

on the Statement by Minister
THE MINISTER OF STATE IN THE
MINISTRY OF INDUSTRY (DEPARTMENT
OF INDUSTRIAL DEVELOPMENT) (SHRI
KRISHNA SAHI): I beg to lay on the Table a
copy of the Draft Notification No. 10(5)/91-LP
(Hindi and English versions) specifying the
requirements mentioned in the Table
annexed to the Notification which shall be
complied with by the industrial undertakings
to enable them to be regarded as an ancillary
or a small scale industrial undertaking for the
purpose of the Industries (Development and
Regulations) Act, 1951 under sub-section
(3) of section 11B of the said Act.

[Placed in Library. See No. LT-2131/92]

RE. POINT OF ORDER RAISED ON
THE STATEMENT BY MINISTER OF
HOME AFFAIRS ON DEVELOPMENTS
AT AYODHYA

(*Interruptions*)

[*English*]

MR. SPEAKER: Please, you will have
occasion to speak.....

(*Interruptions*)

SHRI CHANDRA SHEKHAR (Ballia):
Mr. Speaker, Sir (*Interruptions*)

MR. SPEAKER: I will like to hear Chandra
Shekar Ji

(*Interruptions*)

SHRI MADAN LAL KHURANA (Delhi
South): I am on a point of order, Sir
(*Interruptions*)

SHRI RAM KAPSE (Thane): I have a
point of order, Sir (*Interruptions*)

MR. SPEAKER: I will hear your point of
order after hearing Chandra Shekar Ji ...

(*Interruptions*)

SHRI CHANDRA SHEKHAR: Mr.
Speaker, Sir, I am not going to discuss what
is happening in Ayodhya, I shall like to draw

your attention to what is happening in this
House. For the last four days, the House is
being adjourned and the hon. Prime Minister
has not found five minutes; time to come to
this House. Today the Home Minister comes.
May I know from you what he has added in
his statement which he could not say four
days before except that he visited Ayodhya,
did *pooja* there and also saw that the State
Government was violating the court order?
This is what he has said. Is it not the
responsibility of the Home Minister to say or
indicate his mind if, in his opinion, the State
Government is violating the order? If it is not
true ... (*Interruptions*)

SHRI GUMAN MAL LODHA: (Pali): He
has not said so. *Prime facie* he has said. He
has not given his final opinion... (*Interruptions*)

SHRI CHANDRA SHEKAHR: If it is not
true, if I have heard him correctly, he should
correct his statement because the Home
Minister has no right to malign the State
Government without foundation. So, I shall
like to know the correct position. If the
violation has been there, is it not his duty and
the duty of the Government of India to do
something?

Another point is that very humbly I shall
appeal to all sections of the House that it is
not the people of this country, not, Mr.
Speaker, yourself and the Members of this
House, the whole country is watching us on
this issue. Mr. Home Minister went to Ayodhya
to find out.... (*Interruptions*). Mr. Home
Minister went there. His own TV and the
world TV is showing everything that is
happening in Ayodhya. Mr. Home Minister
went there to see whether something is
happening there is not and the hon. Chief
Minister of U.P. says nothing is happening
there. The whole world is looking at Ayodhya
what is happening everyday. Star TV and
Doordarshan are showing everything. When
Star TV is showing it, that means the whole
world is seeing. And, Mr. Speaker, Sir, you
just tell us that a statement has been made
and let us take another subject. But its
repercussions are not only in this country,
mind. Mr. Speaker. I do not find myself free
to express my anguish on this issue. The

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repercussions for this country and the whole
world will be every disastrous ...
(Interruptions).

SOME HON.MEMBERS: Not at all
(Interruptions).

SHRI CHANDRA SHEKHAR: I cannot
display that bravery, Sir, (Interruptions)

[Translation]

SHRI B.L. SHARMA PREM: Let the
Ram Bhakts and those opposed to Ram
decide the fate for themselves.

[English]

SHRI CHANDRA SHEKHAR: I know
the strength and power of ' Ram Bhakthas '
and I do not deny it. They are very powerful.
They can challenge the whole world because
Ram is in their mind. (Interruptions) Anyhow,
they can challenge the whole world but they
cannot arrogate my right to speak in this
House. The whole world is going to bow
before them, but I am not going to concede
too what they are saying. I have to make my
submission in all humility. The situation is too
serious to be taken in this light manner. I am
sorry to say that the Government of India is
guilty of dereliction of its primary duty to the
citizens of this country and also does not
know that it is playing with fire.

I have nothing to say against the B.J.P.
I have nothing to say against the V.H.P.
(Interruptions) I have no complaints against
the Bajrang Dal because they have their own
mind and they are expressing it openly. I am
sorry that you have got the verdict from the
people. You have neither your own mind nor
do you know where you are leading this
country.

I say, Mr. Speaker, that this Government
is leading this country to disaster and we are
going to see it passively. That will be a sad
day for this country. (Interruptions)

[Translation]

SHRI MADAN LAL KHURANA (South

Delhi): Mr. Speaker, Sir, I am on a point of
order (Interruptions)

MR. SPEAKER: Yes, what is your point
of order?

