

MR. SPEAKER: The statement has already come, but it is a bit late now. I request you to have it at 5 O' Clock. If you do not agree, let it be at 4 O' Clock. Then I will not be able to hear you.

SHRI K BRAHMANANDA REDDY: I have no objection even if at 3 p.m.

SHRI P. K. DEO: What happened to my request about the medical bulletin regarding Morarji Bhai's health?

MR. SPEAKER: That you have asked in the Calling Attention. That was decided yesterday, and that is exactly the same thing which has come today.

So, it will be taken up at 3 O' Clock.

12.17 hrs.

**PUBLIC ACCOUNTS COMMITTEE
 HUNDRED AND FORTY-SIXTH REPORT**

SHRI JYOTIRMOY BOSU: (Diamond Harbour): I beg to present the Hundred and forty-sixth Report of the Public Accounts Committee on the Report of the Comptroller and Auditor-General of India for the year 1972-73, Union Government (Defence Services)—Paragraphs 6, 8, 9, 12 13 and 19.

12. 17½ hrs.

**STATEMENT RE: CORRECTION OF
 ANSWER TO Q No 141 DATED
 27TH FEBRUARY, 1975 RE. DURGA-
 PUR STEEL PLANT**

**THE MINISTER OF STEEL AND
 MINES (SHRI CHANDRAJIT
 YADAV):** As soon as the verbatim proceedings of the Lok Sabha for the 27th February, 1975 were received in the Department for scrutiny, it was noticed that certain inaccuracies had occurred in the answers given by me to supplementary questions relating to Lok Sabha Starred Question No. 141 answered on the 27th February, 1975. These had to be examined with reference to the concerned old records and it was not possible to make this

correction statement earlier in view of the time taken in checking up the records and due to the intervening holidays.

While answering supplementary questions to the above mentioned question, I had stated in connection with the responsibility for the poor maintenance of the coke oven batteries as follows:—

"One Mr. R. K. Chatterjee was working there first as Assistant General Superintendent and then as General Superintendent and then as General Manager. We fixed the responsibility on him. He was demoted. Later on he made a representation against that but ultimately he had to leave the plant"

The above statement did not explain the correct position. The position is that Government decided that Shri R. K. Chatterjee who had functioned as Assistant General Superintendent and then as General Superintendent and was working as General Manager at the time of submission of the Pande Committee report, should bear the fullest share of responsibility. Accordingly his services were dispensed with

I had mentioned in answer to another supplementary question "Action is being taken to complete the rebuilding of the coke oven battery as quickly as possible" The correct position is that coke oven battery No 1 has already been rebuilt. Batteries Nos 2 and 3 are to be re-built according to a phased programme.

12.20 hrs.

MATTER UNDER RULE 377

GOVERNMENT'S FAILURE TO FILL VACANCIES IN THE HIGH COURTS AND SUPREME COURT

श्री नवु लिनवे (बांका) : अध्यक्ष महोदय, इस वक्त देश के कुछ न्यायालयों में

[श्री मधु लिमये]

जजेज के 40 से अधिक स्थान रिक्त हैं। मैं जानना चाहता हूँ कि जब उच्च न्यायालय और सुप्रीम कोर्ट के सामने 5 लाख से अधिक कसेज पड़े हुए हैं, तो क्या बजह है कि सरकार हाई कोर्ट के इन रिक्त स्थानों को पूरा नहीं करती है? क्या यह बात सही नहीं है कि एक ओर न्यायालय और दूसरी ओर कार्यपालिका, इन के बीच में जजों की नियुक्ति के बारे में मतभेद उत्पन्न हो गये है और सरकार जिन जजेज को नियुक्ति करना चाहती है, उन का न्यायालय के लाग उम के लिए उपयुक्त नहीं समझने? क्या यह बात भी सही है, एक उदाहरण के तौर पर मैं कहना चाहता हूँ, कि महाराष्ट्र में हाई कोर्ट के जजेज के बारे में बहा के कानून मंत्री श्री अंकुशे ने जो वक्तव्य दिए थे, उन को लेकर हाई कोर्ट ने अपना प्रोटिस्ट इन के पास भेजा है और क्या प्रधान मंत्री यहोदय, नुंभी अपनी प्रमहसति अंकुशे माहब के वक्तव्य में प्रकट की है। तो मैं चाहता हूँ कि कानून मंत्री जी जो मदन में मौजूद हैं इन रिक्त स्थानों के भरने में देरी क्यों हो रही है, क्या वे इस का खुलासा करेंगे और क्या वे इस का स्पष्टीकरण करेंगे कि क्या सरकार ऐसे नुंभों को जजेज के रूप में नियुक्त करने का प्राग्रह कर रही है, जिन को न्यायालय उपयुक्त नहीं समझता है? क्या सरकार इस में पक्षपात करना चाहती है और कमिटेड जजेज को भरती करना चाहती है, कमिटेड से मतलब संविधान के दर्शन में कमिटेड नहीं बल्कि सरकार और प्रधान मंत्री से कमिटेड?

