

(b) (i) Review by the Government on the working of the National Thermal Power Corporation Limited, New Delhi for the year 1977-78.

(ii) Annual Report of the National Thermal Power Corporation Limited, New Delhi for the year 1977-78 along with the Audited Accounts and the comments of the Comptroller and Auditor General thereon.

(2) A statement (Hindi and English versions) showing reasons for delay in laying the documents mentioned at (1) (a) above. [Placed in Library. See No. LT-3133/78.]

Annual Reports etc. of Bharat Dynamics Ltd., Hyderabad, Bharat Earth Movers Ltd., Bangalore and Praga Tools Ltd., Secunderabad for 1977-78

THE MINISTER OF STATE IN THE MINISTRY OF DEFENCE (PROF. SHER SINGH) : I beg to lay on the Table of a copy each of the following papers (Hindi and English versions) under sub-section (1) of section 619A of the Companies Act, 1956:—

(1) (i) Annual Report of the Bharat Dynamics Limited, Hyderabad, for the year 1977-78 along with the Audited Accounts and the comments of the Comptroller and Auditor General thereon.

(ii) A statement explaining that Government are in agreement with the above Report and therefore no separate Review on the working of the company is being laid. [Placed in Library. See No. LT—3134/78.]

(2) (i) Annual Report of the Bharat Earth Movers Limited, Bangalore, for the year 1977-78 along with the Audited Accounts and the comments of the Comptroller and Auditor General thereon.

(ii) A statement explaining that Government are in agreement with the above Report and therefore no separate Review on the working of the company is being laid. [Placed in Library See No. LT-3135/78.]

(3) (i) Annual Report of the Praga Tools Limited, Secunderabad, for the year 1977-78 along with the Audited Accounts and the comments of the Comptroller and Auditor General thereon.

(ii) A statement explaining that Government are in agreement with the above Report and therefore no separate Review on the working of the Company is being laid. [Placed in Library. See No. LT-3136/78].

13:16 hrs.

CONSTITUTION (AMENDMENT) BILL

(Amendment of Article 51)

by Shri Hari Vishnu Kamath

OPINIONS

SHRI HARI VISHNU KAMATH (Hoshangabad) : Mr. Deputy-Speaker, Sir, I have the honour to lay on the Table Paper No. 1 containing opinions on the Bill to amend the Constitution of India calling upon the Government to endeavour to collaborate with other nations for the early formation of a world Constituent Assembly, to draft a Constitution for a World Federal Government. The Bill was circulated for the purpose of eliciting opinion thereon by the direction of the House on the 5th May, 1978 and the date fixed is 23rd February, 1979.

13:17 hrs.

RE : SITUATION IN ANDAMAN AND NICOBAR ISLANDS

SHRI MANORANJAN BHAKTA (Andaman and Nicobar Islands) : Sir, I come from the union territory of Andaman and Nicobar Island. I appeal to all sections of the House to kindly listen to me and to give me a patient hearing.

The Andaman and Nicobar Islands is a remote union territory. Since the 9th of this month, there is a tense situation there. The villagers came to Port Blair to meet the Chief Commissioner who is the administrator of the union territory to seek protection. The Chief Commissioner flatly refused to meet the villagers. The villagers, including men and women, staged a peaceful satyagraha and a

[Shri Manoranjan Bhakta]

demonstration. The police and the CRP latni charged them brutally and all the people were put in prison. Every day, the arrests are being made. The arrest number more than 250 persons. I wrote to the hon. Prime minister several letters. I have not received any reply, not even an acknowledgement. I have so many motions, including the Calling Attention notice. They have also not been accepted. I gave an adjournment motion. That too has not been accepted. I was informed about it today.