SHRI MADAN LAL KHURANA: Mr..
Speaker, Sir, I am on a point of Order.. I
would like to say only two things. One is that
even though the Home Minister knows that
this matter is pending before the Supreme
Court and it is going to give its Verdict on
15th and effort was made by him to exert
pressure and influence on the Supreme
Court to give a favourable verdict, by making
a statement in the House on the Ayodhya
issue to the effect that the Uttar Pradesh
Government has violated Court orders.

The second thing, I would like to state
here is that only today morning at 11.30 , a
Bench of the Allahabad High Court has ruled
that whatever is happening in Ayodhya,
doesn't tantamount to contempt of Court.
Mr. Speaker, Sir, I would like to know from
the hon. Minister of Home Affairs, the reasons
for ignoring this information from his statement
and also whether it was not one-sided?
Doesn't this tantamount to maligning the
U.P. Government? Mr. Speaker, Sir, I would
like to know as to what is in his mind? Does
he propose to dismiss the U.P. Government?

The Supreme Court is to give a verdict
on this issue on 15th July and by saying that
the construction work in Ayodhya is in violation
of Court orders, he has tried to influence the
Court decision and also deliberately kept the
Hose in dark about the ruling of a bench of
the Allahabad High Court (Interruptions).

[English]

SHRI RAM NAIK (Bombay North): Sir,
my point of order is that this case is *sub-
judice* and the Supreme Court is considering
it. Now, when the Supreme Court is
considering this issue, this warrants giving
his own mind and I feel that in all matters of
sub-judice we should not arrive at conclusions.
(Interruptions) I submit that he is trying to
bring pressure on the Supreme Court. I
request you to look into it. My point order is

[Sh. Ram Naik]

that why these words should not be deleted from the records. *(Interruptions)*

SHRI RAM KAPSE (Thane): I would like to have a ruling from the Chair in this regard. There is an effort to influence the Supreme Court judgement and I would request you to expunge it from the records. That is my request. *(Interruptions)*

[*Translation*]

SHRI VINAY KATIYAR (Faizabad): Mr. Speaker, Sir, I represent the Faizabad constituency in the House and when this topic is under discussion here, I too should be allowed to speak for a couple of minutes. *(Interruptions)*

[*English*]

SHRI GUMAN MAL LODHA: Mr. Speaker, I want to raise a point of order.

(Interruptions)

MR. SPEAKER: I will allow you later.

(Interruptions)

SHRI GUMAN MAL LODHA: What is this? After all it is a legal matter, it is a very important matter and every time you ask me to sit down.

MR. SPEAKER: I will hear the former Judge, but then if I am not able to hear what you are saying, I cannot speculate anything. Please understand that this is not the regular discussion on this issue. So, each and every Member may not have the opportunity to speak out his mind.

(Interruptions)

MR. SPEAKER: I am now hearing points of order. While putting the points of order speaking or arguing in favour or against the point which has been raised, when somebody is talking I am hearing. This is not a regular discussion. Please understand.

SHRI ATAL BIHARI VAJPAYEE (Lucknow): Why not have a regular discussion? A statement has been made.

MR. SPEAKER: Do you want a regular discussion?

[*Translation*]

SHRI ATAL BIHARI VAJPAYEE: (Lucknow): Yes, yes. Instead of the uproarious scenses which are created daily in the House, let us discuss the statement which has been made. If the Government is to be criticised, it can be done during the discussion on the statement. It will also provide an opportunity to those wishing to express their concern over the happenings in Ayodhya. If the discussion is not held in the House where else will it take place? Please allow a discussion.

MR. SPEAKER: Vajpayee ji, if you wish to have a discussion on it, then it can certainly be done. But a statement has been made and there are other items also on the agenda. Either we can take up the discussion after we finish them or we can fix up a time for the discussion.

[*English*]

SHRI RAM KAPSE: That statement should not create any new debate. He has made some debatable statement.

MR. SPEAKER: No, no, please. I am not going to give my Ruling on your point of order. Let us wait please. I am on a different point, Prof. Kapse. Now, if the Members want a debate, well, nobody can say, don't have a debate'. Now there is an occasion for this debate. Even before that occasion, if you want a debate, we can have it. But let us decide it that way. But everybody wanting, somebody wanting to speak on a point of order, somebody wanting to speak on another thing, but then you are not audible and your speaking is not effective. Should we do that? That is the question.

(Interruptions)

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MR. SPEAKER: Please sit down. I am allowing Somnathji.

SHRI SOMNATH CHATTERJEE: (Bolpur): Mr. Speaker, Sir, what we have heard from the hon. Home Minister clearly establishes the greatest worry that we have been having in this matter. (Interruptions)

[Translation]

MR. SPEAKER: Please speak one by one. If 5-6 members speak together, I won't be able to hear anything (Interruptions)

MR. SPEAKER: Please take your seat first.

(Interruptions)

MR. SPEAKER: I am prepared to hear everyone, but please speak one by one. If you want a debate on the subject as desired by Vajpayeeji and other hon. Members, let's take it up.

