

श्री उमा शंकर दीक्षित : जवाब देता हूँ।

(ii) REPORTED STARVATION DEATHS IN ORISSA

SHRI P. K. DEO (Kalahandi) : I want to bring to the notice of the House a matter of grave concern, namely that as many as six people have died of starvation in village Palas in the Junagarh Panchayat Samiti, Kalahandi district, and it has been brought to my notice by the chairman of the Panchayat Samiti. The reason is that that being a predominantly agricultural district there is no industry and there is no opportunity for employment in the off seasons. So, the people are not getting any work; all the development works which were started by the previous Government have been suspended now, and as a result, the people are not getting any work. Six people have already died of starvation deaths, and some are facing death. The Panchayat Samiti chairman has urged in his letter to provide adequate relief work in that area so that people could get employment.

If you view this in the perspective of the post-election period, you will find that there has been a systematic attempt to persecute the voters who have voted the Opposition parties.

Kalahandi district, from the very beginning, has been voting the non-Congress MLAs and that is why immediately after the Congress came into power, all relief works were suspended.

So, I request the Minister concerned to issue a directive to the State Government to see that such a thing is not repeated and adequate relief work is provided to the people.

Secondly, I would like to bring to your notice the fact that to demoralise the Opposition parties, just prior to the Rajya Sabha elections, one MLA was arrested, the son of Mr. R. N. Singh Deo ...

MR. DEPUTY-SPEAKER : That has nothing to do with what he wanted to raise. Now he is raising another matter.

SHRI P. K. DEO : A systematic attempt has been going on to demoralise the Opposition parties. I request that the House

should take notice of this question.

(iii) CONSTITUTIONAL SANCTION OF EXPENDITURE TO BE INCURRED IN PONDICHERY AFTER 1ST APRIL, 1974

SHRI SEZHIYAN (Kumbakonam) : I thank you for giving me permission to raise this matter. I would not have raised it unless I had been convinced that there is a grave constitutional predicament caused by Parliament not being given the opportunity to pass a vote on account for the Union territory of Pondicherry where the Assembly had been dissolved and President's rule had been imposed. I want to make it very clear that this is a very grave constitutional deadlock which has been overlooked by Government. But before I go into that, I want to make a basic and fundamental observation namely that no amount could be withdrawn from the Consolidated Fund unless it is specifically sanctioned by the legislature concerned. If it is to be drawn from the Consolidated Fund of India, Parliament should give a specific sanction. No amount of ordinances can avoid or take the place of a specific sanction by Parliament. If it is to be withdrawn from the Consolidated Fund of a State Legislature, it is the State Legislature which is charged with that function of sanctioning it; if it is a Union Territory, the legislature of the Union territory is charged with that function.

But in times when there is a suspension or dissolution of the concerned States or Union Territory legislature, their functions are taken over by Parliament. Then Parliament becomes the supreme or authoritative body that should sanction these things. It can be only done by the Appropriation Bill, vote on account is a method evolved to give a part sanction for this. But still the sanction should be given by Parliament itself.

Before I go further, I would like to give one or two points that may be put forward by Government in support of their stand because time is running short and today is the last day when action should be taken in this regard; otherwise, I would have waited for the Law Minister to make these points. But I am dealing with these and will show that these argu-

ments which they may advance do not hold water.

Yesterday, while laying on the Table a copy of the Proclamation, Shri Ram Niwas Mirdha said :

"The President has also made an Order under section 51 of the Government of Union Territories Act, 1963, suspending, for a period of six months, certain provisions of the Act and making certain incidental and consequential provisions including dissolution of the Legislative Assembly".

Withdrawal of funds from the Consolidated Fund is not and cannot be classified as an 'incidental and consequential' provision. I can quote any number of authorities. May Shakhder and other authorities, in support of this contention that it is a basic and fundamental provision.

I will be very brief. Two or three things have been done by the Proclamation. First, the President takes the place of the Administrator. As for the provisions of the sections of this Act, namely 23, 27-31 (both inclusive), 48 and 49, reference to the Legislative Assembly of the Union Territory by whatever form or words in so far as it relates to the functions and powers shall be construed as reference to Parliament. If we take 26 and 27, they relate to financial matters; 27 relates to the annual financial statement, 28 to the procedures of the Legislative Assembly in respect of estimates and 29 to the Appropriation Bill. There also it says :

"As soon as may be after the grants under section 28 have been made by the Assembly there shall be introduced a Bill".