There is no legislature in the union territory of Andaman and Nicobar Islands. I am the only single member from that constituency. It is a far-flung area. If I am not allowed to ventilate the grievances of the people living there what is the alternative left to me? The situation is very grave and tense there. The people inside the jail are tortured. I would request the Home Minister to make a statement and to release all those people detained in jail unconditionally.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI DHANIK LAL MANDAL): Sir, the hon. Member met me in my office yesterday and I assured him that we will take all steps to see that those who have not indulged in any violence or any arson are treated well and they are released.

I have received the following message. On an appeal made by the administration and following a meeting between the Deputy Commissioner and Congress (I) Leaders who were in judicial custody the Congress (I) party has agreed to call off the present agitation. The Deputy Commissioner visited the district jail in his capacity as Inspector-General of Prisons. After calling off the agitation, 21 Congress (I) members led by Shri Nehchal Singh Chawla applied for release from judicial custody on personal bond which has been granted to them. Since the Sub-Divisional Magistrate of Port Blair who no longer fears of breach of peace has discharged the remaining 76 agitators who were also in judicial custody and the situation is peaceful and normal.

SHRI VAYALAR RAVI (CHIRAY—INKIL): On a point of order. My point of order is not at all meant to question the ruling of the Speaker. First of all, I must make it clear that under rule 56, I had given a notice of an adjournment motion.

That is regarding the Constitutional crisis that has been created in the country

today. The Speaker has disallowed the motion under rule 354.

Rule 354 read:

"No speech made in the Council shall be quoted in the House unless it is a definite statement of policy by a Minister."

Then there is a proviso. My Adjournment Motion was regarding the Constitutional crisis created due to the stalemate in the Rajya Sabha.

Mr. DEPUTY-SPEAKER: you must also be aware of the act that the House does not discuss the proceedings of the other House.

SHRI VAYALAR RAVI: Not the proceedings.

Mr. DEPUTY-SPEAKER: It is because of that, your motion has been disallowed or the consent has not been given.

SHRI VAYALAR RAVI: I am not discussing the proceedings of that House. I have only said that there is a Constitutional crisis; Government have created this crisis because the Government refuse to accept the Resolution...

Mr. DEPUTY-SPEAKER: I have already given you the reason why it has been disallowed.

श्री कंबर लाल गुप्त (बिस्ली सदर):
उपाध्यक्ष महोदय, मुझे तो केवल आपसे एक सवाल पछना है उसका जवाब आप बीजिए कि मि० साठे प्रीर 6 लोग इनर-साबी में हैं वे कल घन्वर, रहे, फास्ट किया, क्या आपने उनको परमीशन दी है या उनको हटाने के लिए क्या कार्यवाही कर रहे हैं?

उपाध्यक्ष महोदय : मैं आपको इसका जवाब नहीं दे सकता हूँ।

श्री कंबर लाल गुप्त : तो इसका जवाब कौन देगा ?

Mr. DEPUTY-SPEAKER: Mr. Sathe wants to make a personal explanation.

श्री कंबर लाल गुप्त : जब यहाँ हाकूम की बायोलेशन हो रही है तो इसका जवाब कौन देगा ? इन्होंने यह कहा है कि जब तक इन्दिरा गांधी अन्दर रहेगी, हम यहाँ रहेंगे।

SHRI VASANT SATHE (Akola): Mr. Deputy-Speaker, Sir, so many charges have been made today against me and some of my colleagues of doing something which is contrary to the privileges of this House. If I am, later on, found guilty of breach of any of the privileges, I am willing to take the consequences. But I may say one thing. The protest hunger strike which myself and some of our colleagues have started is not against a particular person or persons, but the main object of this is a moral object that at least now...

SHRI KANWAR LAL GUPTA (Dilli Sadar): Do it outside.

