ष महोदय की ओर से एक बार यह विषय आया था और इस संबंध में एक कमीशन बनाने की बात आयी थी। जो मेंबर सेलरी एंड एलाउंस की ज्वाइंट पार्लियामेंटरी कमेटी है, उसकी ओर से एक परमानेंट मैकेनिज्म बनना चाहिए कि हमको बार-बार उस विधेयक में संशोधन के लिए पुनः संसद के समक्ष न आना पड़े और स्वतः ही जिस तरीके से वेतन का निर्धारण होता है या वेतन वृद्धि का, देशकाल और समय की परिस्थिति के अनुरूप, वह होना चाहिए। यह संदेश अवश्य जाना चाहिए, क्योंकि सरकार के सभी वरिष्ठ मंत्रीगण यहां पर हैं। अगर इसी सत्र में वह पारित होता है, तो निश्चित रूप से माननीय संसद सदस्यों के लिए एक प्रकार का जाते समय का बोनस और गिफ्ट होगा और आने वाले समय के लिए यह व्यवस्था जो अगली 15वीं लोकसभा आएगी, उनको भी एक ठीक व्यवस्था उनको मिलेगी। ऐसा नहीं है कि जितने भी संसद सदस्य हैं, वह अपने पर्सनल वर्क, जैसे हम वकालत करते हैं, लेकिन संसद में रहते हुए वकालत नहीं कर पाते। वह व्यवसाय हमारा छूट गया। केवल हम भी इसी पर निर्भर रहते हैं। ऐसे सांसदों के लिए जरूर विधायिका के संबंध में विचार होना चाहिए। मैं समझता हूँ कि सभी लोग इसका समर्थन करते हैं। अगर यह सारा कुछ होता है तो सांसदों का विचार भी अवश्य आना चाहिए।

महोदय, इसी के साथ जो चिन्ता करप्शन के बारे में प्रकट की गयी है, उसके बारे में अवश्य विचार करने और जो पेंडेंसी है, उसके संबंध में भी चेन्नई में एक सुप्रीम कोर्ट की बेंच बननी चाहिए, ऐसा विषय आया था। मेरा मानना है कि देश की विशालता को देखते हुए न केवल एक बेंच चेन्नई, बल्कि कोलकाता और मुंबई ये दो इतनी दूरी के क्षेत्र हैं, वहां छोटी डिवीजन बेंचें बनें, ताकि कुछ मामलों पर वहां विचार हो सके। इस संबंध में भी मंत्री जी को विचार करना चाहिए।

SHRI VIJAY BAHUGUNA (TEHRI GARHWAL): Mr. Deputy-Speaker, Sir, a strong and vibrant judiciary is the essence of our Constitution and democracy, and we should be proud of our judicial system, which, all these years, has protected our rights. Sir, landmark judgments have been given in the field of equality, freedom of speech and personal liberty.

I strongly support this Bill. I would like to make two suggestions to the hon. Law Minister.

We should not always blame the judiciary for arrears of cases. It is time that the Government of India, all Corporations and the State Governments take a review of the cases which they have filed. Every judgment whether it is from the Tribunal or from the courts is appealed to the High Court or to the Supreme Court. If there is an in-house strong mechanism in the Government of India, in the Corporations and in the State Governments – it is not necessary that you go and appeal against all the judgments – then certainly, to some extent the load on the courts would decrease.

Sir, it is necessary to set up some more Benches in order to facilitate dispensation of justice. I would request the hon. Law Minister to consider setting up a Bench or a Circuit Bench in Dehradun, Uttarakhand because of the geographical area it has become very difficult for the litigants to go to the court.

Sir, by increasing the salary of judges, we would attract talents. If you do not have talented lawyers on the Bench, then certainly there will be a fall in the standard of dispensation of justice. With this increase in salary of judges, I am sure the collegiums will consider inviting more lawyers on the Bench so that we have a better judicial system functioning.[\[H32\]](#)

[\[r33\]](#) Sir, it is high time that we have a re-look at the Constitution with regard to the aspects raised by the hon. Members, with regard to the appointments and impeachments of the Judges. For that, the opinion of the entire House and all major political parties will be necessary. But we must respect this institution. If we want to be respected then we must learn how to respect the judicial system. For the democracy to survive, it is necessary that strong and independent Judiciary exists. We must be considered to the legitimate demands, which they expect from this Parliament.

With these words, I support the Bill.