[English]

But let us decide when to have debate.

[Translation]

Somnathji, I would request you confine yourself to Point of Order only. When Chandra Shekharji spoke, I didn't restrain him. Nobody should be restrained from speaking.

SHRI SOMNATH CHATTERJEE: I will come to the Point of Order

[English]

MR. SPEAKER: If you want to speak on the topic itself and as Mr. Vajpayee has suggested, if other Members are also willing to have a discussion, there can be a discussion.

[Translation]

SHRI LAL.K.ADVANI (Gandhi Nagar): Mr. Speaker, Sir, my submission is that either we should have a discussion on the

whole statement, as suggested by Vajpayeeji or we should look upon the unhappiness expressed by Shri Chandra Shekhar as an immediate reaction. But the Point of Order raised by my colleagues stands and I feel that it is very important for the House to take a decision on that Point of Order.

[English]

I do not know a single case in parliamentary history where a Minister of the Government has stood up to say that in a case which is pending in the Supreme Court and about which a decision is likely to be taken two days hence, Government's opinion — he gives opinion — is that *prima facie* so and so is guilty.

Prima facie this is the position. After all, all rules of *sub judice* are directed towards this and (Interruptions)

MR. SPEAKER: You can argue on the point if you have the reason and the logic, but you should not obstruct.

SHRI LAL. K. ADVANI: Sir, if the same thing had been said by Somnathji, if the same thing had been said by a Member outside the Government, my objection would have been that this discussion should not take place. You are aware that discussions in respect of all matters are subject to this rule of *sub judice* which is a self-imposed restraint. Here, we have a written statement by the Home Minister of the country in respect of a matter which is precisely the issue before the Supreme Court. I have no objection to all the other lines that are there. But, these four lines on page three of the statement are as follows:

" *Prima facie*, I am of the view that the Government of Uttar Pradesh have violated the Court orders by permitting the work to be carried on, on the acquired land".

I think this is unprecedented and it is a breach of all established conventions and the rules of this House. So, let there be a debate on this point of order. So far as the

discussion is concerned, we can have that discussion any time, right now or tomorrow, as you decide. But, this is important. (Interruptions)

(Interruptions)

MR. SPEAKER: Somnathji, I will allow you; we would all like to hear you. First of all, there are two points before me on which I come to certain conclusion. One is, what is the view of the Government. One is, what is the view of the Government on the discussion itself? That is one and the second is, on this point of order I will allow one or two Members from this side also to logically argue. We do not have to say anything. If you logically argue, I will hear and I will decide. But, I want to know as to when we shall have the discussion.

THE MINISTER OF AGRICULTURE (SHRI BALRAM JAKHAR): Sir, we can have the discussion any time when you like. (Interruptions)

[Translation]

SHRI BHOGENDRA JHA (Madhubani): MR. SPEAKER, Sir, I have a point of order. (Interruptions)

MR. SPEAKER: First let us dispose off one point of order.

(Interruptions)

[English]

SHRI SOMNATH CHATTERJEE: (Bolpur): Mr. Speaker, Sir, so far as the question of *sub judice* so concerned, it is also a well established practice that no pending matter can preclude this Parliament from discussing a particular issue. It is well established, it may be self-imposed restraint, but in a matter like this, where the entire country is concerned and where the Home Minister had gone to Ayodhya to see for himself the Home Minister had gone to Ayodhya to see for himself personally as to

what is happening there, he had to report to the country and to this House. He has given only his *prima facie* opinion. But, my grievance is different. (Interruptions) My grievance is that, in spite of the statement, the Government of India is not doing anything. It is guilty of deliberate inaction only to please my friends on this side. (Interruptions) Sir, the Central Government, as I understand, is not a party to the pending proceeding in the Supreme Court. It is a fight between some individuals that is going on there.

SHRI ANNA JOSHI: (Pune): Mr. Speaker, Sir, is he speaking on a discussion or is it a point of order?

MR. SPEAKER: It is a point of order.

SHRI SOMNATH CHATTERJEE: Sir, the Government is not a party and apart from that, it is a mere interlocutory proceeding and not even a final hearing that is going to come up there. Then, how can the Central Government, not being a party to the proceedings in an interlocutory matter be bound by this on the plea of *sub judice*? How will the Central Government not have any opinion on its own? It is their bounded duty to express their view in this House. The question is, in a matter like this, a very wrong signal is being given to the country. The entire country is agitated; the matter is of supreme importance; it is a question of integrity of the country and the unity of the country. The people are agitated. The Parliament of India cannot function for days together. Why could it not function?

On Saturday and Sunday last we even called on the Prime Minister. We had a discussion with him. This is the statement which is coming. Except one sentence, there is nothing new in this statement. There is nothing new, which is not in the newspaper. Even at 11 O'clock, we had demanded the statement. They did not make the statement. On the other hand, they said, they would be ready with full statement at 4 O'clock, as they would have full information. Even that could not be done at 4 O'clock. We came here but nothing happened. At 5 O'clock, they came here and made the statement.