SHRI VASANT SATHE: If I have committed an offence, I will suffer for it. But let us not get diverted from the main purpose. My only object and that of my friends, I may say very clearly here, is to draw the attention of all concerned to this that at least now once with that... act yesterday you have given vent to the poison and anger by taking action... (Interruptions) I beg of every one in this House, including the Prime Minister I have spoken to him personally. I am not saying something new. At least now let us restore the whole country and the Parliament to the major issues. The whole country and Parliament are getting side-racked to non-issues and non-priorities. Divisive forces are raising their heads. If this situation is allowed to deteriorate, then our country will fall: the danger of disintegration (Interruptions)

I am responsible for it. Are you satisfied? But, at least, now come to senses. Let us talk sense sometime. How long will you continue.

SHRI PURNA RAYAN SINHA (Tejpur): What procedure are you following?

MR. DEPUTY-SPEAKER: Mr. Sinha, I know what rule and what procedure is to be followed. If you get up, he will take more time and there is no use trying to hustle the procedure. I know what I am doing and I do not need to be advised like this. Yes, Mr. Sathe you go ahead. Please complete in a couple of minutes.

SHRI VASANT SATHE: SIR, I beg to the House and at least leaders like Morarjibhai and others and even you because, I think that none of the member here are really bad people—cannot be—I do not believe it—and there must be goodness in everyone. I am only appealing to goodness that the real enemy is not you or I but the real enemy is the vested interests—the capitalists, vested interests—whom

Gandhiji once said—I remember that Dr. Ramji Singh had brought forward a Bill and at that time it was said that Gandhiji once said that unless the capitalist system was removed, we cannot solve the socio-economic problems of this country. That is the real enemy. Let us unite to fight that enemy. Can anybody do that?

I am drawing your attention to one thing. Like, Kauravas if you want to go ahead, then you go ahead. But Maha Bharat brings *Kula Kshaya*. So, my humble appeal is this. I have resorted to this hunger strike and I will continue till I feel assured by the Prime Minister that he, as a *pitha maha* of this country will bring normalcy in the country.

श्रीधर बलबीर सिंह (होशियारपुर): उपाध्यक्ष महोदय, यहां पर जब बातचीत चल रही थी, तो साठे साहब ने कहा कि मैं मानता हूँ कि मैंने गाना गाना शुरू किया और बलबीर सिंह ने नाचना शुरू किया। यह बिल्कुल गलत है। मैंने साठे साहब को कहा कि आप को शर्म आनी चाहिये, आप की लीडर ने इस देश का तिर नीचा किया है, इस हाउस का प्रभाव किया है और आप गाना गा रहे हैं, यह आप बंद कीजिए और यहां पर जो कुछ हो रहा है, उस को बरम कीजिए, हाउस की इज्जत कम हो रही है, इन्दिराजी को जेल जाने दीजिए। उन्होंने धमकी मानी है कि उन्होंने गाना गाना शुरू किया था।

श्री ठाकुर देव नारायण यादव (मधुबनी): उपाध्यक्ष महोदय, मेरा व्यवस्था का प्रश्न है, मैंने इस बारे में अध्यक्ष महोदय को भी लिख कर दिया है। यह व्यवस्था का प्रश्न 6 दिसम्बर के प्रस्तावित प्रश्न संख्या 2487 के संदर्भ में है। हम सरकार से प्रश्न करते हैं जानकारी लेने के लिये, और सरकार का उत्तर आता है कि सार्वजनिक हित में इसका उत्तर देना उचित नहीं है। हम संसद में प्राये हैं और संविधान के तहत हमें यह अधिकार मिला है कि हम जानकारी लें। लेकिन जब सार्वजनिक हित और लोकहित के नाम पर हमारे प्रश्न का उत्तर न दिया जाये, तो मैं यह कहना चाहता हूँ कि संसद से बड़ा लोकहित और सार्वजनिक हित और क्या हो सकता है। मेरे प्रश्न को देखा जाये।

MR. DEPUTY-SPEAKER: It has been disallowed to be put in the House and you have been informed of that. You must be satisfied with that.