DR. SEBASTIAN PAUL (ERNAKULAM): Mr. Deputy-Speaker, Sir, I rise to support this Bill with a reservation against issuing an Ordinance just one month ahead of the commencement of the Session. There was no need for the Ordinance, there was no urgency for it. The enhanced salaries could have been paid with backdated arrears.

But anyway, Sir, I wholeheartedly welcome this proposal. Let our Judges be satisfied, let them be paid well so that the judicial system in the country may move on in a healthy tradition and a healthy track. But at the same time, Judges should be made more accountable. Everyday, we are hearing from the newspapers about more and more cases of corruption and irregularities. Even the Chief Justice of India is acknowledging the fact that corrupt elements are crept in to the Indian Judiciary. That is not a welcome situation. We have to take some urgent measures to make Judges more accountable.

At the same time, the Judges should work more. With their enhanced salaries, the Judges should be made to work more because they are enjoying long holidays. The courts will be closed for days together every year for various reasons while lakhs and lakhs of cases are pending in the courts. Therefore, some urgent measures should be taken to clear the pendency. Let the Judges work more. It is the colonial hangover of declaring court holidays for longer periods. Let us stop this practice because the courts can function round the year like any other institution or any other office.

I have to point out one more thing. Many hon. Members have already expressed their opinion regarding the process of appointment of the Judges. As far as my understanding of the Indian Constitution goes, the Executive has to play a very important role in their selection process. But India has become the only country in the world where the Judges themselves make their successors. A new judicial class has emerged in the country. In the selection process, there is no transparency. The process is opaque and it is done in secret. It is not a healthy practice. We should go back to the earlier procedure, in the true spirit of the Indian Constitution because the Constitution is interpreted by the Judiciary and usurp the powers of the Executive in that matter. Therefore, the selection process of the Judges should be made more transparent with the participation of the Executive also. That is the mandate of the Constitution.

Sir, I welcome this move to pay more for the Judges but let them work more. We have the right to expect more output from the Judiciary so that arrears can be cleared, pendency of cases can be reduced. Let our Judiciary be more accountable, and let them work in a transparent and democratic manner.

SHRIMATI P. SATHEEDEVI (BADAGARA): Mr. Deputy-Speaker, Sir, the High Court and Supreme Court Judges (Salaried and Conditions of Service) Amendment Bill introduced here seeks to revise the salaries of the High Court and Supreme Court Judges and doubling the existing rate of sumptuous allowance and scale of free furnishing admissible to Judges.[\[r34\]](#)

Then, it seeks to revise the pension, additional pension, maximum pension of judges, additional quantum of pension and family pension as applicable in the case of Central Government employees and pensioners.

The salary hikes listed in the draft Bill have already been effected through an Ordinance by the Government. As pointed out by other Members, I also do not understand why there is hurry in bringing such an Ordinance. My submission is that any increase in the salaries, pension and other facilities of judges of higher courts should only be effected simultaneously with other pending Bills concerning the judiciary like the Judges Inquiry Bill which is now kept in cold storage without touching.

The other aspects, including the reforms in judicial system like the constitution of a National Judicial Service Commission for appointment and probe up complaints of judges should also be taken simultaneously with this High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Bill. In view of the recent controversy in the declaration of wealth and assets of judges, provision should be made for making wealth and assets of judges and their family members public, rather provision for declaring gifts received by them and revealing personal expenses made above Rs.20,000 should also be made. There should be a permanent body to address these issues of judiciary.

Our Constitution mandates the separation of Judiciary from Executive. For strengthening the judicial system of our country, as pointed out earlier, a National Judicial Inquiry Bill has to be passed and a proper National Judicial Service Commission has to be introduced. There are some other important issues relating to the judiciary which have to be looked into simultaneously with the hike in salary and allowances of judges.

Huge accumulation of cases, as pointed out by other Members, lack of infrastructure in the court for proper functioning, vacancies of judges in all parts of our country and similar other issues have to be addressed. So, we should concentrate on

all these issues simultaneously as part of judicial reforms. The constitution of a National Judicial Service Commission with the provision of powers to revise the salaries according to the service conditions with accountability has to be addressed. The issue of performance of judges, accountability, the issue of corruption and other related issues have to be addressed.