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This is a every serious matter. I charge that this Government is deliberately delaying the matter. They have not got the courage. Today the unity and integrity of the country is not safe in their hands. Therefore, I demand that immediate action should be taken. We have been repeatedly suggesting that this land of disputed area be taken over. The Central Government has the power to do it. If the law is necessary, that can be passed. But are you really serious about it? You are not serious about it. Therefore, after the personal visit, he is only appealing to the good sense of the U.P. Government which we have seen how they have responded to it. The unity of the country cannot be played about. The unity of the country and the integrity of the country is too important matter to be left in the hands of this Government only,

It cannot be left for them.

Therefore, we demand that this Government must immediately take action and take action in a manner which will create an impression in the minds of the people that they are serious about maintaining communal peace and harmony which is dearest to all of us, I take it.

Therefore, I demand immediately forthright action on the part of the Government to protect this shrine and all that stands there. Especially when it is admitted that the construction is still going on, you cannot take an ambivalent attitude on this.

MR. SPEAKER: I see that the Members are interested in discussion in this matter. Is the Government ready for discussion now.

SHRI S.B. CHAVAN: Tomorrow
(Interruptions)

[Translation]

SHRI RAM VILAS PASWAN (Roser):
Let us have a discussion on this today and know the views of the hon. members.

SHRI ATAL BIHARI VAJPAYEE

(Lucknow): A point of order was raised before you. A reply to the same should come.

[English]

MR. SPEAKER: I am going to give a decision.

SHRI SHARADDIGHE: (Bombay North Central): Mr. Speaker, Sir, I would only make a submission as far as the point of order raised by the hon. Member, Shri Ram Naik is concerned.

Now the point has been raised regarding the property or legality in regard to the statement made by the Home Minister, namely *prima facie* there is violation of the court order. I agree with my friend, Shri Somnath Chatterjee and I would like to add that as far as this point is concerned, most probably, the Government must be a party to this litigation. Even if they are not, they can intervene in such litigation at any stage and express their opinion through their advocate. (Interruptions) The Government could have even said before the court through their lawyer that these are their findings as far as the facts are concerned, because the violation of the Court order is a question of fact. The Government is in possession of the fact and they have given their opinion as far as the points of facts are concerned and there is nothing wrong in saying that *prima facie* this is the position as far as the facts are concerned. (Interruptions).

[Translation]

SHRI BHOGENDRAJHA (Madhubani):
Mr. Speaker, Sir, I have raised a point of order.

MR. SPEAKER: Let me decided the points of order one by one. Let me dispose it of first. Then your turn would come. Two points of order should not be raised at the same time.

(Interruptions)

[English]

SHRI JASWANT SINGH (Chittoragarh);
Mr. Speaker, Sir, I am on a point of order.
Page 947 of Kaul & Shakdher where the
Speaker has already ruled ...

At this stage, Kumari Padmasree
Kudumula fainted in her seat

(Interruptions)

MR. SPEAKER: Please do not collect at
that place. All of you except the Health
Minister, please go to their seats. Members
may go to their seats., You please return to
your seats. Members may go to their seats
please. Members may not collect there
please. May I request the Members there to
go to their seats? That will facilitate giving
help. The first thing you should do is to go to
your own seats. Please go to your own seats.
Excepting the doctors, all other MPs may
return please. Shri M.M. Jacob, you ask the
Members to go to their seats. Please take
your seats. (Interruptions)

SHRI JASWANT SINGH: Mr. Speaker,
Sir, the point of order has arisen from the
following sentence from the full statement of
the hon. Union Home Minister and the
sentence *Prima facie* is that the Government
of Uttar Pradesh has violated the court
order. I am not going into what the violation
arises from. Page 947 of Kaul & Shakdher is
very specific because the ruling of the Lok
Sabha Speaker of 1966 is in fact very much
applicable. Here the Speaker has ruled
categorically.

I quote:

"..... The test of *sub judice* in my opinion
should be that the matter sought to be raised
in the House is substantially identical with the
one on which a court of law has to
adjudicate....."

MR. SPEAKER: Does that mean that
the matter should not come up at all in the
House.

(Interruptions)

SHRI JASWANT SINGH: Let me finish.
I will now end it up. (Interruptions) It is not .
The law of *sub judice* or the restriction of *sub
judice* on the legislature is not to curb the
voice or the right of expression or the freedom
of speech of the legislature. It is to maintain
the distinction and separateness between
the legislature and the judiciary so that the
functioning of the legislature which by its very
nature has to be unrestrained in the sense
that it cannot possibly have the sense judicial
reticence or restraint. The functioning of the
legislature, therefore, is not to infringe on the
free functioning of the judiciary. The distinction
that has been kept between the organs of the
Republic is a well-judged distinction. What is,
after all the yardstick applied by your earlier
worthy predecessor? The yardstick is that if
the matter is substantially identical with the
one in which a court of law has to adjudicate.
My submission, that this matter is not only
substantially identical but in fact it is the
same matter. It is the very same matter
whether the State of Uttar Pradesh or the
Government of Uttar Pradesh have violated
the order of the court or not? This is precisely
what the Supreme Court has been today
seized with. It is not a question of identical
issue. It is a question of being the same
issue. If it is the same issue, then, necessary
restraints are inherent in the fact of *sub
judice*. It is a well-established matter
thereafter. This is not an academic discussion
thereafter.