श्री ठाकुर देव नारायण यादव: मेरे प्रश्न का उत्तर दिया गया है। मैं तो यह कहना चाहता हूँ कि इस प्रश्न का उत्तर सार्वजनिक हित में नहीं दिया गया है, यह गलत है। यह मैं व्यवस्था का प्रश्न उठा रहा हूँ कि मेरा प्रश्न या कि—

“क्या प्रधान मंत्री यह बनाने की कृपा करेंगे कि उन भूतपूर्व तथा वर्तमान केन्द्रीय मंत्रियों के नाम क्या

[श्री हनुमन् देव नारायण यादव]

हैं जिन के विरुद्ध केन्द्रीय जांच ब्यूरो द्वारा जांच कराई गई है और इन जांच प्रतिवेदनों का भूरा क्या है।

प्रधान मंत्री का उत्तर है—

“खेद है कि बांछित सूचना देना सार्वजनिक हित में नहीं होगा।”

उत्तर से यह निकलता है कि जांच कराई गई और उत्तर नहीं दिया जा रहा है, नाम नहीं बतलाया जा रहा है। तो जानबूझ कर के इन प्रश्नों के उत्तर न देना यह संसद् के हित में नहीं है। इन के उत्तर से यह निकलता है कि केन्द्रीय जांच ब्यूरो द्वारा जांच कराई गई लेकिन उन के नाम बताना सार्वजनिक हित में नहीं है। यह उचित नहीं है। उन के नाम छाने चाहिये।

SHRI SHAYAMNANDAN MISHRA (Begusarai) : It appears to me that there has been a serious failure on the part of the House is not taking the consequential step arising out of the Motion passed yesterday. The Motion passed yesterday asked for the expulsion of an hon'ble Member of this House but the consequential motion had to be adopted as is done in the House of Commons that a consequential motion has to be adopted declaring the seat vacant. That has not been done. This is a very serious lapse. If you do not do that then that constituency would be under sentence. Here I am referring to Page 25 of the May's Parliamentary Practice :

“Whenever vacancies occur in the House of Commons from any legal cause, after the original issue of writs for a new Parliament by the Crown, writs are issued out of Chancery by a Warrant from the Speaker, which he issues, when the House is sitting, upon the order of the House of Commons”

Again on page 26 it has been made abundantly clear :

“When the House is sitting and the death of a Member, or other cause of vacancy, is known, Mr. Speaker, may be ordered by the House, upon a motion made by any Member, to issue his Warrant for a new writ for the place represented by the Member whose seat is thus vacated.”

Now, further, Mr. Deputy Speaker, May's Parliamentary Practice says :

“The motion for a new writ is customarily moved by the Chief Whip of

the party to which the member vacating the seat belonged.”

Therefore, two steps have to be taken. A motion has to be passed and this motion is customarily moved by the Chief Whip of the party to which the hon'ble who has been expelled belonged. This, step, my respectful submission is, has not been taken and it is in the interest of the party to which the member belonged who has been expelled that that party's Chief Whip comes before the House with a motion declaring the seat vacant.

Then, Mr. Deputy Speaker, you were pleased to say while referring to the point made by Mr. Vayalar Ravi that we cannot make any comment on the proceedings of the other House. I completely agree with you. But, Sir, here the question is that we are in a kind of legislative stalemate. What are we to do? Even the Bills seeking replacement of the Ordinance cannot be passed and we cannot contemplate with equanimity any prospect of any Ordinance being replaced by another Ordinance—Ordinance has to be replaced by a Bill within a specified time—if that does not happen then the very power of this House has absolutely no meaning so far as the legislation is concerned. It is said in the matter of legislation that the Parliament has got transcendental and absolute power. But here we are reaching the point of legislative impotency. So, there must be some way out of this stalemate in the matter of legislation. Therefore, the Leader of the House has to explain the situation as to how does he want to go about to break the legislative stalemate that has occurred. I have not uttered a single word of comment on the proceedings of the other House. But I am bound to be moan my lot as a member of the House that whatever I do here gets stalemated and has absolutely no legislative effectiveness. Therefore Mr Deputy Speaker this point cannot be ruled out, whether we would not be hearing the point of legislative impotence so that nothing comes out of our legislative efforts here. And I have clearly pointed out to you that the present situation is that even the Bill seeking to replace some of the Ordinances cannot be passed in time. That is the situation. Therefore either the Leader of the House or the hon. Speaker has to tell us what efforts are being made in the direction of breaking this impasse.