I do agree that the salary of each and every section of our society has to be increased. It is also true that young talented students from our National Law School should also enter the Bar. Unfortunately, several talented students are not entering the Bar. They are searching for some other employment. So, for that purpose, increased salary and other facilities should be there to attract those intelligent categories of students to the Bench and to the Bar. Then, good lawyers, able and efficient legal luminaries should be attracted to the Bench from the Bar. So, for that purpose, increase in salary and other emoluments is necessary.

But, as pointed out by the other Members, now the Executive is not having any role in the appointment of judges. Then, why are we interfering in the increase in the salary and other issues? So, the National Judicial Commission and passing of the Judges Inquiry Bill are required immediately. Simultaneously, the salaries and other emoluments have to be introduced.

With these words, I conclude.

श्री रामदास आठवले (पंढरपुर) : उपाध्यक्ष महोदय, हमारे हंसराज भारद्वाज जी, जो एक सेवयुक्त मिनिसटर हैं, मिलिटेंट मिनिसटर हैं और कानून पर...(व्यवधान)

उपाध्यक्ष महोदय : बीजेपी ने भी सपोर्ट किया है, इन बेंचों ने तो सपोर्ट किया है।

â€!(व्यवधान)

श्री रामदास आठवले : यहां जजों के वेतन बढ़ाने के संबंध में जो बिल लाया गया है, मैं उसे सपोर्ट करने के लिए खड़ा हुआ हूँ। [MSOffice35] मुझे लगता है कि आज जूडिशियरी में जो भी करप्शन हो रहा है, उसके लिए आज जो बिल आया है, उसमें और बढ़ोतरी करने की आवश्यकता है। जजेज की पेमेंट बढ़ेगी, जजेज अगर खुश होंगे और उनको सेटिस्फैक्शन रहेगा, तो वे ज्यादा अच्छी तरह जजमेंट दे सकते हैं। कोर्ट्स में केसेज बहुत दिनों तक पेंडिंग रहते हैं, इसलिए मेरा सुझाव है कि जजेज की संख्या बढ़ाने की आवश्यकता है। उनमें एससी-एसटी जजेज को भी लिया जाना चाहिए। आपने एससी-एसटी जजेज को लिया है, लेकिन उनकी संख्या अभी बहुत कम है और अगले पांच साल में ज्यादा जजेज को लेना है। आज सुप्रीम कोर्ट के जज हमारे शिडयूल कास्ट के हैं, जहां तक मेरिट का सवाल आता है तो ये लोग किसी से पीछे नहीं हैं। डिप्टी स्पीकर साहब, आप भी हमारे समाज से हैं। पहले कुछ लोगों को लगता था कि श्री वरुणजीत सिंह अटवाल जी डिप्टी स्पीकर के पद को नहीं संभाल सकते हैं, लेकिन आप बहुत अच्छी तरह से हाउस को चला रहे हैं। इसलिए एससी-एसटी की मेरिट बहुत अच्छी है। मेरा सुझाव है कि मुंबई में सुप्रीम कोर्ट की एक बेंच बनाने की आवश्यकता है। मुंबई शहर हमारे देश की आर्थिक राजधानी है, वह साउथ इंडिया, गुजरात और मध्य प्रदेश से नजदीक है। इसी तरह राज्यों में जो हाई कोर्ट्स हैं, उनकी ज्यादा बेंचेज बनानी चाहिए, जैसे उत्तर प्रदेश में इलाहाबाद और लखनऊ में हाई कोर्ट की बेंचेज हैं, उसकी एक बेंच गोरखपुर में भी बनानी चाहिए। उत्तर प्रदेश को बांटकर तीन राज्य बनाने की आवश्यकता है, एक स्टेट * के लिए, एक स्टेट * के लिए, एक स्टेट हमारी पार्टी के लिए और एक स्टेट कांग्रेस के लिए बनाने की कोशिश की जाए, वह बहुत बड़ा राज्य है।...(व्यवधान)

MR. DEPUTY-SPEAKER: That should not be recorded. If the names of persons, who are not present in the House, are mentioned, they should be expunged.