MR. SPEAKER: I am trying to understand
one thing because it is a very nice and subtle
point of law. Having allowed the discussion to
take place on this point itself in the House, we
are taking a plea that the Home Minister
should not have made this kind of a statement.

SHRI JASWANT SINGH: No. I am not
aware as to what you refer when you say "
having permitted a discussion".

MR. SPEAKER: The House wanted that
statement.

(Interruptions)

SHRI JASWANT SINGH: What you are
saying is that having permitted a discussion

on the larger question of Ramjanmabhoomi-Babri Masjid Ayodhya, have we not already violated this restriction of sub-judice? Concern is voiced by all sections of the House on the larger question. After all, what Shri Chandra Shekhar has mentioned is a viewpoint. It is certainly a viewpoint to which the House has to pay attention. Somebody from my side will have to give a viewpoint in this matter. That is the viewpoint on the larger question and the question thrown up on the question of Ramjanmabhoomi-Babri Masjid issue. It is altogether a different matter. But the specific question is: Whether the Government of Uttar Pradesh have violated the Court Order? Is that fact of violation today a matter of concern of the Supreme Court?

It is that is a fact. This is not a matter of conjecture. Has the Union Home Minister expressed a viewpoint about the functioning or the conduct of the Government in Uttar Pradesh? He has. It is a written statement. The hon. the Union Home Minister has said it is: *Prima facie*. It is the view of the Government that the Government of Uttar Pradesh has violated the order.

MR. SPEAKER: I will take a minute. It will help us to understand the implications. Supposing the Government were a party, the Government were to put forth its point of view and the Government has said this thing in the Court, then what would have happened?

SHRI JASWANT SINGH: A point was made by my esteemed colleague for whose legal acumen. I am no match whatever. He said that the Government of India is not even a party to this interlocutory order. Your point is: Had the Government of India been a party and then in being a party, had the Government of India gone and expressed a view to the court? It could have done so. But we are now taking a hypothetical point. It is also a different matter if the Government had indeed held that view. And if the Government of India had then gone to the court, then the Government could well have come here and said, "that is what we have said to the court". It could have repeated the same thing to the House. But it could not have used the legislature on the

floor of the House to discuss why they hold that view because till the court decides the Government of India is also not in a position to discuss why it holds that view that the Government of Uttar Pradesh or the Government of Andhra Pradesh or the Government of any State is violative of any court order. That is the small point. These are only small points on what the Union Home Minister said.

MR. SPEAKER: I have understood it.

[Translation]

SHRI BHOGENDRA JHA (Madhubani): Mr. Speaker, Sir, I am on a point of order.

MR. SPEAKER: Only one point of order is disposed off the other point of order would be taken up.

(Interruptions)

MR. SPEAKER: Now I have allowed him. Let us discuss one point of order after which the next point of order would be discussed. Your point of order is at the second place. Now I am on the first point of order.

[English]

SHRI VISHWANATH PRATAP SINGH (Fatehpur): Sir, the point of order that has been raised by Shri Jaswant Singhji and Advanji is whether the Government can express a view like this in the House. This is precisely the point I just want to confine myself to it as I see the Government has agreed for a debate when the debate and we can at length deal with the subject when the debate comes up. In fact, as Somnathji has said, the matter which is *sub judice* and is of great importance and of concern to the people of India can certainly be taken up in the House, the autonomy of the House itself will be in question. It is an important institution of democracy. The point is that Government can hold a view and many times in the court it goes with its view - may be different than other parties or otherwise - and pleads that view. In fact, our complaint has been that this

Government was not giving its view. And it was keeping the whole country in suspense for months together and even in the crucial last three four days. It is quite legitimate for the Government to come out with a view. And it is its responsibility because it is charged with the governance of the country. A matter which is of concern to everyone here, if it does come out with a view, I think, it is discharging its responsibility. My complaint is, it has not discharged its responsibility because it was keeping quiet. Having come with a view, I would want to ask the Home Minister - he has said the other thing about pending the court judgment - that you have come to a point of view, but you are keeping silent thereafter, are you going to the court for it, to assist the court to be a party in the court, to plead it in the court? If you say this today, then your second sentence becomes relevant. All right, till then I am holding back the view. If you say that there is violation of the court order, or even prima facie or if that is your perception, you do not make any commitment of either going to the court or to take any other action appropriate. I am not recommending any course of action. We have made many suggestions. But always go to the CCPA. CCPA of course, has become a very popular word in this country. *(Interruptions)* In Hindi it has a different connotation. But that apart ... *(Interruptions)* They used to go to your CCPA and we used to come to your CCPA. *(Interruptions)* I am pleading your case. I am giving you all this compliment. Having taken a view I would ask, because in the next sentence you are holding your view, will you go to the court or not? If you do not go to the court, then you are keeping this country in suspense and bringing it to a mess. If you are not going to the Court, then what is the alternative that you have, that, you must spell out and the statement should include it.

