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12.08 hrs.

CALLING ATTENTION TO MATTER OF
URGENT PUBLIC IMPORTANCE

Situation arising out of the move to curb right to strike by employees and placing other Restriction on working classes and steps taken by the Government in regard thereto

Title: Shri A. Krishnaswamy called the attention of the Minister of Personnel, Public Grievances and Pensions regarding move to curb the right to strike by employees and placing other restrictions on the working classes and steps taken by the Government in this regard.

SHRI A. KRISHNASWAMY (SRIPERUMBUDUR): Sir, I call the attention of the Minister of Personnel, Public Grievances and Pensions to the following matter of urgent public importance and request that he may make a statement thereon:

"The situation arising out of the move to curb the right to strike by employees and placing other restrictions on the working classes and steps taken by the Government in regard thereto."

THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS AND MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS (SHRI SURESH PACHAURI): Mr. Speaker, Sir, hon. Members have called the attention of the Government to the situation arising out of the move to curb the right to strike by employees and placing other restrictions on the working classes and steps taken by the Government in regard thereto. The Department of Personnel has the charge of the Government employees in general. Those working in industry are governed by the Industrial Disputes Act, 1947. I shall confine myself to the hon. Members' query regarding Central Government employees.

The conditions of service of the Central Government servants are governed by the rules made by the President under Article 309 of the Constitution or under the Act of Parliament enacted under the same Article.

In their Judgement delivered on the 6th August, 2003, in T.K. Rangarajan Vs. Government of Tamil Nadu and Others, the hon. Supreme Court have held that no right to strike, whether Fundamental, Statutory or Equitable/Moral Right, is available to Government employees.

In this connection, I would like to inform the hon. Members that the Central Government is alive to the legitimate concerns of the Government employees, especially for a fully functioning grievance redressal mechanism. The Joint consultative Machinery (JCM) Scheme has been working for many years and has proved its usefulness both to the Government and the Government employees. Its object is to promote harmonious employer-employee relations and to secure the greatest measure of cooperation between them – the Government as employer and the general body of its employees – in matters of common concern and to improve the efficiency of the public service. The JCM, therefore, provides a time-tested forum for the resolution of differences, if any, between the Central Government and its employees' associations or unions.

As I have already submitted, enough safeguards are available to protect the interests of the Central Government employees. Government does not propose to disturb the existing arrangement.

SHRI A. KRISHNASWAMY : Sir, the labour movement is a movement of struggle. With great sacrifice and agitation workers are given minimum social security rights like right to negotiate, collective bargaining right, right to strike, etc. This was not achieved on a single day but the movement was spread over three centuries, from the late 18th century when the industrial revolution was started till now.

The State Government of Tamil Nadu has become notorious in taking away or snatching away one-by-one the hard earned rights of the workers and has gone to the extent of indulging in victimisation and dismissal. Recently, last year, the entire nation knows about the strike of State Government servants, teachers of Government and local bodies in Tamil Nadu. They have been victimised. Lakhs and lakhs of State Government servants have been dismissed. So, we need a statutory right not only for the Central Government employees but for the State Government employees also.

As per the reply of the hon. Minister, there are enough safeguards for the Central Government employees. My suggestion is that enough safeguards should also be given to the State Government employees. As human beings, the State Government employees should be treated equally. This is my humble suggestion. On behalf of the DMK Party and on my own behalf, I request the Government to pass legislation on the floor of the House making right to

strike a statutory right. This is what I expect from this Government. I want an assurance from this Government.

SHRI BASU DEB ACHARIA (BANKURA): After the Supreme Court's judgement on right to strike, there has been widespread resentment among the Government employees as well as workers. Against that judgement five crore Government employees and public sector undertaking workers went on strike on 24th February and demanded a legislation from the Central Government to make the right to strike a fundamental right. About seven lakh State Government employees and teachers had to go on strike in Tamil Nadu because the Government of Tamil Nadu curtailed the pensionary benefits extended to the Government employees and teachers. When all the avenues were closed, there was no avenue left with, they had to go on strike. The strike was successful. In order to crush the strike, the Government of Tamil Nadu imposed Tamil Nadu Essential Services Maintenance Act (TESMA).

Thousands of employees and teachers were arrested and dismissed from service. The case was not whether the right to strike is fundamental or not. The case was whether the action of the Government of Tamil Nadu of dismissing thousands of State Government employees who went on strike was justified or not. The Supreme Court of India did not deal with that question for which the case was lodged. But the Supreme Court of India, without commenting on the arbitrary action of the Government of Tamil Nadu, observed that the right to strike is neither statutory nor fundamental nor equitable nor ethical. The Supreme Court of

India advised that all the disputes should be settled by Joint Consultative Machinery. I am surprised to read the Statement of the Minister that the Joint Consultative Machinery Scheme has been working for many years and it has proved its usefulness to the employees of both the Central Government and the State Government. If it is useful, why in each case when there is an award from an Arbitrator or a Tribunal, the Government comes forward with a Resolution to reject the award. Three such Resolutions are pending in this House.

Article 19 of the Constitution says that all the citizens shall have the right to freedom of speech and expression, to assemble peacefully without arms, to form associations or unions, and to move freely throughout the territory of India.

MR. SPEAKER: Please put your question.

SHRI BASU DEB ACHARIA : Sir, I am coming to the question. The right to form association and union is not separated from agitation or resistance. We cannot separate the right to form association and union from agitation or resistance. In a number of countries, the right to strike has been given to the employees and workers in 1977. It appears that some 16 countries had explicit recognition of right to strike by public employees and by 1985 eight more countries have been added to the list. In the United Kingdom and even in Israel, the legality of strike has been tacitly recognised. In Italy, the right to strike to both private and public sector employees is recognised. In France, the constitutional protection of right to strike was upheld to both private and public sector employees. When other countries of the world have given the right to strike to their citizens, why should this right not be given to both private and public sector employees of our country which is the biggest democratic country in the world? They should have this constitutional right. Why does the Government of India feel that there is no necessity to propose a change in the existing arrangement?