* Not recorded

श्री रामदास आठवले : जूडिशियरी के करप्शन को खत्म करने के लिए और भी प्रावधान करने की आवश्यकता है, इसीलिए हंसराज भारद्वाज जी आपके ऊपर जिम्मेदारी अभी भी है और चुनाव के बाद भी जूडिशियरी की जिम्मेदारी हम आपको देने वाले हैं। आपको जिम्मेदारी मिलेगी, लेकिन हमको भी कोई जिम्मेदारी देने के बारे में विचार करें। इसलिए मैं इस बिल का पूरा समर्थन करता हूँ। लेकिन इतना कहना चाहूंगा कि जजमेंट्स दो-तीन साल में अंदर आना ही चाहिए, इसके लिए कोई प्रावधान आपको करना चाहिए। मैं इस बिल का समर्थन करता हूँ। आप जजेज का पेमेंट और भी बढ़ाइए ताकि वे खुश होकर अच्छी तरह से काम करें। आप उनका पेमेंट और बढ़ाइए। यही मेरा सुझाव है।

SHRIMATI TEJASVINI GOWDA (KANAKAPURA): Mr. Deputy-Speaker, Sir, I rise to support the High Court and Supreme

Court Judges (Salaries and Conditions of Service) Amendment Bill which was brought up by the Law Ministry. I appreciate and congratulate the Law Minister for bringing more people-oriented Bills during the five-year term of the UPA Government.

The Bills seeks to increase the salaries of the judges and to revise the family pension of the judges. It also seeks that the majority of the expenditure should be borne by the State Governments. This is the need of the hour also. The judges have been working throughout the day and have a very hectic life. They are attending to lakhs of cases to provide justice to the nation. At the same time, I urge that more women judges should be given opportunity. This is the need of the hour.

I also urge upon the community from the judiciary side to maintain their dignity and honour because everybody is making jokes and everybody is making accusations. Even Judiciary is not left out of the corruption charges. In this House, with concern, we are taking care of their needs and they definitely deserve this kind of support from Parliament. Across the party lines, everybody is supporting them because so many pending cases are there in this country where poor people are suffering. That is why, with the intention to help the people, we are bringing these changes.

Sir, at last, through you, I urge upon the Parliament to set up one Supreme Court Bench in Bangalore city of Karnataka, which place is very convenient weather-wise, people-wise and culture-wise, to deliver justice from South India.

With these words, I support the Bill.

[\[S36\]](#)

विधि और न्याय मंत्री (श्री हंस राज भारद्वाज) : Hon. Deputy-Speaker, Sir, I am very grateful to you for this House to discuss this important legislation because we do not know the sensitivity of this matter. I am saying this because the Judges do not speak for themselves, and the Judges do not ask for anything. It is this House, which has the responsibility to hold the purse of the nation, and has to give it. Therefore, this has been the tradition right from the days when the Constitution was enacted that whatever facilities and perks are permissible under the conditions of the country are given by all successive Governments without any controversy, and there has never been any acrimony or debate on this issue.

I am very happy about all that the hon. Members have spoken. They have only emphasized very relevant points except a brief intervention from my old friend. Otherwise, it has been a good and constructive debate. ...(*Interruptions*)

MR. DEPUTY-SPEAKER: He is your fast friend.

...(*Interruptions*)

SHRI VARKALA RADHAKRISHNAN : I only wanted to educate you about the judicial system. ...(*Interruptions*)

SHRI H.R. BHARDWAJ : I do not mind it. He can educate me outside Parliament, and I will welcome it. But he is a veteran Parliamentarian. Therefore, everybody looks at what he states here. ...(*Interruptions*)

SHRI VARKALA RADHAKRISHNAN : I was only explaining about the judicial system. ...(*Interruptions*)

MR. DEPUTY-SPEAKER: For the first time in the last five years I have seen you agitated while he was speaking.

...(*Interruptions*)

SHRI H.R. BHARDWAJ : It is because if one friend pricks another friend, then the prick is very severe. Let me tell you frankly that I am a Leftist, but when you hold a position of responsibility, then you have to discharge it.

I am so happy. An hon. Member from the BJP side, namely, Shri Rasa Singh Rawat is a mature speaker that it is like music to my ears when he says thanks. I love such speeches from hon. Members. The speech of the hon. Member from Orissa was very constructive as also the speeches made by other Members. This is the way by which we can be educated and guided, and your message is carried to the Judiciary. I am really very happy. I would like to very briefly touch all the points, and if any point remains, then I will be very happy to answer it.

You all know that the Founding Fathers of this Nation were all very high-level Graduates of Law, and Barristers. The Founding Fathers gave this Constitution to us, and they never envisaged that there will be either corruption in Parliament or

in Judiciary. Therefore, they kept very negligible provision for punishing these institutions of democracy.