MR DEPUTY SPEAKER : Mr. Mishra, with regard to your first point, we in India are governed by our own Constitution. The Constitution clearly

lams down that in matters of election it is the Election Commission which is the final authority.

SHRI SHYAMNANDAN MISHRA : No, Sir. I have consulted the Election Commission. I will tell you. This is not in his power.

MR. DEP TY-SPEAKER : I will read out to you the provision in the constitution.

"The superintendence, direction and control and the conduct of, all elections to Parliament and to the Legislature of every State and of elections to the offices of President and Vice President held under this Constitution shall be vested in a Commission, referred to in this Constitution as the Election Commission."

SHRI HARI VISHNU KAMATH : That is at a later stage.

SHRI SHYAMNANDAN MISHRA : That is at a later stage, Mr. Deputy-Speaker.

MR. DEPUTY SPEAKER : Even in the case of Dr. Subramaniam Swamy.

THE PRIME MINISTER (SHRI MORARJI DESAI) : The Speaker has to inform that the seat has become vacant. That is all.

MR. DEPUTY-SPEAKER : Even in the earlier case, a member of the Rajya Sabha was expelled from the House...

SHRI SHYAMNANDAN MISHRA : Sir, please don't refer to the Rajya Sabha seat. Unless it is the order of the House that the seat is declared vacant, the Speaker has no authority to communicate to the Election Commission. I will stick to the authority of the House.

MR. DEPUTY-SPEAKER : If a Member is expelled automatically the seat becomes vacant.

SHRI SHYAMNANDAN MISHRA : No, Sir, that does not lead to it.

SHRI C. M. STEPHEN (Idukki) : On Mr. Mishra's point, as at present advised, as far as I know, I don't feel that a second motion is necessary. I don't feel that way. The comparison with the House of Commons, as you pointed out, is irrelevant as far as Lok Sabha is concerned. Because, it is one

of the consequences of the power of the House of Commons to be in control of the Constitution of the House of Commons and the power of writ for filling up of the seat of the House is there. That is to say, issuance of a writ for the filling up of a seat does not vest in the Lok Sabha. The other power is not there. The point is this. The moment the House expels, certain consequences will follow. Automatically they will have to follow. Otherwise, Sir, if another motion declaring that the seat is vacant is contemplated, it means, revising the discussion which has been closed. That will be the meaning of it as far as I can understand it now. I can further look into it. If I feel that it is the duty of my whip to bring in the motion necessary for that, certainly it will be brought in. But as at present, I accept the motion that was passed by the Lok Sabha. It has got to be accepted. It has got to be implemented. Automatically a member stands expelled. When a Member dies—we don't bring in a motion saying that the seat is vacant. When a person is disqualified—we don't bring in a motion saying that the seat is vacant. In the Constitution with respect to the vacation of seats death is not mentioned. Death is not mentioned as an incident from which the consequences of vacation of seat would follow. Therefore we do not bring in a motion saying that the seat has fallen vacant. We pass our obituary. Certain consequences follow. The Election Commission makes a note of it and they follow it up. If in the event of death, a motion that the seat is vacant is not necessary—then, in another contingency which is also not contemplated in the Constitution, with respect to disqualification and vacation of seat, namely, expulsion,—I don't think any additional motion is necessary. According to me, in spite of party affiliations and all that, that will be something wrong, because, that will be reopening an issue that has been settled by the decision of the House. That decision must be supreme, and consequences will follow. The seat will have to be declared as vacant. It is then the responsibility of the Speaker to inform

[Shri C.M. Stephen]

the Election Commissioner that the expulsion has taken place and, therefore, the seat is vacant; from the point of view of implementation of the decision, the Speaker will have to write to the Election Commissioner saying that there is a resolution; and, therefore, the seat has become vacant and so, he may take whatever steps are needed. It is not a matter for debate. I have also said that I will look into it further and if I feel that for safeguarding the interests of my party a resolution is necessary, I will certainly take steps.