Sir, it is not merely the protection of the structure. Yes, that is important because it is a very specific issue of the debate. And the Chief Minister has assured and the Home Minister has assured.. That is all right. The structure, today, is not being affected.

(Interruptions) I am not going on the merits of the case at all. I am giving a complaint to the Chief Minister and even then, they are not accepting. *(Interruptions)* Even then you are asking. *(Interruptions)* Why did the Chief Minister say like that. *(Interruptions)* What is it that is to be protected, much more than this - mandir or masjid- is the Constitution.

MR. SPEAKER: Just a minute. I need your help.

SHRI VISHWANATH PRATAP SINGH:
I coming to my point .

MR. SPEAKER: I am just only putting it to you.

SHRI VISHWANATH PRATAP SINGH:
Sir, I will not touch that subject at all.

MR. SPEAKER: O.K., after you complete, I will put that question.

SHRI VISHWANATH PRATAP SINGH:
Sir, I just seek your attention. Your apprehensions will be dispelled if you hear the next two sentences.

We are here to uphold the Constitution. And in this democratic structure, there are three important democratic institutions, that is, the Parliament, the Government - Executive - and the Judiciary. So, our concern arises when it is about the protection of the Constitution and the Judiciary.

Mr. Home Minister, having said that the judiciary - in this perception - has been violated, it is your bounded duty to spell out what is going on because you are charged with the governance of the country and not to hold the straws of private litigation and like that and try to cling to it. You will drown with it and you will drown the country also.. Please take the responsibility and spell out what you are going to do.

MR. SPEAKER: Shri Lodha, would you like to help me?

SHRI GUMAN MAL LODHA (Pali): Sir,
I want to be very brief on this point. An

important aspect of this matter which has escaped out notice is that even the Home Minister has not given his final opinion.

Sir, he says that tomorrow, the officers are coming and that they would give the report. After seeing the report, he may take one view or the other. So, it is premature to discuss this matter and it is further premature to discuss whether it is *sub judice* and whether any ruling should be given by your honour or not. My respectful submission is that before the Home Minister makes up his mind, he should see:

- (1) after the report of all the technical officers and the persons who are there on-the-spot, whether anything is required to be done or not
- (2) whether they want to become a party to the Supreme Court and do anything there;
- (3) whether in the light of these circumstances, if the matter requires further discussion or not.

Any sort of discussion, your honour, would be premature. I would, therefore, seek your honour to kindly wait till finally the Home Minister makes up his mind and then decide the matter.

[Translation]

SHRIBHOGENDRAJHA: (Madhubani): Mr. Speaker, Sir, I am on a point of order. Please listen to my point of order.

MR. SPEAKER: Hon'ble member, your point of order is on some other issue. You should speak on the point of order in which a discussion is going on.

SHRIBHOGENDRAJHA: My point of order is that in India, the judiciary has neither its own army nor security forces. It has no reserve force also. It is the responsibility of the Executive, i.e. the Government to implement its orders. If the Home Minister feels that there is a violation of law in Ayodhya, then.....

MR. SPEAKER: This concerns the administration and it is not a point of order.

SHRIBHOGENDRAJHA: Mr. Speaker, Sir, no matter whether the judiciary becomes a party or not but if nothing is left for a decision, then what will happen? If they demolish the mosque, will it be reconstructed? That is why it is my request that the Government has to intervene in the matter and made an announcement to this effect immediately. After that, what shall be left for discussion? The Supreme Court is helpless. The Supreme Court said that those who were engaged in construction also faced the risk of demolition. But if the mosque is demolished, will a new mosque be built keeping in view the sentiments involved? That is why it is my request that even if there is not a discussion and the Government does not become a party in the Court, the responsibility of its security lies on the Government of India. The construction work should be stopped till the Court gives its verdict. You should give a clarification on this issue. This is not a matter on which there should be any delay, otherwise it will be too late... (Interruptions).....

18.00 hrs.

[English]

MR. SPEAKER: Shri Chandra Jeet, please. But please bear in mind that we are likely to discuss it.

SHRI CHANDRA JEET YADAV (Azamgarh): I know Sir. What I am saying is that.....

SHRI RAM NAIK (Bombay North): It is already 6 o'clock. You have to extend the time.

MR. SPEAKER: Let us extend the sitting of the House for a few minutes.

SHRI CHANDRA JEET YADAV: An objection has been raised by some of our friends from BJP side that the Home Minister has said a sentence. There is an objection on only one sentence. He said that in his

[Sh. Chandra Jeet Yadav]

impression the UP Government has violated the court orders *prima facie*. On the same thing what does the UP Chief Minister say?

MR. SPEAKER: Now we are going into details. You will have the opportunity to say all these things when we discuss it.

(Interruptions)

SHRI CHANDRA JEET YADAV: The UP Chief Minister says that there is no violation., If the Home Minister says that in his impression there is violation and the Chief Minister of UP says that there is no violation, he is also expressing his views on the same matter. When the matter is sub-judice, the Chief Minister of UP has no right to express his opinion that his Government is not violating the court orders. Therefore if anybody, really speaking, is responsible for saying something, it is the Chief Minister of UP who by expressing his opinion has said all these things.