इन सब बातों का खुलासा मैं यहाँ करता हूँ, मंत्री यहोदय करेंगे।

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. GOKHALE): Mr. Speaker, Sir, the hon. Member has raised one more point now, that is, in regard to what he said was the statement made by the Law Minister of Maharashtra. That was not mentioned in the notice which he had given. Two points had been raised in the notice which I will deal with.

One point is that there are growing arrears and the other is that the vacancies are not filled up and that, according to his contention, there has been a difference of opinion between the executive and the judiciary. Now, it is true that there are about 43 or 44 vacancies. To be precise, I think there are 43 vacancies in the various High Courts in the country. There are 338 High Court Judges all over the country. These vacancies are not all continuing vacancies in the sense that the same vacancies have not continued for all this time. It is a continuing process. As and when vacancies get filled up, other vacancies occur because of retirement and such other reasons.

But it is true that some of these vacancies have remained for some time, which we ought to avoid. There are various reasons why the vacancies could not be filled up. But I must assure the hon. members that the reason is certainly not that there is any conflict or difference of opinion between the judiciary and the executive.

The hon. members of the House are aware of the procedure prescribed in the Constitution both for the appointment of High Court judges as well as for the appointment of the judges to the Supreme Court. In the Supreme Court, at the moment, there is

only one vacancy which occurred some time in late January. All other vacancies have been filled up. No appointment in the Supreme Court has been made except on the advice of the Chief Justice of India and Government have not said at any time that that advice is not acceptable to the Government of India, and all the vacancies in the Supreme Court have, so far, been filled up on the advice of the Chief Justice of India. The vacancy position in the Supreme Court, therefore, cannot be said to be very serious because selecting a judge takes a little time; we have to pick up, as far as possible, the best available person from the High Court judges or the Chief Justices of the High Courts in the country.

In the High Court, the procedure is a little longish. There is the obligation to consult the Chief Justice of the High Court, the Governor, which means Governor on the advice of the Chief Minister, then the Chief Justice of India and then the Government of India have to advise the President with regard to the appointment to be made. Always the proposals are initiated by the Chief Justice of the High Court. The Government of India does not initiate any proposal. In some cases when proposals are received, the Chief Justice of India asks for further clarification or for further particulars with regard to that particular person and then we have to refer it back to the Governor or the Chief Justice of the High Court concerned, as the case may be, and this takes a little time. It may have happened that, in some cases, the Chief Justice of India did not accept the recommendation made by the High Court or the Governor of the State. But even in the case of the High Court we have not made any appointment without consulting the Chief Justice of India finally. Even if there has been a difference of opinion, we have gone by the advice of the Chief Justice of India.

As far back as 1972, soon after I had taken over the Ministry of Justice, I had personally written to all the

State Governments that, in order to avoid delay in the appointment of judges in the High Courts, the proposals should be initiated well in advance before the actual vacancies occurred and I had suggested that the proposals might be initiated, if possible, six months in advance. I repeated this request recently in March. In some cases the proposals are delayed. For example, I can tell the House that, out of the 42 vacancies which are there today, the Central Government has received so far proposals in respect of only 19 vacancies. We have been requesting them to make recommendations well in advance. I fully agree with the hon. Member that we must do our best, all of us concerned should do our best, namely, the Chief Justices of the High Courts, the Chief Ministers, the Governors, the Chief Justice of India, myself and every one concerned should do everything possible to fill up the vacancies as early as possible.

But another difficulty is also felt which is a real difficulty. Usually, a certain proportion of the appointments to the High Courts is made from Members of the Bar. We are finding it increasingly difficult to attract the Members of the Bar who are really worth being selected as High Court judges....

SHRI JYOTIRMOY BOSU (Diamond Harbour): It is a question of emoluments.

SHRI H. R. GOKHALE: In fact that is the point I am driving at.

SHRI MADHU LIMAYE: In the last four years, you have done nothing.

SHRI H. R. GOKHALE: Please allow me to continue.

As I said, that was the point I was coming to. The Government of India have now considered the proposals for improving the conditions of High Court as well as Supreme Court judges. As much as could be done without legislation has already been done. We are doing our best to improve the conditions of service.

Therefore, Sir, as I have said, there has been no conflict.

With regard to arrears, we are as much concerned as the hon. members are. But while the arrears are there, it must also be remembered that the institutions also have considerably increased. Our citizens have become rightly more conscious of their rights and they go more to courts of law. But the House will be glad to know that, in recent years, in the last two or three years, the rate of disposal by the High Court judges and the Supreme Court judges has also increased. Even then the Chief Justices of the High Courts and the Chief Justices of the Supreme Court are taking all necessary steps to see that these arrears are cleared.