We are happy that for the last 50 years or so our public life or our judicial life has been very clean. I have experience of around 45 years as a lawyer, and I have never heard that a Judge could ever be corrupt. But these are the vagaries which are of recent origin. In public life also the hon. Speaker had to take some harsh steps, which was astonishing. Now, when we hear in the newspapers the cases of corruption in the High Court, these are matters of concern. Therefore, what is the answer? Today, I am here and tomorrow you may be here. Anybody can be here. Therefore, this is a matter, which calls for unity of the whole Parliament. No one Government can really amend the Constitution so radically that puts the present position on the back burner, and bring a new one. This attempt has been made from Shri Dinesh Goswami's time, but it has not succeeded because we are not united in Parliament. It is the unity of Parliament that answers when national issues are addressed. The answer was coming when we stood united on the issue of terrorism. If we had been fragmented, then there would have been no answer for it.

Let me tell you frankly that the Judiciary also watches us. As you say that Judiciary should work more, the Judiciary also says that the Parliament should work more. They are openly saying this when they see us fighting here. They say that: "What is happening in the Parliament?" Some people said it, and I said that: "Do not talk about Parliament. The Parliament represents the will of the people." They said that: "We are given this responsibility of power of Judicial Review by the Parliament." ...(*Interruptions*)[\[r37\]](#)

SHRI VARKALA RADHAKRISHNAN : That judicial review is reversed by

MR. DEPUTY-SPEAKER: Mr. Radhakrishnan, do not disturb the House. Please sit down.

SHRI H.R. BHARDWAJ: Sir, I wish to reply to some hon. Members who have given very constructive suggestions.

I am very happy that a view is emerging that the nation will give all facilities to judges. There is no controversy on that. On the Ordinance, it is parliamentary practice to oppose the Ordinance. I am not unaware of this. But let me tell you that judges phone me and ask me, "What is happening to our salaries? Secretaries to the Government are drawing more salaries. Our Registrar-General is getting more. Therefore, the urgency was to give it as early as possible because the judges were making a grievance of it. Therefore, for a noble cause the Ordinance was brought. I knew there will be severe opposition to it. I do not want to discourage parliamentary practices. You have done your duty. I would request you to condone it. I made a statement. I do not bring the Chair or the President of India into the discussion because in tradition these two are not debated. Therefore, I submitted at the very outset as to what the urgency was. You may find it adequate or inadequate that is your view. But showing large-heartedness, you have already condoned it by supporting this law.

The real issue is two-fold. One aspect of it is the pendency of cases. Nobody can deny that the lawyers or the judges are meant to serve the people of India. Otherwise, what is the importance of this institution? I am proud to say that judiciary has served this country very well. Because you wanted the per-judge disposal, I have been monitoring this continuously. Except in one or two High Courts, all the High Courts of the country have given disposal rates that is expected of a judge of a High Court, i.e., about 1020 on average. We monitor this disposal continuously. I deal with the Supreme Court and High Courts. I do not deal with the judiciary in the States. They are performing in the same way. But what to do? The institution is increasing.

Is it not a case where there should be a national endeavour by the Central and State Governments to see that more judges are employed? That is a case where national effort will be required because it is a national problem. The NDA Government gave money for fast track courts and that made a difference in the session trials. I have continued with this. In addition, this House was very kind to give me its nod for the Gram Nyayalayas. That is where we are giving Central support to States to appoint around three thousand to four thousand grassroots level judges to go to the poor people for summary disposal of cases. We have provided reservation to women, scheduled castes and scheduled tribes there so that the problems are resolved there. That is a new step which this Parliament has sanctioned very recently.

There is always a review of the strength of the judges every third year. This year we reviewed and we have increased around 180 judges in the high Courts. But the proposals have to come from the High Courts for their appointment. They have not come for two reasons. Sometimes the CJ of that High Court does not forward it. In Uttar Pradesh, 60 posts are still vacant in Allahabad High Court. I wish they could make a recommendation. What is the reply? They do not have enough courtrooms. We have to make provision for the courtrooms, infrastructure, and that requires a lot of money. We will devise national effort. The Centre has already come up to help the States in this matter. The NDA Government gave it from the Finance Commission. We have also requested the Central Government to help the States. But it is a very gigantic task

before us. Unless we unite together, the States and the Centre, this will not be possible. One Law Minister from the Centre cannot resolve all the cases. [\[KMR38\]](#)

One Minister from the Central Government, the Law Minister, cannot resolve all the cases. The Chief Justice has asked, all the vacancies should be filled up. There are 3,000 vacancies in the States. I have no control. But I write very occasionally to the States to fill up the vacancies. The Joint Conference of the Ministers and Chief Ministers are held every year, and things have improved.