The second point is that we are all witness to it. For four days this House has not been able to function. The House wanted that the Government must come out with a statement. The House was charging the Home Minister for not coming out with a statement. Now if the Home Minister, after having gone there, gives a statement, in that statement what should he say? He cannot just say that he went there, visited the place and came back. Therefore when the Home Minister gives a statement he has to report to this House. This House is supreme. On this very issue, this matter has been pending in the court for the last forty-five years. We have to discuss all the aspects of Babri Masjid. Therefore the House is supreme and the House thinks that there is no breach or contempt of court.

MR. SPEAKER: Shri Kumaramangalam. I am really in a position to give the ruling, but I would like to hear you also.

THE MINISTER OF STATE IN THE
MINISTRY OF PARLIAMENTARY AFFAIRS

AND MINISTER OF STATE IN THE
MINISTRY OF SCIENCE AND
TECHNOLOGY (DEPARTMENT OF
ELECTRONICS AND DEPARTMENT OF
OCEAN DEVELOPMENT) (SHRI
RANGARAJAN KUMARAMANGALAM)

Mr. Speaker Sir, the issue that is important and that is being raised is whether at all the Home Minister.

SHRI SRIKANTA JENA: He is no more the Law Minister

SHRI RANGARAJAN KUMARAMANGALAM: I am speaking as the Minister for Parliamentary Affairs. Mr. Speaker Sir, unfortunately instead of your permission, I have to seek their permission to speak

MR. SPEAKER: I will value your opinion more as a lawyer.

SHRI RANGARAJAN KUMARAMANGALAM: The issue that arises is that the Home Minister in his statement has voiced a *prima facie* view after visiting the site whether a particular action of the Government of UP is violative of court orders or not, in terms of permitting certain work to be carried on. As rightly pointed out earlier in the statement also, the Chief Minister's view that they have not violated the court orders, is also there. Both almost stand on the equal footing in terms of views being expressed. What is important is, an order of court has been passed. It is, under the Constitution, the obligation of all civil and judicial authorities to act in the aid of the Supreme Court, It is also binding on all of us.

SHRI JASWANT SINGH: Then the Government should become a party in the court.

SHRI RANGARAJAN KUMARAMANGALAM: You do not have to become a party. On the contrary, it is the duty of all civil authorities to....

SHRI RAM NAIK: To give judgments.

SHRI RANGARAJAN KUMARAMANGALAM: We are not giving judgments.'

SHRI RAM KAPSE: You are not sitting on the judgment. (Interruptions)

SHRI RANGARAJAN KUMARANGALAM: Sir, what is unfortunate is that the issue is so emotional that none of them are really willing to look at it impartially. What is important? I think the very manner in which they are reacting would compel me to directly bring your attention, if I may submit, to 'Erskine May's Treatise on Law and Privileges and Proceedings and Usage of Parliament'. On page 378, it very categorically lays down that,

" Subject to the discretion of the Chair, reference could be made in questions, motions, debates, etc. to matters awaiting or under adjudication in all civil courts, which concern issues of national importance, whether it is national economy, public order or essentials of life."

It is important to say that this matter is of such importance that for four days this Parliament is not functioning; and we do not think it is important enough for even the Government to give its *prima facie* view, subject to final orders of court: It would be a bit too much to say that we should abdicate all our rights, all the fundamental rights of speech, expression of opinion just because the words ' *sub judice*' exist. Then, we may reach a stage that if one wants to ensure that Parliament does not have a say at all, all that one has to do is to see that a petition is admitted in the court; and then the Parliament would be silent. If this is what we want to do this Parliament, it is very easy to ensure that Parliament is silent. I am sorry; I do not think it is so. (Interruptions)

SHRI INDRAJIT GUPTA (Midnapore): Sir, I only wish to make two points. One is, I would like to have a direction from you as to whether, when a certain matter is *sub judice*, pending before a court-in this case, the Supreme Court - that debars this House from debating that issue or not. Obviously not. Nobody has raised that point. They are only objecting to a particular statement contained

in the Home Minister's statement. Debates have been held many times on this issue, although they were *sub judice*. Only a few weeks ago, Sir, when it was decided in this House that a delegation of Parliament Members and NIC Members should go and visit Ayodhya, there was a discussion on the same matter. Apprehension was expressed here as to which necessitated the sending of a delegation there. Nobody at that time said that the House cannot discuss that matter. As far as apprehensions or allegations which are being made of pressurising, or trying to create some kind of pressure on the Supreme Court because of the observations made *prima facie*, in the Home Minister's statement are concerned, if that is so, that will create a pressure on the judges, and equal pressure is being created by the Chief Minister who categorically said that I had not violated any orders of the court. So, the two cancel each other, if there is any question of pressure. If he is pressurising the Court, so is Mr. Kalyan Singh, pressurising the court by saying that I had not violated anything. (Interruptions)

SHRI RAM KAPSE (Thane): He is a party to it; but the Home Minister is not a party to it.