SHRI SHYAMANANDAN MISHRA: May I draw your attention to a judgement of a High Court in the case of members of the Legislative Assembly of that State, where the High Court has ruled that it is within the powers of the Legislature to declare the seat vacant? And the seat was declared vacant. Consequent upon expulsion, the seat was declared vacant. Therefore, in this case also, the seat has to be declared vacant. How is it that the Speaker, without the express authority of the House, conveyed it to the Election Commissioner?

MR. DEPUTY-SPEAKER: The express authority of the House follows the expulsion motion. I will give you one more information. Mr. Mishra, the Lok Sabha Secretariat has already issued a notification dated 19th December 1978. There is the Gazette of India Extraordinary, S.O. No. 717(E), which was issued. It says:

"Consequent on the adoption of a Motion by the Lok Sabha on the 19th December, 1978, expelling from the membership of the Lok Sabha Shrimati Indira Nehru Gandhi, a Member elected to the Lok Sabha from the Chickmagalur constituency of Karnataka, Shrimati Indira Nehru Gandhi has ceased to be a Member of the Lok Sabha with effect from the 19th December, 1978 afternoon."

It has been issued.

SHRI SHYAMANANDAN MISHRA: That, of course, is there.

MR. DEPUTY-SPEAKER: Consequent on the notification, the Election Commission will take such steps as are necessary, to fill up the vacancy. This is the first point. About the second point which you raised, Mr. Mishra, as far as the stalemate in Parliament is concerned, I think you have given your views and it

for the Leader of the Government and the Leaders of the two Houses to discuss it with the Opposition and come to some kind of an arrangement. We cannot do anything.

SHRI SHYAMANANDAN MISHRA: Should the Chair be helpless in this matter?

MR. DEPUTY-SPEAKER: If certain section of the House do not cooperate, what can we do?

SHRI SHYAMANANDAN MISHRA: We are making legislative efforts without any result. Somebody is bound to tell us how this impasse is going to be broken.

MR. DEPUTY-SPEAKER: It is for the Government and Leaders in the Opposition to sit down and evolve some kind of a process by which this can be done.

SHRI C. M. STEPHEN: This House must know what is happening.

MR. DEPUTY-SPEAKER: Now we go to the Calling Attention.

Mr. Chitta Basu.

CALLING ATTENTION TO MATTER OF URGENT PUBLIC IMPORTANCE

INCIDENT INVOLVING KILLING OF HARIJAN TENANTS IN KAILA AND CHAIPUR VILLAGES, IN BIHAR

SHRI CHAITTA BASU (Barasat): I call the attention of the Minister of Home Affairs to the following matter of urgent public importance and request that he may make a statement thereon:

"The reported successive incidents involving killing of Harijan tenants by landlords in Bihar, particularly in Kaila and Chainpur villages."

श्री रम बिलास पासवान (हाजीपुर): उपाध्यक्ष महोदय, मेरा एक व्यवस्था का प्रश्न है। यह मेरा कल अटोमन है इस का मेरे पास जो जवाब आया है वह अंग्रेजी में आया है। मैंने कई बार लिख कर दिया है कि हम लोगों को अंग्रेजी के साथ-साथ हिन्दी भी भेजा कीजिये। मैंने सेक्रेट्रियट से तहकीकात करवाया है और मुझे मालूम हुआ है कि वह हिन्दी का नहीं है। अब उन लोगों के पास हिन्दी का एक सबब भी चला जाता है, तो मार करने के लिए तैयार हो जाते हैं।