About infrastructure, we have made provision for computerising the entire country's courts, right up to the taluka level. We have provided money to the States, 100 per cent grants have been given by my Ministry. We are monitoring and I believe that in the next two years, the country will have e-governance courts. Changes are taking place. But they are at a very slow speed and people are restless on this. I hope, after elections, this issue after this debate will get priority, whoever would be the Law Minister. We will have to develop a national consensus because this is also a national problem - one State or two States – and a very cooperative attitude has to be adopted in this matter.

You may criticise the Judiciary but the public perception is that Judiciary is doing better than other organs of the State. Corruption has to be dealt but we have no provision. You are all very learned Members, many of you are Advocates, who know that there is no provision except in the Constitution or the Judges Inquiry Act, 1968. There is a requirement that this whole area is restudied and we should see how we can include other supplementary provisions in dealing with the complaints. So, I thought that I will succeed in getting the Judiciary Council Bill passed by this Parliament. If it does not happen, Parliament is a continuous institution. It will come immediately after the elections. I hope all of you will come back and review this debate in a much more constructive way, and whatever you will resolve and that would be the way to deal with corruption in Judiciary. There is no independence away from Parliament. Parliament can make corrections in any instrument and in any system of the governance. This is the supreme institution. I do not subscribe to the limitations and powers of Parliament, however strong it may come from the elitist groups that there is a limitation. But still I am not reconciled to the limitations put in Keshvanand Bharati's case. Parliament is the supreme institution. It represents the whole nation. Up to Nehru's time, the Parliament was accepted as the supreme institution.

SHRI VARKALA RADHAKRISHNAN : You should tell the Judiciary also that Parliament is supreme.

SHRI H.R. BHARDWAJ: I am making the statement with full responsibility that Parliament is the supreme institution.

SHRI VARKALA RADHAKRISHNAN : You should say that Parliament's recommendations will be implemented.

SHRI H.R. BHARDWAJ: I am also making the statement with full responsibility that we are second to none in reducing the corruption in the Judiciary. It is my initiative, hon. Member, that I started this study and completed it and gave it to the Standing Committee. If we all return, we will pick up this thread and complete the job. I have not only talked to one or two or three Chief Justices of the States, however reluctant they may be, they are also accountable to the Constitution of India. I do not subscribe to the view that Judiciary is accountable to the Executive. No. It is accountable to the Constitution because they take the oath in the name of the Constitution and Constitution is supreme for everything. Therefore, Parliament can amend the Constitution. Parliament has plenary powers to amend the Constitution despite limitations. This is not only in India, right from 1883, in America , Parliament, President and Judiciary fought this battle – supremacy of Parliament – because Parliament can amend the Constitution, We can make another method of appointment. We will discuss it when the opportunity comes. We cannot discuss in an *ad-hoc* manner. It is simply not possible to convince you about the Constitution of India. Presently, there are inadequate provisions to deal with the provision of Judiciary. [\[R39\]](#)

My answer is that in the vision which our founding fathers had, they had never envisaged corruption in judiciary. Judges were total image of integrity and honesty. I expect, as the Member of Parliament, that that should continue to be so and by and large, they have been like that.

I do not want to discuss – if you forgive me – individual cases. Hon. Member referred to one Judge case of Kolkata. Firstly, let me tell you that this is a wrong impression that the Chief Justice of India will recommend from the Supreme Court that you may impeach so and so and I will do that. This is not possible. It is your privilege; you give me 100 signatures and I will start the motion. You have to give 100 Lok Sabha MPs and 50 in the Rajya Sabha and that has to be done.

SHRI PRASANNA ACHARYA (SAMBALPUR): That is the technical side of it. There has to be a recommendation from the Chief Justice of India – that is a suggestion.

SHRI H.R. BHARDWAJ: There are certain issues which have to be seen; it is a delicate question of interpreting the Constitution. I have to convince first myself; I am, in age and experience, senior to the Chief Justice; I have to study whether a case has been made out for impeachment. Can I come to any conclusion without studying the whole matter? You will not advise me to do that; I know that; one after another, there are brilliant MPs here. I will have to face the music here otherwise. So, it is not that way; I am making a proper study of the case and leaving it for the future to decide on the case.

SHRI B. MAHTAB (CUTTACK): 'Not taking a decision' itself is a decision!

