

## Sixteenth Loksabha

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Title: The Speaker extended new year greetings to all the Members of the House

**माननीय अध्यक्ष:** आप सबको वर्ष 2019 की शुभेच्छा देती हूँ। सबका जीवन सुखमय रहे, यही मेरी शुभकामना है।

**श्री मलिलकार्जुन खड़गे (गुलबर्गा):** मैडम, नए साल की शुभकामनाएँ। अच्छा चलने दो पार्लियामेंट, ठीक ढंग से होने दो।...(व्यवधान)

**माननीय अध्यक्ष:** यह तो आपके ऊपर है।

...(व्यवधान)

HON. SPEAKER: Now Question Hour - Q. No. 301.

... (*Interruptions*)

**11 02 hrs**

*At this stage, Shri G. Hari and some other hon. Members came and stood on the floor near the Table.*

HON. SPEAKER: I am requesting all of you to please go to your seats. This will not do. This is not fair. Your problem will not be solved in this way. You have to discuss with the Minister whatever is the problem. You should not do that. It does not give a good message to your State also. I do not think that common people will like this. No. This unruly behaviour, you must know, is not proper.

... (*Interruptions*)

**1103 hrs**

## **ORAL ANSWER TO QUESTION**

**HON. SPEAKER :** Now Question No. 301, Shri Asaduddin Owaisi.

**(Q. 301)**

**SHRI ASADUDDIN OWAISI:** Madam, Parliament is the highest law-making forum. In the answer given by the Minister, he has said that they have written letters, this and that. *(Interruptions)*

**HON. SPEAKER:** Not any time.

... *(Interruptions)*

**HON. SPEAKER:** This is the Question Hour and Question Hour means Question Hour. After Question Hour, if they are ready, I have no objection, but you cannot do like this.

... *(Interruptions)*

**11 03½ hrs**

*At this stage, Shri Muthamsetti Srinivasa Rao and some other hon. Members came and stood on the floor near the Table.*

**SHRI ASADUDDIN OWAISI:** What we are more concerned about is the outcome, not about the output. I want to know from the hon. Minister whether his Ministry has done any impact assessment of not having appropriate judicial officers for filling up these posts in subordinate and district courts. ... *(Interruptions)* What is the economic cost to the country? What is the social cost to the country? What are the long-term solutions? Have they done

any impact assessment for this? We are more concerned about the outcome, not about the output. ... (*Interruptions*)

SHRI RAVI SHANKAR PRASAD: Madam, I think, the hon. Member has a point. We need to fill up the vacancies. In the subordinate judiciary, about 5,000 vacancies are existing, but I think that the hon. Member with his professional background would appreciate that as far as filling up of vacancies in the subordinate judiciary is concerned, neither the Government of India nor the State Government has any role. ... (*Interruptions*) The role is that of the High Courts. Many High Courts conduct examination themselves. In many States, on their recommendations, the State Public Service Commission conducts the examination. I have been writing to the Chief Justices. We have also requested the hon. Supreme Court. The Government has been emphasising, again and again, to the Chief Justices of High Courts to fill up the vacancies. ... (*Interruptions*)

I am happy to inform that hon. the Chief Justice of India, in a case, has taken up on a priority basis the filling up of vacancies in the subordinate judiciary. We are working together, but I take his point that this has to be expedited because access to justice is very important as far as subordinate judiciary is concerned and we are working together with the Judiciary to fill up the vacancies. ... (*Interruptions*)

SHRI ASADUDDIN OWAISI: Madam, you must have noticed that I had asked for an impact assessment of not filling up these Judges vacancies. ... (*Interruptions*).

My second supplementary to the hon. Minister is that in the answer, in point No. 4, the Government says that they have suggested for creation of a Central Selection Mechanism. Will this not violate Articles 227 and 234? Are they going to introduce a Constitution Amendment? If the Central Selection Mechanism is created, what will happen to the local reservation at the State level? ... (*Interruptions*)

Madam, I also want to know from the hon. Minister, through you, whether the Government is attempting to resolve the higher pendency of criminal cases. ...  
(*Interruptions*)

Another important point is, the 245<sup>th</sup> Law Commission under the Chairmanship of A.P. Shah has made seven recommendations on this pendency issue. ...(*Interruptions*). Why have they not accepted those recommendations, because 37.4 per cent of the cases relate to traffic violation and 71 per cent are criminal cases? We know that many under-trials belong to Adivasis, Dalits and Muslims. ...(*Interruptions*).

Regarding the infrastructure, can the Minister tell us as to what is the financial allocation the Government has made for creation of infrastructure in Subordinate District Courts in the last four years?