Therefore, it is incumbent on the Administrator to go into it only after the Assembly of the State concerned gives the powers. Here Parliament is in session. Suppose Parliament were not in session. Then I can understand the excuse. Even then, I maintain it could not be done. Parliament should be convened before 31 March and a vote on account taken. It cannot be done by anybody else.

MR. DEPUTY-SPEAKER : You have made the point.

SHRI SEZHIYAN : I would like to make one or two points more because I want to be very clear to you and to the House. There is one section, 32. Recourse may be had to that by the Government spokesman. Section 32 says :

"Notwithstanding anything in the foregoing provisions of this part, the Administrator may authorise such expenditure from the Consolidated Fund of the Union Territory as he deems necessary for a period of not more than six months beginning with the date of the constitution of the Consolidated Fund of the Union Territory pending the sanction of such expenditure by the Legislative Assembly of the Union Territory".

Here Administrator has been replaced by 'President'. Shri Mirdha also says about the period of six months. I had some inkling at the back of my mind that they may rely on this. But look at what it says :

"The Administrator may authorise such expenditure from the Consolidated Fund of the Union Territory as he deems necessary for a period of not more than six months beginning with the date of the constitution of the Consolidated Fund of the Union Territory".

That means six months from the time when this was put into force in 1963. They wanted these six months to make adjustments beginning with the date of the constitution of the Consolidated Fund. That cannot be invoked now because those six months were already over.

It is very clear from our Constitution and the rules of procedure that no amount could be taken out of the Consolidated Fund without Parliament's express and legal sanction. Here the State legislature has been substituted by Parliament and when Parliament is in session, they should not have done it. Even if Parliament were not in session, there is no excuse.

MR. DEPUTY-SPEAKER : You have said that.

SHRI SEZHIYAN : The Constitution says that no amount could be withdrawn out of the Consolidated Fund without the specific sanction by the Parliament. I do not know how they are going to do it without the sanction of Parliament, if they

[Shri Sezhiyan]

withdraw any amount, it is illegal and unconstitutional.

श्री मधु लिमये : उपाध्यक्ष महोदय, मैं आपकी तबज़ह यूनियन टेरिट्रिज ऐक्ट की धारा 26(3) की ओर खीचना चाहता हूँ :

"Subject to the other provisions of this Act, no money shall be withdrawn from the Consolidated Fund of the Union territory except under appropriation made by law asked in accordance with the provisions of this section."

तो 1 अप्रैल के बाद पांडिचेरी के ऊपर प्रशासन कैसे करना करने वाला है, उसके लिए संवैधानिक और कानूनी आधार क्या है, इसका खुलासा आज सदन में होना चाहिए। क्योंकि इस कानून के अनुसार जब तक असेम्बली ने अनुदानों को पास नहीं किया है, एप्रोप्रिएशन बिल पास नहीं किया है या वोट आन एकाउन्ट बिल पास नहीं हुआ है तब तक एक घेला भी खर्च करने का अधिकार सरकार को नहीं है। इसलिए इसका खुलासा होना चाहिए कि दमियनी असें में सरकार क्या करने जा रही है? मुझे पता नहीं है संविधान की यह जो 240 धारा है इसमें यह बताया गया है :

"The President may make regulations for the peace, progress and good government of the Union territory . . ."

उसमें नाम दिए गए हैं जिसमें पांडिचेरी भी है लेकिन उसमें आगे यह कहा है :

"Provided that when any body is created under article 239A to function as a Legislature for the Union territory of Goa, Daman and Diu or Pondicherry or Mizoram, the President shall not make any regulation for the peace, progress and good government of the Union territory with effect from the date appointed for the first meeting of the Legislature."