I want to know whether the existing arrangement is satisfactory or not. If it is satisfactory, then why has there been a number of strikes in our country? Sir, how can the grievances of the employees of the State Governments and the Central Government be redressed? What is the difficulty of the Government? It is because earlier, it was not felt like that. This right is an inalienable right of the working class of our country. Today, the Supreme Court of India has observed that all Government employees do not have the right to strike and their right to strike is not fundamental or moral or ethical. But tomorrow the Supreme Court of India may observe that the workers of our country, workers of the public sector and the private sector, will not have the right to strike. Sir, this inalienable right of the workers to strike is now being taken away.

SOME HON. MEMBERS: It is very important.

MR. SPEAKER: Of course, it is important.

SHRI BASU DEB ACHARIA : May I know from the hon. Minister regarding the workers who went on strike only on this demand on 24th February? In the last Lok Sabha election, the people of Tamil Nadu have given their mandate. Their mandate is against the arbitrary action of the State Government of Tamil Nadu. They are against the fascist policy of the State Government of Tamil Nadu. The people of Tamil Nadu as well as the people of India have given their mandate to change the anti-working class, anti-people policy of the earlier Government. The earlier NDA Government wanted to take away the right of the working class and the employees of the country. Now, the UPA Government is coming forward with a legislation to make the right to strike as a fundamental right. I would like to

know from the hon. Minister as to what prevents this Government from bringing a suitable legislation to make the right to strike as a constitutional right? How does the Government propose to redress the grievances and problems that are being faced by the employees and working class of our country?

SHRI GURUDAS DASGUPTA (PANSKURA): Mr. Speaker Sir, permit me to comment that the hon. Minister did a fine tight-rope walking. What was the Calling Attention about? The hon. Minister has avoided it deliberately because he does not want to take any steps. The essential question is about the Government's attitude towards the right to strike of the workers in general and not the Government employees only. The Minister has remained completely silent on it.

Two questions have evolved here. The first question is whether the Government employees have the right to go on strike and secondly, whether the working people who are not Government employees have the right to go on strike. Sir, you were a eminent lawyer.

MR. SPEAKER: Here, I am not a lawyer. I am here to maintain peace.

SHRI GURUDAS DASGUPTA : I said 'you were'. I never said 'you are'. You have left it.

MR. SPEAKER: Still I am. Yes, go on please. It is a very important issue.

SHRI GURUDAS DASGUPTA : The Supreme Court has given a judgement and that judgement was with regard to the strike in Tamil Nadu. The Supreme Court is free to give a judgement. It said that the Government employees do not have the right to go on strike. We also understand to that extent. But while delivering the judgement – that is most important – that particular Bench of the Supreme Court has given an opinion that the workers in general in the country have no right to go on strike because it causes distress to people. There is no word about lockout or about retrenchment. There is no word about violation of labour laws. But that particular Bench of the Supreme Court, in its own wisdom, has said that the workers have no right to go on strike.

This is the precise reason which has agitated the minds of the people. On this the hon. Minister is completely silent or ignorant or does not want to commit. This is where we asked a question in the last Indian Labour Conference. You may remember that in the last Indian Labour Conference Dr. Pandey and myself

representing CITU and AITUC respectively, asked the former Prime Minister as to what is his response to the judgement of the Supreme Court. It is because at that point of time the hon. Attorney General has opined that the judgement is not innocent and that it should not have been given. ...(Interruptions)

MR. SPEAKER: It was not the word 'innocent'. He did not agree with the judgement. Do not use the word 'innocent'.

SHRI GURUDAS DASGUPTA : I amend it.

The point is we wanted Shri Atal Bihari Vajpayee to respond and to say what is the Government's attitude towards that. After persistent queries, the hon. former Prime Minister said, "Hum bhi khush nahi hain". Then we suggested that there should be a meeting of the Government with the trade unions to find out the remedy. The meeting did not take place. The Government did everything else. But they had no time to talk to the trade unions on that issue.

This Government must make its position clear as to whether they believe in the judgement or they agree with the judgement. Whether they believe that the workers and the working people in general, not only those who are belonging to the Government service, have the right to strike or not. Let me not go into history. Everybody knows history. Strike is a fundamental right. Strike is a basic right. I speak on behalf of trade unions. This right to strike has been acquired by the working class all over the world, not only in India, by shedding blood, by sacrificing life, by going to jail and by losing their jobs. This has been acquired by the international working class all over the world and in India too. Let us remember that Bombay working class had gone on strike in support of RIN Mutiny. In West Bengal, the Government employees had gone on strike during the regime of Shri Bidhan Chandra Roy. There was a general strike in India in support of liberation movement of Goa. Nobody uttered a word at that time. Since somebody had the courage to challenge the atrocious and dictatorial move of the Tamil Nadu Government, suddenly there was a response from the judiciary.

My question on behalf of the workers is: Do you want to follow the footsteps of the earlier Government and remain conspicuously silent on the issue? Or will you say that the Government believes that the workers in India have the right go on strike? Strike is not fun. Workers do not go on strike for fun. It is because workers have to make sacrifice during strike. They lose their jobs; they lose their salaries; they go to jail; and they have been even shot dead. There have been occasions when it happened. In Jamshedpur, in fifties, fifteen workers were shot dead because they had the courage to on strike against Jamshedji Tata's atrocious policies. We shed blood to protect our interests.