SHRI RAVI SHANKAR PRASAD: Madam, the hon. Member has asked many questions, but let me reply to them one by one. ...(*Interruptions*). As far as disposal of criminal cases are concerned, I have personally written to all the Chief Justices of High Courts that criminal cases and civil cases that are pending for the last ten years must be expedited on a fast-track basis. We have also emphasized that those under-trials who have completed 50 per cent of their detention as under-trials must be released on bail. We are giving full support for infrastructure. ...(*Interruptions*).

We would like to inform the hon. Member that under the Centrally Sponsored Scheme, since 1993, Rs. 6000 crore have been spent, out of which, 42 per cent has been given in the last 4½ years during the Narendra Modi Government. The larger issue is, why is there a suggestion for Central Selection? We do not want to impinge upon the State's power or the reservation in the State. What we are saying is that we need to have some kind of a Central mechanism on a portion of Additional District Judges post, so that good students from National Law Schools and other brilliant boys must also come through All

India selection process to enhance the credibility of judiciary. ...(*Interruptions*). That is all we are saying so that we have a good intake at the level of Additional District Judge or other Judges. We have also been emphasizing from time to time that the time has come for the All-India National Judicial Service to be considered in all seriousness. All these things are designed basically to strengthen the intake at the Subordinate Level in the judiciary. ... (*Interruptions*).

SHRI B. VINOD KUMAR : Madam, the question raised by my good friend Mr. Owaisi is with regard to the pending cases in the lower judiciary. ...(*Interruptions*). The hon. Minister has replied in detail. First of all, I would like to thank the hon. Minister for establishing a separate High Court for the State of Telangana. ...(*Interruptions*). Yesterday, the High Court of Telangana was established and it was inaugurated. Madam, the sanctioned strength of this Court is only 24. There are lakhs of cases pending within the jurisdiction of Telangana in the undivided High Court. The present High Court cannot dispose of the cases with the sanctioned strength of 24. ...(*Interruptions*). I would like to ask the hon. Minister, through you Madam, whether the Government intends to increase this strength of the High Court Judges in the High Court of Judicature at Hyderabad i.e. the Telangana High Court.

SHRI RAVI SHANKAR PRASAD: Madam, this question does not arise. Since he has raised this question, let me say that yes, we have done our best that there is a proper High Court in Telangana and there is also a separate High Court for the State of Andhra Pradesh. I wish well for the High Courts of both Telangana and Andhra Pradesh. ...(*Interruptions*). As regards addition of Judges, I am very happy that Telangana High Court has started functioning. We will certainly look into it. ...(*Interruptions*). There is a mechanism. But today, I take this opportunity through this question to say that I wish good luck to the High Court of Telangana. ...(*Interruptions*).

I also wish good luck to the High Court of Andhra Pradesh. Let these two High Courts rise by their performance, access to justice and make a name in the annals of judiciary of the country ...(*Interruptions*)

**डॉ. किरिट पी. सोलंकी:** धन्यवाद, स्पीकर महोदया, मैं आपका आभारी हूं कि आपने मुझे प्रश्न पूछने की अनुमति दी।...(व्यवधान)

मैडम, लोअर ज्युडिशियरी में बहुत सारी वैकेंसी का प्रश्न है।...(व्यवधान) अगर हायर ज्युडिशियरी की स्थिति देखी जाए, तो वहां भी बहुत सारी वैकेंसीज़ हैं। हमारे यहां एक मुहावरा है कि 'Justice delayed is justice denied.'

इतने सारे कोर्ट्स में केस लंबित होते हैं, हमारे मंत्री जी भी खुद सुप्रीम कोर्ट के एक वरिष्ठ एडवोकेट हैं।...(व्यवधान) मैं उनसे प्रश्न पूछना चाहता हूं कि जिस प्रकार इंडियन एडमिनिस्ट्रेटिव सर्विस होती है, क्या उसी प्रकार सरकार इंडियन जुडिशियल सर्विस लाएगी? क्योंकि इसमें कुछ ही लोग आते हैं।...(व्यवधान) जो गरीब तबके के लोग हैं, वे जुडिशियरी में सम्मिलित नहीं हो पाते हैं।...(व्यवधान) क्या इस प्रकार की इंडियन जुडिशियरी सर्विस लाने का कोई प्रावधान है?

**श्री रवि शंकर प्रसाद:** माननीय अध्यक्ष जी, सम्मानित सदस्य ने जो सवाल किया है, वह बहुत ही महत्वपूर्ण सवाल है।...(व्यवधान) मैंने पहले भी इसकी चर्चा की है कि जिस तरह से आई.ए.एस., आई.पी.एस. तथा इंडियन फॉरेन सर्विसेज हैं, उसी प्रकार अब समय आ गया है कि एक ऑल इंडिया जुडिशियल सर्विस हो, जिसकी पूरी परीक्षा यू.पी.एस.सी. करे और प्रामाणिकता से हर वर्ग के टैलेंटेड लोग इसमें आएं, नेशनल लॉ स्कूल के बच्चे आएं, बाकी लोग भी आएं, ताकि सबॉर्डिनेट जुडिशियरी में इनटेक बढ़िया हो।...(व्यवधान)