I might also mention that after we took over and we reviewed the whole situation, the strength of the High Court Judges in the country has also been increased then what it was in the past and we have also indicated to the State Governments that on a review of the situation, if a further increase in the strength of the High Court itself is necessary, the Government of India will be willing to consider it very sympathetically.

Now, the arrears cannot be attributed only to the shortage of Judges. While that may be one of the reasons, it cannot be attributed only to the shortage of Judges. Delay in procedures and dependence on procedural laws which are there at present cause a lot of delay in procedures. The hon. Member particularly knows as a Member of the Joint Select Committee that proposals for amending the Civil Procedure Code are before the Parliament and that the Bill which was introduced in this House and has been referred to the Joint Select Committee was aimed mainly at cutting down the delays and costs. I hope the Joint Select Committee will submit its report very soon and we will be able to pass it next session which, I think, will considerably help in reducing the delay.

I would reassure hon. Members once again that in both the matters (1) in respect of filling up the vacancies and (2) in respect of doing everything possible to cut down the delays we will try to be as vigilant as possible we can.

श्री मधुलिमये प्र. ले. जी. के. बारे में
कुछ कहेंगे

I am told that the Prime Minister has disapproved of his statement.

SHRI H R GOKHALE: Am I supposed to deal with statements in Maharashtra Assembly which are not part of the notice here?

MR. SPEAKER: It is for him to deal with. But if you want to deal with it I have no objection.

SHRI MADHU LIMAYE: Because of his adverse comments people are refusing to serve as Judges.

SHRI H R GOKHALE: That is not true. But I will make a brief statement so far as facts are concerned. I will not comment on it.

Certain statements were made and the Judges of the High Court of Bombay have made a reference to us with regard to those statements and the matter is under the consideration of the Government of India.

SHRI SHYAMNANDAN MISHRA (Begusarai): May I seek one clarification with your kind permission? The hon. Minister seems to be....

MR. SPEAKER: I am sorry this is not proper.

SHRI SHYAMNANDAN MISHRA: The hon. Minister earlier seemed to agree with the view that the Chief Justice of a High Court should hail from outside the State in which the High Court is located. I want to know whether he conforms to that view even now and whether he is taking any steps in that direction.

Secondly, he also seemed to agree with the view that High Court Judges, on retirement, should not be provided with lucrative jobs in the Government.

What is his view in regard to both these things?

MR SPEAKER: The question was raised by Mr Madhu Limaye.

SHRI SHYAMNANDAN MISHRA: Appointment of Judges also includes appointment of the Chief Justice.

MR. SPEAKER: The point raised is about the delay in appointments.

SHRI SHYAMNANDAN MISHRA: May be the delay is occurring because people from outside are not available. So, is that also one of the reasons coming in the way? Let him answer this point. He had told me when I had raised these points in the course of a debate on the Ministry of Law—he had told me personally after the debate that he agreed with the view—that the Chief Justice of a High Court should hail from outside the State and that the Judges should not be provided with lucrative jobs after retirement.

MR SPEAKER: You are not listening to me.

SHRI SHYAMNANDAN MISHRA: No, Sir

MR. SPEAKER: Under Rule 377 he has raised a point whereas you are asking about a question of policy.

SHRI SHYAMNANDAN MISHRA: No policy question. It is right that the question raised is about the delay in the appointment of Judges. But I want to know whether delay has taken place also because of the fact that he is in search of persons outside the State and these persons are not available to man the High Courts

SHRI H. R. GOKHALE: It has not occurred because of that fact

MR. SPEAKER: Now I will take up Item 11—Further discussion and voting on the Demands for Grants of the Ministry of Agriculture and Irrigation.

SHRI S. M. BANERJEE (Kanpur): What has happened to my notice under Rule 377. It is a more important matter than the appointment of Judges.....

MR SPEAKER: Under 377? What a pity! It was never so before. I allowed Members to ask for a minute. This is also becoming a Calling Attention. This is very wrong.

SHRI S. M. BANERJEE (Kanpur): I wanted to raise the question of workers in Kanpur facing starvation due to power-cut. So many factories will be closed. The responsibility of the Central Government is there. They promised power. One lakh people are going to die of hunger if factories are closed. I wrote to you....

MR. SPEAKER: I could permit one only.

SHRI S. M. BANERJEE: You have selected correctly.

MR. SPEAKER: I have selected yours also. But it will come in course of time; not now. I am not allowing this. I allowed one and this was pending and this came to me earlier

SHRI S. M. BANERJEE: What earlier? Yesterday I gave that, Sir. Yesterday I gave that notice.

MR SPEAKER: This came to me still earlier.

Order please. I am not allowing you to go on. I am not calling you

SHRI S. M. BANERJEE: On a point of order....