My basic question to the Government is: Do you want to remain silent? Or will you say that workers have the right to strike as a last resort? I say, on behalf of the trade unions, that strike is a last resort. I am constrained to say that violation of labour laws are rampant in the country. No labour law is given effect to. You go to Haryana or Punjab. You take the case of even Delhi. Take, for instance, the case of Pepsicola. ...(Interruptions)

MR. SPEAKER: You need not mention their names because they are not here to defend themselves. You just mention that it is happening in different States without mentioning their names.

SHRI GURUDAS DASGUPTA : My precise point is labour laws are being violated. Consultative machinery has collapsed. The Ministry of Labour is almost a bonded Ministry. It has no independent effective role to protect the interest of the workers. I do not want to go into the details, because there is time constraint.

Therefore, in this background of alleged collapse of the machinery that has been set up by the Government to redress the genuine grievances of the workers, will the Government agree that workers have the right to go on strike as a last resort?

Mr. Minister, if you think of the distress of the people, then, why do you not think of the distress of the workers?

Sir, you will be surprised to know that even the public sector workers do not get their wages. The President of this country is the owner of the factories. A sum of Rs.2000 crore is in default by this Government, by the earlier Government. They did not pay the wages to their own workers. There are cases of suicides. There are cases of distress deaths. The Government has not paid the money. Where is the distress redressal machinery? Please tell me. ...(Interruptions) The workers are not paid their wages. What is this distress redressal machinery for? Therefore, my specific question to the Government is this. The present Government has come with a new mandate. ...(Interruptions) Mr. Minister, you have come with a new mandate. So, in consonance with the new mandate, kindly let me know whether you believe that the strike is sacrosanct and as a last resort, the workers can go on strike.

Secondly, I would like to know whether the Government would decide, agree to enact a legislation to negate the pernicious impact of the judgement that was given by the Supreme Court recently.

With these words, I conclude. Thank you.

SHRI K. SUBBARAYAN (COIMBATORE): Mr. Speaker, Sir, the Supreme Court's judgement is not only against the Government employees but also it is against the democratic rights of the Indian people. It is a major threat to the democratic system of India. The Supreme Court has stated in the case, "even if there is injustice to some extent as presumed by the employees, they should seek legal remedy in a democratic people's welfare State." What is the meaning of the legal remedy in India? What is the cost of this legal remedy? It is not easy to get a judgement....(Interruptions)

MR. SPEAKER: You know all these things. Please put your question.

SHRI K. SUBBARAYAN : It takes a long period of time. It takes years together to get a judgement. The non-employment of suspended worker's case takes 25 years to reach from the Labour Court to the Supreme Court. In a welfare State, remedy should be immediate.

MR. SPEAKER: Please come to the question. It is an important subject. I am a little bit liberal but that does not mean that you can misuse it.

...(Interruptions)

SHRI K. SUBBARAYAN : Unfortunately Supreme Court judgement goes against the spirit of the Constitution. The 1947 Industrial Disputes Act provides for the right to strike. It is a democratic weapon available to the working class. May I know whether the Government of India would amend the Constitution accordingly to safeguard the right of the workers, their right to strike? Thank you.

DR. R. SENTHIL (DHARMAPURI): Hon. Speaker, Sir, first of all, let me say that I am totally unsatisfied with the answer given by the hon. Minister of State. The question to answer is regarding the situation arising out of the move to curb the right to strike by employees. My colleague Shri Dasgupta has said that the hon. Minister has not answered this question properly. He has actually answered in-between the lines. He has said:

"The Central Government employees have got enough safeguards and enough methods to protect their interestsâ€¦! The JCM provides a time-tested forum for resolution of differences."

It means that they have enough safeguards and they need not go for strike which is against their democratic right.

When the question is about employees in general, how can he answer only about the Central Government employees totally ignoring the State Government employees and a huge number of employees belonging to the private sector? The whole situation arose because the Supreme Court ruled that strike is not a fundamental, legal or moral right. I just want to clarify one thing. The Constitution

has to be read and understood in letter and spirit. I agree that Article 19 says that there is a right to have unions and associations and it does not state that there is a right to go on strike. But what is the meaning of having a union? The unions are there to bargain for the socio-economic interests of the workers. Having a union and having a right to bargain are synonymous. When you agree to bargain, striking work has been agreed as an approved and time-tested method of bargaining.

All over the world, striking is the most effective and spectacular method of achieving the targets. In that way, right to have union, right to go for strike and right to bargain are synonymous. Instead, the Constitution has been interpreted in letter and not in spirit. So, what is the Government going to do about it? Are they going to amend the Constitution to add a provision saying that the workers will have the right to strike?

This is very important, because at the time of the Supreme Court judgement, the media and everybody came out saying that strike is the most misused weapon, workers are insensitive to the plight of the citizens and all those things. Even some people went on to say that 'strike' is a dirty word and workers have a self-centred approach. This is because India has now got a very strong class divide between the working class and the ruling class.

Sir, I would like to make one more point here. Having come from a party which stands for social justice, it is very painful for me to say that in India we had Manu Dharma many years ago, which said that workers have come from the foot of the God and the rulers have come from the forehead of the God. In that way, I am wondering whether we have a divide so strong that we are not able to get the rulers understand the plight of workers. So, I would only request the Government to understand the plight of workers and decide whether workers have the right to strike.

MR. SPEAKER: Hon. Members, as you are aware fully that the rules permit only five Members to participate in a Calling Attention, this being a very important issue, I know that all sides of the House are concerned to know the Government's views. Some requests have come to me. I do not think I can accommodate all, but considering the importance of the matter, I will give opportunities to some Members. Now, the main Opposition has not got any hon. Member to speak because no name has come up from them. Therefore, as a special case – please do not refer to this as a precedent in future – I give opportunity to some hon. Members. Now, I recognise Shri Santosh Gangwar to make a statement.