मैं एक बात स्पष्ट कहना चाहता हूं कि इसमें जो एग्जिस्टिंग सिस्टम है, उस पर मैं कोई अतिक्रमण नहीं करना चाहता हूं।...(व्यवधान) एक पोर्शन यह है कि वैकेंसीज़ अवेलेबल हों, लेकिन इसमें हाई कोर्ट की सहमति जरूरी है, राज्य सरकारों की सहमति जरूरी है।...(व्यवधान) कई हाई कोर्ट्स ने इसकी अनुशंसा की हैं, कई हाई कोर्ट्स इसके विरोध में हैं, कई राज्य सरकारें इसके विरोध में हैं।...(व्यवधान) हमारी चर्चा हो रही है।...(व्यवधान) मैं अवश्य मानता हूं कि इसके लिए एक सर्वानुमति बने और इसके लिए हम प्रयास कर रहे हैं, ताकि सबॉर्डिनेट ज्युडिशियरी में और अधिक उच्च गुणवत्ता के लोगों का रिक्रूटमेंट हो।...(व्यवधान)

SHRI KALYAN BANERJEE: Madam, the hon. Law Minister has tabled his written reply and I have just now seen the reply. Here, I would like to refer to the statement of the hon. Minister at serial No. 4 ...(*Interruptions*) I wish to inform this House that this case was taken up by the then hon. Chief Justice J.S. Khehar's Bench *suo motu*; and we had opposed it because the All-India Judicial Services will be a contravention of article 233 of the Constitution of India. It will really hit the federal structure of the country itself... (*Interruptions*)

The matter is pending before the hon. Supreme Court itself. It has not been taken up yet. My question is this. When the matter is *sub judice* and is pending before the Supreme Court, why is the hon. Law Minister going all around the country for selling the idea of the All-India Judicial Services and also not filling up the vacancies, especially in the Kolkata High Court when the Collegium has already recommended the names of the Judges of the Kolkata High Court? ...(*Interruptions*)

SHRI RAVI SHANKAR PRASAD: As regards filling up of vacancies is concerned, I can tell him that our Government has done the filling up of the highest number High Court Judges. In 2016, we appointed 126 hon. Judges in different High Courts of India, which is also the highest numbers in the last 30 years.

In the year 2017, we had appointed about 118 hon. Judges. This year also, more than 100 Judges have been appointed though since 1989, the average appointment of Judges in the High Courts of India has been 72 to 82. Therefore, our record is very good. Many Judges have been appointed in the Kolkata High Court also and others are in the process ...(*Interruptions*)

As regards pending of matter of the All-India Judicial Services, in our very considered view, it does not impinge upon the federal character. I am saying that our idea is to have only a portion of vacancies of Additional District Judges without encroaching on the rights of the State Government ...(*Interruptions*)

But what is important is what I have said. It is an idea whose time has come.

I do not think merely because a case is pending, the Parliament is refrained from debating the issue, and the country is refrained from debating the issue. We have seen that the hon. Chief Justice, in another case, is examining the matter. Now, it is 70 years since Independence. Why should the intake in the subordinate judiciary not invite the best talent of the country from institutes like the National Law School, etc. so that we have a good pool of talented people becoming Additional District Judges and subsequently in the higher category? That is the whole idea.

SHRI KODIKUNNIL SURESH : Madam Speaker, regarding the appointment of judges in High Courts and in the Supreme Court, there is no reservation for Scheduled Castes and Scheduled Tribes. In the hon. Supreme Court, there is no judge from the Scheduled Caste or the Scheduled Tribe community. In many High Courts, there is no judge from these communities. Day before yesterday, the hon. Law Minister made a statement in the media that the Government is thinking about recruiting judges from the Scheduled Castes and Scheduled Tribes in the High Courts as well as in the Supreme Court.

I would like to ask the hon. Law Minister, through you, whether the Government of India is seriously considering appointing judges in the High Courts and in the Supreme Court from the Scheduled Castes and the Scheduled Tribes. Thank you.

SHRI RAVI SHANKAR PRASAD: I wish to clarify to the hon. Member that there is no reservation for any category as far as appointment in the High Courts and in the Supreme Court is concerned. Nor did I ever make any statement about reservation in the High Courts or in the Supreme Court. Many States have reservation in the subordinate judiciary. Of course, I take his point that people from all the communities must have presence in the higher judiciary. It is an issue which requires wide consideration without compromising on the merit. I think that is an issue the House has to consider....(Interruptions)

HON. SPEAKER: The House stands adjourned to meet again at 12 o'clock.

**11 17 hrs**

*The Lok Sabha then adjourned till Twelve of the Clock.*

**12 00 hrs**

*The Lok Sabha reassembled at Twelve of the Clock.*

(Hon. Speaker *in the Chair*)