(Interruptions)

SHRI INDRAJIT GUPTA: My second point is this. I want to put a query to the Home Minister. If he is convinced, as he has stated here very categorically that after going round the place, hearing everything and discussing with the Chief Minister that he so *prima facie* convinced, that the court order is being violated there at Ayodhya, and that he has requested or tried to persuade the Chief Minister that pending the final orders of the Supreme Court, the work there should be kept in suspension, it should be suspended and since he got no response, according to him, the Chief Minister was non-committal on that point and he did not respond at all if he was non-committal, of course it does not mean that he agreed with him, it does not mean that he rejected it either- what is to be done? I want to know from the Home Minister as to whether he is prepared to (Interruptions)

SHRI RANGARAJAN KUMARA-
MANGALAM: Party-concerned should show
more restraint. (*Interruptions*)

specially to thank Shri Guman Mal Lodha for
very brief but effective intervention.

SHRI INDRAJIT GUPTA: I am
concluding, Sir (*Interruptions*) Why can he
not issue a directive to the State Government
that pending the final orders of the Supreme
Court, the work at that site should be kept
suspended?

The matter is really very important and
delicate also. The hon. Members wanted
that the Government should make a
statement on the issue in the House. In
response to what was wanted by the
Members, a statement has been made. And
the statement contains two sentences to
which objections have been raised. I will
seek your indulgence to read it out.

Let us see whether they abide by that
directive or they decide to flout that directive.
After that the question will rise again what
action should be taken or whether any action
should be taken. We will give our views at
that time. But with simply to say, " We will
continue with our persuasive efforts" -
something or other,, he has said here- "we
hope, we want to persuade, we want to
hope", the matter is getting more and more
serious every day because that is not being
stopped there.

" *Prima facie* - '*prima facie*' is a very
carefully used word- I am of the
view - it is only the view - that if
Government of Uttar Pradesh have
violated the court order by permitting
the work to be carried on the
acquired land".

And the second sentence is also equily
important:

We are debating here. We are referring
to law books and so many things - references.
But what is to be done there is going on. That
is what has created apprehension in the
entire country. I do not know what these
Members sitting here think about this matter
because there it is like an iceberg.
(*Interruptions*) Come on, speak up.
(*Interruptions*) You speak so many times.
Why don't you speak up now? (*Interruptions*)
Why don't you speak up now? Do you want
something to be done? (*Interruptions*)

" However, the final decision of the
Supreme Court will have to be awaited on
the subject "

If you are going to have a fullfledged
discussion today or tomorrow or when, then
every is free to air his view about all these
matters. But time is the essence of the
question. Are you going to allowing things to
go on? Is the Government serious about
making any attempt to have some action
which will diffuse the situation - at least for the
time being, till the Supreme Court gives its
final order? (*Interruptions*) That is what I
want to know. They do not even give any
indication of any such thing.

Now on one-hand, the Members were
asking the Government to put before them
the facts. They were agitated also on this
issues. So, this matter has come here. While
applying the principle of sub judice to the
matter, the principle which has to be borne in
mind by all of us is, on one hand, the court
should not be interfered with in their duty to
do justice in the matter which are before
them. At the same time, the second principle,
which is equally important, is that the freedom
of expression, which is available to every
citizen outside the House, is available to the
Members on the floor of the House. And the
freedom of expression has something of
prerogative also.

Now what you express on the floor of the
House cannot be challenged outside. That
means in a way you have a freedom and the
pregroative. That is why these two things
have to be balanced while applying the
principle of *sub judice*.

MR. SPEAKER: Well, first of all, I would
like to thank all the hon. Members who have
helped me to decide this issue. I would like

Now in this matter what has come before

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us is the expression of a view and that too *prima facie* and not finally. At the first sight, the Government has come to this conclusion and the Government is saying that we do not know what is the position. We will await the Supreme Court judgment and in a way it is indicating it. That is why this is an expression of views.

Here if we are discussing the matters and allowing all the Members to express their views and if the expression of the views by many of the Members on this point is there, one could say that it is likely to weigh with the judges. But a view is expressed by a Member of the House, or for that matter, the Home Minister; it could have been done in the court also. But here it is not necessary to apply the principle of *sub judice* and it is not necessary that one of the Members should be a party to the case, Even if Members are not party to the case in the court, principles of *sub judice* will apply. Here, in my opinion, because this statement has been made very carefully in my judgment....

SHRI SOMNATH CHATTERJEE:
Please do not put restraint on the Parliament.

There is authority that the Parliament can discuss matters which are pending in court. Please do not put that restraint on Parliament.

MR SPEAKER: You have not heard me and you are just speaking. That is why I am coming to the conclusion that the principle of *sub judice* does not apply to this case and I do not uphold your point of order.

(Interruptions)

MR. SPEAKER: If you rush to conclusions without allowing me to complete, then there will be complications.

The House stands adjourned to meet again at 11 AM on the 14th of July, 1992.

18.15 hrs.

The Lok Sabha then adjourned till Eleven
of the Clock on Tuesday, July 14, 1992/
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