श्री अनंत गंगाराम गीते (रत्नागिरि) : +ÉvªÉFÉ àÉcÉänªÉ, +ÉÉ{É àÉÖZEä £ÉÉÒ ¢ÉÉääÉxÉä BÉÉÉÒ <VÉÉVÉiÉ nÉÒÉÉVÉÁ*
â€ (ब्यवधान)

अध्यक्ष महोदय : इन्होंने अपना नाम दिया है लेकिन आपने अपना नाम नहीं दिया है। You are trying to take advantage now.

...(ब्यवधान)

श्री अनंत गंगाराम गीते : कालिंग अटेंशन में ऐसा होता नहीं है इसलिए मैंने नाम नहीं दिया। â€ (ब्यवधान)

अध्यक्ष महोदय : गीते जी, मैं कुछ माननीय सदस्यों को सवाल पूछने का चांस देने की कोशिश कर रहा हूँ।

...(ब्यवधान)

श्री अनंत गंगाराम गीते : आप मुझे भी चांस दीजिए। â€ (ब्यवधान)

श्री संतो गंगवार (बरेली) : अध्यक्ष महोदय, हम आपके आभारी हैं कि आपने इस महत्वपूर्ण विषय पर हमें भी बोलने का अवसर दिया।

MR. SPEAKER: Mr. Gangwar, please put only questions. If you put questions only, I can give opportunity to some other hon. Members also to put questions.

श्री संतो गंगवार : श्री गुरुदास गुप्ता जी ने जो कहा, उसके साथ मैं अपने आपको जोड़ते हुए कहूंगा कि strike is not the last weapon and we all know that. राइट टू स्ट्राइक होना चाहिए। श्री गोलवालकर जी ने जो कहा, उसे मैं यहां कोट करना चाहूंगा:-

"Right to strike does not mean right not to work and right to work does not mean right not to strike."

In the ILO Convention, the question of right to strike was accepted.

हम यह चाहते हैं कि आईएलओ कन्वेंशन में जो हुआ है, पार्लियामेंट उसे रेटिफाई करे। (व्यवधान)

MR. SPEAKER: When he is speaking for the right to strike, do not disturb him.

SHRI SANTOSH GANGWAR : In the Central Civil Service Conduct Rules, there is no such provision. So, the provision for 'right to strike' should be inserted in the Central Civil Service Conduct Rules. यह गवर्नमेंट इम्प्लाइज के लिए है। अगर हम इसे सही ढंग से एप्लाय करते हैं, मेरा आग्रह है कि माननीय सर्वोच्च न्यायालय के निर्णय के बाद अब हम इस पर चर्चा करके कोई फैसला लें। जैसा माननीय मंत्री जी का बयान है, जैसा भी कहा गया है, वह केवल एक सफाई मात्र है। इसके उमर कर्मचारी उद्वेलित हैं क्योंकि मैं कुछ दिन इस मंत्रालय में रहा हूँ। हर स्तर पर कर्मचारी इस बात का पक्षधर है कि इस प्रकार की तलवार नहीं लटकनी चाहिए। मेरा आग्रह है कि इस पर विस्तृत चर्चा करके एक महत्वपूर्ण फैसला लिया जाये क्योंकि वह बाकी कर्मचारियों पर भी प्रभावित होगा, ऐसा मैं समझता हूँ। मेरा आपसे आग्रह है कि इस पर चर्चा करके एक सही फैसला लिया जाये जो वास्तव में उनके हित में रहेगा।

MR. SPEAKER: Now, Shri Santasri Chatterjee will speak now. Mr. Chatterjee, please put only questions. Do not make a long speech. I cannot allow that.

SHRI SANTASRI CHATTERJEE (SERAMPOR): Mr. Speaker, Sir, I thank you very much for giving me an opportunity to put some questions which I am placing in a very lucid and short way.

Sir, as an eminent jurist and having been in Parliament for a long time, you know that in the era of freedom struggle, the working class in Tamil Nadu went on a continuous strike and the employers moved the honourable court and the honourable court issued an attachment warrant against the leaders of the strike.

That was an era of freedom struggle, but after 58 years of Independence, it is a matter of concern that the working class is denied its right.

There is an ILO Convention and India is a part of it. It is ratified in the ILO Convention. I would like to know whether the hon. Minister agrees with the ILO Convention's right to strike or right to association or the fundamental rights of the working class. Will the UPA Government rise to the occasion and in conformity with its Common Minimum Programme, will it protect the interests of the working people of the country?

अध्यक्ष महोदय : प्लीज़, सिर्फ प्रश्न पूछिए।

श्री शैलेन्द्र कुमार (चायल) : माननीय अध्यक्ष जी, आपने मुझे केन्द्रीय एवं राज्य कर्मचारियों के हड़ताल के अधिकार पर रोक लगाने संबंधी ध्यानाकर्षण प्रस्ताव पर बोलने का मौका दिया, उसके लिए मैं आपका आभार व्यक्त करता हूँ। मैं मंत्री जी से कहना चाहूंगा कि श्रमिक संगठन कर्मचारी मजबूर होकर हड़ताल पर जाते हैं। उनका आखिरी शस्त्र हड़ताल होता है। जैसे अभी मंत्री जी ने कहा, उन्होंने अपने वक्तव्य में केवल केन्द्रीय कर्मचारियों के लिए उल्लेख किया है जबकि कामगार संगठन में ज्यादातर अनुसूचित जाति और पिछड़े वर्ग के लोग हैं जो जन्म से ही संघर्ष करते आए हैं। वे अपने हितों की रक्षा के लिए संघर्ष करते हैं। जब राज्य या केन्द्र सरकार का रवैया अड़ियल होता है तभी श्रमिक संगठन मजबूर होकर हड़ताल पर जाते हैं। अगर समय-समय पर सरकार उनके हितों की रक्षा करे तो कर्मचारी हड़ताल के लिए मजबूर न हों।