SHRI H.R. BHARDWAJ: No. There is time for that. I have to persuade 100 MPs to frame the charge. The Chief Justice's recommendation is of no use. The Chair here will decide; the peers Committee will have to be again appointed. The 1968 Bill is very clear – the Judges Inquiry Bill. There is no other method in the system known to us where you can investigate a judge.

I believe that in order to uphold the independence of judiciary, you will have to give a statutory backing to all penal provisions, with the nod of the Parliament. So, I am not going into that. I will not disappoint anybody also because I have nothing personal in this and there is nothing personal in this. So, these two matters are of urgent importance.

We should serve our people well; we should give speedier justice; we should increase judicial manpower; and we should increase the infrastructure. I am very happy that the States are now coming around; earlier the States ignored this. Chief Justice after Chief Justice now says that they are happy with the attitude of the State Governments. This is a joint responsibility.

If the vacancies are recommended well in time, I have a memorandum of procedure with the Chief Justice of India, that they will recommend six months in advance. But they do not recommend even six months after. I cannot appoint a judge unless the name comes to me from the Chief Minister and the Chief Justice. You know that nowadays there is a delay in receiving the recommendation. But I want to inform the august House that during the last four years, I have appointed more than 400 judges in the country in the High Courts. On an average, it is around 100 judges in a year, whereas during the earlier years, the maximum that could be done by any Law Minister was 60. So, there is an increase of 40. So, if the procedure is made simpler with the Judicial Commission, etc. I think speed can be achieved.

But again, it is a matter of time; but the issue is very complex; the delicacy of the institution is such that if it is disturbed or tinkered with by any unusual matter, the country will not accept. You may say so. So, we always take that the judiciary is serving the country and we should agree with that.

I also tell you that there is an impression that something more is being given to them. The salary of the High Court Judge is equivalent to the Secretary to the Government. Would you not like that the High Court Judge should be equivalent to the Secretary to the Government?

SHRI PRASANNA ACHARYA : We are not saying no to that.

SHRI B. MAHTAB : There is no dispute on that issue.

SHRI H.R. BHARDWAJ: I am just saying to inform this – somebody said that there is three-fold increase; there is no three-fold increase in that. [\[p40\]](#)

I am very happy that on basics, we all agree and that is where this institution has been serving very well. India is a proud democracy. I would like to submit before this House that wherever we go, we are admired as a great democracy and as a country where the institution of judiciary is independent. We should be proud of it. It does not matter whether this side or that side rules. The nation comes first. Jawaharlal Nehru said, "Who lives if India dies and who dies if India lives". Dr. Ambedkar was the philosopher behind the constitutional philosophy. He has studied very carefully the delicacies involved. He himself did not want that there should be an absolute power in the President in appointment of judges. I remember his prophetic words. He said that both the President and the Chief Justice are high offices. We should trust them. But, who argued the 1993 case? They were all the brilliant lawyers of this country. They argued saying do not trust the politicians. You may read the 1993 Advocate on record case. I was dismayed to see how these brilliant lawyers were arguing against the parliamentary powers or the President's power. Right from Shamsher Singh's case, Krishna Aiyar ji said that the President is bound by the advice of the Council of Ministers. There is no independent power except the

Cabinet advice. That is the philosophy today. I wish the judiciary should appreciate it and correct its own version either in a review or with your cooperation we will do it by a constitutional amendment.

So, Sir, I am very grateful to you for giving me this indulgence. If any point is left, I would be too happy to answer it....(*Interruptions*)

Sir, with your permission I would like to set the record straight. After my taking over as the Minister, I have ensured that there are women judges in the High Court. In Delhi High court there used to be one woman judge and now there are six women judges. In each High Court at least four women judges have been accommodated and so is the case for the Scheduled Castes, Scheduled Tribes and minorities. I am giving reservation to the Scheduled Castes and Scheduled Tribes & Women in Gram Nyayalayas. You know that I have gone from State to State to find suitable talent in Scheduled Castes, Scheduled Tribes, minorities and women.

MR. DEPUTY-SPEAKER: Shri Radhakrishnan, do you want to withdraw the Resolution?

SHRI VARKALA RADHAKRISHNAN : There is no question of withdrawal. I am very-very firm that the present condition is not good. Whatever he may say, the present condition is not good as far as the judiciary is concerned.

MR. DEPUTY-SPEAKER: Do you want to withdraw it or not?