मैं आपके माध्यम से मंत्री जी से कहना चाहूंगा कि इस सदन में श्रमिक संगठन के हितों की रक्षा के लिए, उनके मौलिक अधिकार, संवैधानिक अधिकारों की व्यवस्था करें ताकि उनके हितों की रक्षा हो सके और उन्हें भी अपनी बात कहने का अधिकार मिल सके। धन्यवाद।

कुँवर मानवेन्द्र सिंह (मथुरा) : माननीय अध्यक्ष महोदय, मैं आपका आभारी हूँ कि आपने मुझे केन्द्रीय एवं राज्य कर्मचारी संघ के ध्यानाकर्षण प्रस्ताव पर बोलने का अवसर प्रदान किया। सुप्रीम कोर्ट, उच्च न्यायालय, अन्य न्यायालय या जितनी भी संबंधित आर्गनाइजेशन हैं, उनकी मजदूरों के लिए जो भावना है, हम उसका आदर करते हैं। लेकिन साथ ही मैं सदन के माध्यम से अपनी बात रखना चाहता हूँ कि बहुत सी सरकारी संस्थाएँ जैसे मेडिकल, आवश्यक हैं। उनमें भी स्ट्राइक हो जाती है। अध्यक्ष जी, आप भी जानते हैं, अगर ऑल इंडिया इंस्टीट्यूट या हिंदुस्तान के बड़े-बड़े अस्पतालों में कर्मचारी केवल इसलिए स्ट्राइक करें कि उनको काम नहीं करना है, यह उद्देश्य नहीं होना चाहिए। अगर उनका उत्पीड़न हो रहा हो तब वे

स्ट्राइक करें। आजकल देखा गया है कि सरकारी कर्मचारियों का हड़ताल का एक यह उद्देश्य होता है कि वे काम करने से बचना चाहते हैं। (व्यवधान)

MR. SPEAKER: Please put a question. This is absolutely a privilege that I am giving to the hon. Members to seek clarifications. Therefore, please do not make any speech. So many Members have also given notices.

कुँवर मानवेन्द्र सिंह : मैं आपके माध्यम से कहना चाहता हूँ कि हिन्दुस्तान की आवश्यक सेवाओं में स्ट्राइक पर कुछ प्रतिबंध लगाकर यह करना चाहिए कि वे विदिन वन, टू और थ्री मन्थ्स ऐंक्रॉस दी टेबल बात करें। अगर तब भी संभव न हो तो उसके बाद स्ट्राइक पर जाएं। यह बहुत महत्वपूर्ण प्रश्न है। (व्यवधान)

MR. SPEAKER: Please ask whether the Government will consider such a situation.

SHRI GURUDAS DASGUPTA (PANSKURA): Sir, what is he saying?

कुँवर मानवेन्द्र सिंह : आप मुझे बोलने दें। (व्यवधान)

MR. SPEAKER: You are not bound by what he states. Nobody is bound by others' observations.

कुँवर मानवेन्द्र सिंह : मैं एक मिनट लूंगा।

मेरी मथुरा कौन्सिलरूँसी में एक रिफाइनरी है। वहां के कर्मचारी हिन्दुस्तान के हाइएस्ट पेड कर्मचारी हैं।¹ (व्यवधान)

MR. SPEAKER: You are misusing my indulgence.

कुँवर मानवेन्द्र सिंह : ऑयल कम्पनी के कर्मचारी जब अननैसेसरी स्ट्राइक पर जाते हैं तब पेट्रोलियम उत्पादन कम होता है।

मैं मंत्री जी से कहूंगा कि इस तरह की जो हड़तालें होती हैं, उनको रोकने के लिए पहले उनसे बात करके फिर उसकी इजाजत देनी चाहिए। जैसे रेलवे है या अन्य विभाग हैं। यह आवश्यक नहीं है कि आप जब चाहें हड़ताल कर दें और काम बंद कर दें।

MR. SPEAKER: Shri Anant Geete.

Shri K. Manvendra Singh, I have called Shri Anant Geete. Please take your seat. You have said that. He will answer it.

Shri Anant Geete, please put a question and just a question. Co-operate with me. Many hon. Members have given notices earlier.

श्री अनंत गंगाराम गीते : अध्यक्ष जी, मैं सीधा सवाल करूंगा। सरकारी कर्मचारी हों या गैर सरकारी कर्मचारी हों, सभी को उनसे सहानुभूति होनी चाहिए। मैं ऐसा मानता हूँ कि सभी को उनके प्रति सहानुभूति है। राइट टू स्ट्राइक को लेकर आज सदन में ध्यानार्काण के माध्यम से चर्चा हो रही है। इसके सम्बन्ध में मंत्री जी ने स्पष्ट टीकरण दिया है। मैं गुरुदास दासगुप्त जी की बात से सहमत हूँ कि हड़ताल का हथियार आखिरी हथियार है। मजबूरन वर्कर्स को हड़ताल पर जाना पड़ता है। कोई शौक के लिए हड़ताल नहीं करता। इस संदर्भ में सुप्रीम कोर्ट ने जो भी फैसला दिया है, उसका हम आदर करते हैं। संसद सर्वोच्च है। इस देश के करोड़ों वर्कर्स के हितों की रक्षा के लिए सदन में इस पर चर्चा करनी चाहिए। मैं मंत्री जी से यह जानना चाहता हूँ कि क्या सरकार इस विषय में सर्वदलीय नेताओं की बैठक बुलाना चाहती है ? इस प्रकार की बैठक होनी चाहिए। इस सदन में कई ऐसे उदाहरण हैं, कई बार ऐसा हुआ है कि सर्वोच्च न्यायालय ने कोई निर्णय दिया, सदन ने उस निर्णय पर विचार करके उसके खिलाफ अपना मत दिया। इसलिए मैं आपके माध्यम से सरकार से पूछना चाहता हूँ कि देश के करोड़ों कामगारों के हितों की रक्षा के लिए इस प्रकार के निर्णय के बारे में उसकी क्या राय है और वह इसके लिए क्या कर रही है ?

अध्यक्ष महोदय : श्री देवेन्द्र प्रसाद यादव। आप लम्बी बात न कहकर केवल प्रश्न पूछें।

...(Interruptions)

MR. SPEAKER: Shri Braja Kishore Tripathy, other Members have given notices but you have not given any notice.

श्री देवेन्द्र प्रसाद यादव (झंझारपुर) : राइट टू स्ट्राइक भारतीय संविधान के द्वारा दिया गया अधिकार है। इसलिए कामगारों को, श्रमिक संगठनों को यह संविधान द्वारा प्रदत्त अधिकार प्राप्त है। सर्वोच्च न्यायालय का जो वर्डिक्ट इस पर आया है, इससे यह अधिकार इनसे छिन जाता है। ठीक है उनको फैसला देने का यह अधिकार है, लेकिन सरकार का इस पर क्या रुख है ? केन्द्र सरकार को इस पर अपनी स्पष्ट राय देनी चाहिए। प्रजातांत्रिक पद्धति में संसद सर्वोच्च है। इसलिए जब इस विषय पर ध्यानार्काण प्रस्ताव के माध्यम से चर्चा हो रही है तो सरकार को अपना रुख स्पष्ट करना चाहिए और सकारात्मक संकेत देना चाहिए कि कामगारों को हड़ताल का अधिकार है, उसको रिस्टोर किया जाएगा। इसके लिए अगर कोई लेजिस्लेशन लाना हो या संविधान में संशोधन करना हो, तो विधि मंत्रालय की राय लेकर वह करना चाहिए।

MR. SPEAKER: Shri Varakala Radhakrishnan.

I will not allow anybody to say anything except a question. Let me not make it a totally open debate. It cannot be done under the rules. Please put only one question.

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): Mr. Speaker, Sir, we claim to be the largest democracy in the world with the civilized society. The Supreme Court's judgement is definitely a black mark on the civilized society. We are a party to the International Labour Organisation. We will have to oblige or even follow up the directions or the provisions contained in that agreement.

MR. SPEAKER: Please put a question. What you have said has been said by everybody.

SHRI VARKALA RADHAKRISHNAN : Please do not interfere.

MR. SPEAKER: I have to interfere.

SHRI VARKALA RADHAKRISHNAN : Let me finish.

There are two options before the Government.

MR. SPEAKER: What can I do? It is your bad luck that you have not got your name listed.

SHRI VARKALA RADHAKRISHNAN : I am asking the hon. Minister a very relevant question about the two aspects.

One is that there is a provision for a Special Leave Petition before the Supreme Court to review the judgment pronounced by the Supreme Court because it was only a casual reference by the Supreme Court. The matter in issue was entirely different. The question that was put before them was whether the Tamil Nadu Ordinance was

legal or illegal. In dealing with that matter, by a side observation they said that the workers have no right to strike. ...*(Interruptions)*

MR. SPEAKER: You say, it is *obiter dicta*.

SHRI VARKALA RADHAKRISHNAN : There is every chance for preferring a Special Leave Petition before the Supreme Court. In the alternative, the Government can bring forward a legislation in this House conferring the right to strike for the workers.

Moreover, it may be pointed out that there is a provision in the Industrial Disputes Act. The Industrial Disputes Act provides a provision for the workers to strike if it is not declared illegal. The only condition is that 24 hours notice is essential. ...*(Interruptions)*

MR. SPEAKER: This is too much.

SHRI VARKALA RADHAKRISHNAN : I would like to know from the Minister whether he would establish the right of the employees to strike as a matter of right. This is my simple question. Two options are before the Government. The Government can either prefer a Special Leave Petition or bring forward a statutory legislation.

MR. SPEAKER: You have taken five minutes to put one question, not just a minute.

Now, Shri Ramdas Athawale. Please put a question. If it is not a question, I will have it everything deleted from the record. Please do not make any speech.

श्री रामदास बंडु आठवले (पंढरपुर) : अध्यक्ष महोदय, सुप्रीम कोर्ट का जजमेंट आने से पहले इम्प्लॉइज और वर्किंग क्लास को स्ट्राइक करने का अधिकार था लेकिन सुप्रीम कोर्ट के जजमेंट के बाद वह अधिकार उनसे छीन लिया। लोकतंत्र में यह अच्छी बात नहीं है। Indian democracy is the best democracy. वर्किंग क्लास के इम्प्लॉइज को स्ट्राइक करने का अधिकार देने के बारे में संविधान में संशोधन करना चाहिए। यदि ऐसा नहीं होता है तो तमिलनाडु में जो कुछ हुआ और जयललिता ने इम्प्लॉइज के साथ जो अन्याय किया जिस के कारण एक भी सीट हासिल नहीं हुई, उसे देखते हुए आप इस बात पर विचार करें। आज वर्किंग क्लास आपके साथ है। वर्किंग क्लास को सपोर्ट करने का निर्णय सरकार को लेना चाहिए।

SHRI BRAJA KISHORE TRIPATHY (PURI): Sir, across the party lines, all the political parties are supporting this provision for the Government employees. It is already there in the Industrial Disputes Act. There is an apprehension of curtailment of this right. I would like to know whether the Government considers to bring forward a legislation or to go for a revision before the Supreme Court because of this passing remark.

MR. SPEAKER: Now, Shri Raghunath Jha.