SHRI VARKALA RADHAKRISHNAN : There is no question of withdrawal.

MR. DEPUTY-SPEAKER: The question is:

"That this House disapproves of the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Ordinance, 2009 (No. 1 of 2009) promulgated by the President on 9 January, 2009. "

The motion was negatived.

MR. DEPUTY-SPEAKER: The question is:

"That the Bill further to amend the High Court Judges (Salaries and Conditions for Service) Act, 1954 and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958 be taken into consideration. "

The motion was adopted.

MR. DEPUTY-SPEAKER: The House shall now take up clause-by-clause consideration of the Bill.

The question is:

"That clauses 2 to 13 stand part of the Bill. "

The motion was adopted.

Clauses 2 to 13 were added to the Bill[\[R41\]](#)

Motion Re : Suspension of Rule 80 (i)

SHRI H.R. BHARDWAJ: I beg to move:

"That this House do suspend clause (i) of rule 80 of Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to the Government amendment No.3 to the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Bill, 2008 and that this amendment may be allowed to be moved."

MR. DEPUTY-SPEAKER: The question is:

"That this House do suspend clause (i) of rule 80 of Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to the Government amendment No.3 to the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Bill, 2008 and that this amendment may be allowed to be moved."

The motion was adopted.

New Clause 14

Arrears

Amendment made:

Page 4, after line 29, insert –

"CHAPTER IV

TRANSITIONAL PROVISION

14. The difference of salary, pension and family pension payable to a Judge of High Court or to his family, as the case may be, under the High Court Judges Act or a Judge of the Supreme Court or his family as the case may be, under the Supreme Court Judges Act as amended by this Act and the salary, pension or family pension payable to such Judge or his family, as the case may be, but for this Act shall be paid in two installments, the first installment of forty per cent, to be paid during the current financial year 2008-09 and the remaining sixty per cent, to be paid in the financial year 2009-10." (3)

(Shri H.R. Bhardwaj)

MR. DEPUTY-SPEAKER: The question is:

"That new clause 14 be added to the Bill."

The motion was adopted.

New clause 14 was added to the Bill.

Motion Re : Suspension of Rule 80 (i)

SHRI H.R. BHARDWAJ: I beg to move:

"That this House do suspend clause (i) of rule 80 of Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to the Government amendment No.4 to the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Bill, 2008 and that this amendment may be allowed to be moved."

MR. DEPUTY-SPEAKER: The question is:

"That this House do suspend clause (i) of rule 80 of Rules of Procedure and Conduct of Business in Lok Sabha in so far as it requires that an amendment shall be within the scope of the Bill and relevant to the subject matter of the clause to which it relates, in its application to the Government amendment No.4 to the High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Bill, 2008 and that this amendment may be allowed to be moved."

The motion was adopted.

New Clause 15 Repeal and Saving

Amendment made:

Page 4, *after* line 29, *insert* –

15. (1) The High Court and Supreme Court Judges (Salaries and Conditions of Service) Amendment Ordinance, 2009 is hereby repealed.

"Ord. 1 of
2009.

(2) Notwithstanding such repeal, anything done or any action taken under the High Court Judges (Salaries and Conditions of Service) Act, 1954 and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958 as amended by the said Ordinance shall be deemed to have been done or taken under the High Court Judges (Salaries and Conditions of Service) Act, 1954 and the Supreme Court Judges (Salaries and Conditions of Service) Act, 1958 as amended by this Act." (4)

(Shri H.R. Bhardwaj)

MR. DEPUTY-SPEAKER: The question is:

"That new clause 15 be added to the Bill."

The motion was adopted.

New clause 15 was added to the Bill.

Clause 1

Amendment made:

Page 1, line 5, -

for "2008", *substitute* "2009" (2)

(Shri H.R. Bhardwaj)

MR. DEPUTY-SPEAKER: The question is:

"That clause 1, as amended, stand part of the Bill."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

Enacting Formula

Amendment made:

Page 1, line 1, -

for "Fifty-ninth", substitute "Sixtieth". (1)

(Shri H.R. Bhardwaj)

MR. DEPUTY-SPEAKER: The question is:

"That Enacting Formula, as amended, stand part of the Bill."

The motion was adopted.

The Enacting Formula, as amended, was added to the Bill

The Long Title was added to the Bill.

SHRI H.R. BHARDWAJ: I beg to move:

"That the Bill, as amended, be passed."

MR. DEPUTY-SPEAKER: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

-