...*(Interruptions)*

डॉ. धीरेन्द्र अग्रवाल (चतरा) : अध्यक्ष महोदय, मुझे भी इस विषय पर बोलने का मौका दिया जाए।

â€¦*(व्यवधान)*

MR. SPEAKER: This is too much. I have allowed a Member from your Party also. This is very unfortunate. When I try to co-operate with the hon. Members, you should co-operate with me. It is contrary to the rules I am allowing you and it is being misused.

Now, Shri Raghunath Jha.

श्री रघुनाथ झा (बेतिया) : अध्यक्ष महोदय, मैं बुनियादी प्रश्न की ओर माननीय मंत्री जी का ध्यान आकर्षित करना चाहूंगा। आखिर संसद की सुप्रीमेसी है या नहीं? आज जूडिशियरी का हर मामले में इंटरवेंशन हो रहा है। यहां तक कि पॉलिटिकल पार्टीज को भी बंद करने का अधिकार नहीं है। उसने उस पर रोक लगा दी है। हम आपसे स्पष्ट तौर पर जानना चाहेंगे कि संविधान में प्रदत्त जो अधिकार हैं, क्या वे हमें प्राप्त होंगे या नहीं? उसने केवल सरकारी इम्प्लॉइज और दूसरे इम्प्लॉइज द्वारा हड़ताल करने पर ही नहीं बल्कि पॉलिटिकल पार्टीज द्वारा करवाए जाने वाले बंद के अधिकार पर भी रोक लगा दी है। इसके बारे में क्या सरकार सूटबल लैजिस्लेशन लाना चाहती है या नहीं? कहीं सरकार की यह हालत न हो - 'देवी, दूबर और बकरा मोठ' â€¦*(व्यवधान)*

MR. SPEAKER: Political parties are not workers.

श्री रघुनाथ झा : सरकार के पास पावर है। â€¦*(व्यवधान)*

MR. SPEAKER: We are concerned with the workers' strike. You have effectively made your point.

श्री रघुनाथ झा : आप सुप्रीमेसी को बहाल करें। आज हर बात में जूडिशियरी इंटरवीन कर रही है। â€¦*(व्यवधान)*

MR. SPEAKER: Political party members are workers of their leaders.

Now, Shri Tarit Baran Topdar. You kindly put only one question.

श्री तरित बरण तोपदार (बैरकपुर) : मैं जानना चाहता हूँ कि सरकार का क्या इरादा है? (ब्यवधान)

श्री रघुनाथ झा : अध्यक्ष जी, सरकार का जो डिजीजन है, वह मालूम होना चाहिये? (ब्यवधान)

अध्यक्ष महोदय : आपने अपनी बात कह दी, मिनिस्टर साहब का जवाब सुनने के लिये पेशेंट रखिये।

श्री तरित बरण तोपदार : मंत्री महोदय, देश को जानकारी देने के लिये कट करे कि उनका इरादा क्या है जो स्ट्राइक करने का अधिकार दिया गया है और उसके अर्जन के लिये स्ट्रगल किया है? (ब्यवधान) It is not by any compassion. It is in the event of the Court's orders and observations. Sometimes Courts give order and extrapolate in the form of observations to order where their decision does not apply also.

MR. SPEAKER: No, you are not right. Whether they would change it or not, yes, the Supreme Court's obiter dicta are binding.

...(Interruptions)

SHRI TARIT BARAN TOPDAR : In the course of giving the judgement on Government employees' strike, the Supreme Court made observation regarding non-Government employees also. That is an extrapolation. The Supreme Court cannot do that. I humbly say that the Supreme Court cannot do that.

MR. SPEAKER: Very well, he wants to know whether the Government is considering this issue.

SHRI SURESH PACHAURI: Hon. Speaker, Sir, I am really grateful to the Members who have raised very important points in the matter which is under discussion. I am also happy to note some of the points which they have mentioned in relation to the welfare of the workers.

Before I come to the other points, I notice that most of the Members were keen to know the stand of the Government in relation to the welfare of the workers. As far as the stand of the UPA Government is concerned, I would like to make it clear that the UPA Government is committed to fulfil the Common Minimum Programme. Now, what is Common Minimum Programme? I would like to mention it over here.

"The UPA Government is firmly committed to ensuring the welfare and well-being of all workers, particularly those in the unorganised sector who constitute 93 per cent of our workforce. Social security, health insurance and other schemes for such workers like weavers, handloom workers, fishermen and fisherwomen, toddy tappers, leather workers, etc., will be expanded. "

I will now come to the other points.

"The UPA Government rejects the idea of automatic hire and fire. It recognises that some changes in labour laws may be required, but such changes must fully protect the interests of the workers and families and must take place after full consultation with trade unions. "

This is the stand of the Government as far as the interest of the workers is concerned.

As far as employees are concerned, there are three categories of employees. First is industrial workers. Second is Government employees, and third is industrial workers employed in public utility services. As far as industrial workers are concerned, they are governed by the Industrial Disputes Act, 1947. Industry is defined in sub-section (J) of Section 2 of the Industrial Disputes Act which mentions the definition of industry very clearly.

As far as definition of a strike is concerned, this strike is for the purposes of Industrial Disputes Act which is defined in sub-section (G) of Section 2 which I would not like to elaborate and take much of the time of this hon. House. But as far as the right of the workers in relation to strike is concerned, as per the Industrial Disputes Act, 1947, the industrial workers are entitled and they have every right to go on strike as part of their right of collective bargaining. It is mentioned very clearly in the Industrial Disputes Act, 1947.

13.00 hrs.

SHRI SANTASRI CHATTERJEE : Do you uphold that right?

SHRI SURESH PACHOURI: Let me conclude first. After that, if any point remains, you can raise it and I would answer that.

MR. SPEAKER: Please do not interrupt the hon. Minister.

SHRI SURESH PACHOURI: As far as other workers are concerned, the next category is of industrial workers employed in public utility services. Public utility services are defined in sub-section (n) of section 2 of the Industrial Disputes Act. These *inter alia* include railway services and other essential services about which hon. Member Kunwar Manvendra Singh mentioned. but section 22 of the Industrial Disputes Act quite clearly lays down certain restrictions on strikes by industrial workers employed in public utility services. It is mentioned in the Schedule under the heading 'Public Utility Services' in the Industrial Disputes Act, 1947 but there are some conditions for that.

One of the restrictions is that an employee cannot go on a strike within 15 days of giving such notice, and notice may be given before 14 days. So, it is not that such workers who come under such category cannot go on strike. They can go on strike if a notice is given before 14 days.

Now, I come to the third point which is related to my Ministry. The other two points on which I elaborated with your permission are not related to my Ministry. You know it very well that they relate to the Ministry of Labour, but I thought it proper to give a reply on those important points which hon. Members had raised. ...*(Interruptions)*

श्री शैलेन्द्र कुमार : यही तो दुर्भाग्य है इस सरकार का कि जिसका विभाग होता है, उसका मंत्री ही यहां नहीं होता है। *(व्यवधान)*

MR. SPEAKER: When he is speaking, he is speaking as a Minister of the Government of India.

...*(Interruptions)*

SHRI SURESH PACHOURI: As far as the stand of the Government on Government employees is concerned, they are governed by the Conduct Rules and other rules made under article 309 of the Constitution. Rule 7 of the Conduct Rules forbids a strike by Central Government employees. A strike for purposes of Conduct Rules is dealt by Government of India's decision under rule 207.

Now, a question might be raised about the welfare of the employees and how their interests could be protected. I would like to mention that as far as the interests and rights of the Government employees are concerned these Government servants are protected under articles 14, 311 and 16 of the Constitution. If a Government servant is aggrieved in respect of any condition of service, he has not only a constitutional right but also a constitutional remedy under article 226 before the High Court. That Government servant may go to the hon. High Court under article 226. Even after that, the Government servant may go to the Supreme Court under article 32.

There is one more provision in the interest of the Government servants. An effective grievance redressal machinery like the Joint Consultative Machinery exists for the redressal of grievances of Government servants. Now, it could be asked if even then the interests of the Government servants are not protected, what is the next forum? I would like to mention over here that there is a next forum for such Government servants for redressal of their grievances and that is in the form of arbitration. The demand of the staff side is that no agreement could be referred to the Board of Arbitration. An hon. Member had asked about the outcome of arbitration. I would like to mention that out of 240 awards, only five awards have been rejected from Parliament. This is the situation. The forum is quite open for the welfare of the Government servants.

Now, I would like to come to the other point. An hon. Member had mentioned about the ILO Convention.

Often a reference is given of the ILO Convention. These ILO Conventions Nos. 87 and 98 deal with the freedom of association and protection of rights of the workers for organised and collective bargaining. But there is no separate Convention on the right of strike. The Government has not ratified even these Conventions Nos. 87 and 98. We were the participants, but the Government has not ratified it. But it does not mean that whatever decision was taken in that Convention, we should not take cognisance of that decision which was taken in the Convention.

I would like to make it clear that whatever decision is taken in that convention, we would like to see whatever is possible as per our rules. ...*(Interruptions)* Let me complete. ...*(Interruptions)*

MR. SPEAKER: He has heard everybody without interruption. Please allow him that little courtesy.

...*(Interruptions)*

SHRI SURESH PACHOURI: If there is anything which remains, I am here to answer those points. ...*(Interruptions)*

MR. SPEAKER: This is not right. After he finishes, I will give you opportunity.

...*(Interruptions)*

SHRI SURESH PACHOURI: Sir, as I said, we are not the signatory to this Resolution. But being a member of ILO, it

is a binding on the country to follow this Resolution in spirit. So, we will follow the Resolution, whatever is possible. Hence, India does provide an option for collective bargaining to the workers in the spirit of ILO Resolution, and I can give such an assurance.

It is said that I have not covered some of the points. I tried to cover almost all the points which are in relation to the workers - Government employees, industrial workers, and those workers who come under the Schedule (1) category. ...(*Interruptions*)

MR. SPEAKER: I would not allow all this.

...(*Interruptions*)

MR. SPEAKER: Will the hon. Minister state that in view of the observation in the Supreme Court judgement, the doubt that has arisen, he would like to call a meeting of the Leaders of the different political parties and discuss this important issue?

SHRI GURUDAS DASGUPTA : Trade unions also. ...(*Interruptions*)

MR. SPEAKER: And also trade unions, if possible. I think, you may consider that.

SHRI SURESH PACHAURI: Sir, I am glad that you asked about this point. In fact, I should have covered this point before I concluded. I would like to mention about the Supreme Court judgment as to how it has taken the decision. The Supreme Court in its decision dated 6th August, 2003 in the case of T.K. Rangarajan *versus* the Government of Tamil Nadu and others has held some opinion about the strike. I would like to mention it over here. This judgement is under review because some of the Members have asked whether this Government is going for the review or not. My answer is 'yes, this is under review'.

It will not be proper for me when this judgment is under review to mention it over here as to what would be our viewpoint. But as far as our feeling is concerned, I mentioned it when I quoted the commitment of the UPA Alliance Government. (*Interruptions*)

SHRI GURUDAS DASGUPTA : Political parties and trade unions.

SHRI SURESH PACHAURI: Shri Gurudas Dasgupta, I would like to mention it that when I read the commitment of the UPA Government, this is quite clear in this. I think, I need not say more about it.

As far as the involvement of political parties is concerned, we are open for that. ...(*Interruptions*)

MR. SPEAKER: He accepts the spirit of it.

The House stands adjourned to meet again at 2.10 p.m.

13.09 hrs.

*The Lok Sabha then adjourned for Lunch till ten minutes
past Fourteen of the Clock.*