इसमें शब्द यह हैं :

"Provided that when any body is created under article 239A, when any body is dissolved—"

केवल असेम्बली डिफ़ायन होने से इसमें फर्क नहीं पड़ता है क्योंकि यहाँ यह शब्द नहीं है। तो इसका अस्तित्व तो है, किन्तु वह बर्खास्त कर दी गई है, डिफ़ायन कर दी गई है लेकिन बाड़ी तो है। इसके लिए 240 की तहत भी प्रेसीडेन्ट रेगुलेशन के द्वारा, नोटिफिकेशन के द्वारा या अध्यादेश के द्वारा इस बिल आन एकाउन्ट को पास नहीं कर सकते हैं। इसलिए इस सम्बन्ध में क्या आप कानून मन्त्री को या गृह मन्त्री को आदेश देंगे कि सदन उठने के पहले इस के बारे में वे इस सदन में बतलवा दें ताकि इसके बारे में संवैधानिक रिपति क्या है वह स्पष्ट हो जाये और हमको अपनी बात बताने का मौका मिले।

SHRI K. MAYATHEVAR (Dindigul) : Mr. Deputy-Speaker, Sir, in Pondicherry, the Congress Party which is the ruling party at the Centre, has defeated the Anna-DMK Government on the motion for vote on account expenditure. Therefore, this hon. Government here is entertaining a reasonable doubt and it has a fear in its mind to put forward the same accounts of expenditure for the vote before this hon. House. Therefore, I support the arguments put forward by leaders like Shri Sezhiyan and Shri Madhu Limaye. I request the concerned Ministry and the Minister to discuss the matter in this hon. House before any action is taken by the President and the Government of India. If any action is taken without the consent of this hon. House, it will be unparliamentary and unconstitutional and it may amount to taking away the sovereign powers and functions of this House.

श्री अटल बिहारी वाजपेयी : उपाध्यक्ष जी, मैंने आपको लिखा तो नहीं है . . .

MR. DEPUTY-SPEAKER : I have allowed those who have given their names. The points have been made; otherwise it becomes a discussion.

श्री अटल बिहारी वाजपेयी : इसमें एक बात रह गई है। मेरा निवेदन है कि इस बात की पूरी सम्भावना है कि सरकार 240

की यह जस उद्धृत कर दे, यह बात नहीं आई है सरकार कह सकती है :

"The President may during the period of such dissolution or suspension make regulations for the peace, progress and good Government in that Union Territory."

लेकिन रुपया खर्च करना, कंसालिडेटेड फंड से रुपया लेना यह कोई भीम, प्रोग्रेस और गूड गवर्नमेंट के लिए किया हुआ काम नहीं होगा। उसके लिए जो राष्ट्रपति नियम बना सकते हैं वह अलग है और यह 240 में जो कहा गया है वह इसके ऊपर लागू नहीं होता है।

दूसरे कौल ऐंड शक्कर में यह बात स्पष्ट की गई है :

"The Budget of a State under the President's rule is presented to Lok Sabha and the Lok Sabha votes the grants. Parliament passes the Appropriation Bill for the withdrawal of moneys from the Consolidated Fund of the State concerned."

यह काम कोई और नहीं कर सकता है, यह काम राष्ट्रपति नहीं कर सकते हैं। मेरा कहना है इसके लिए राज्य सभा की बैठक बुलाना जरूरी होगा। यह केवल लोकसभा से काम नहीं होगा। (अवधान) अभी तो आप लोकसभा की जरूरत भी नहीं मान रहे हैं। जब लोकसभा की बात आयेगी तो हम कहेंगे कि राज्यसभा की भी जरूरत है।

SHRI H. N. MUKERJEE (Calcutta—North-East) : Shall we have a statement as asked for by Mr. Limaye before we rise today, because we are all befuddled the Government should tell us something about the position.

SHRI ARAVINDA BALA PAJANOR (Pondicherry) : I am the only representative from that place.

MR. DEPUTY-SPEAKER : There are certain rules. We welcome you. You should get a copy of the rules.

SHRI ARAVINDA BALA PAJANOR : I will not make this a convention. I want to submit that it is very unfortunate that the Government of India is not coming forward with a statement. Why have they not presented a budget before this Assembly and asked for a vote on account? I know the reasons. Because they are going to present the same budget which their partymen voted down in Pondicherry. Seven members of the ruling Congress party in Pondicherry voted down our Government. But here the Central Government controlled by the same ruling Congress wants to present the same accounts, the same budget. In the last elections in 21 constituencies people have voted for us.

MR. DEPUTY-SPEAKER : You have made your point. It was said that there were certain constitutional questions; Members have pointed them out to the House and so let the Government take note of it and see what they could do in the matter ... (Interruptions) The Minister is here; he has taken note. He is a live-wire Minister of Parliamentary Affairs; he will consider these matters.

SHRI ATAL B'HARI VAJPAYEE : What about my 377?

MR. DEPUTY-SPEAKER : Not too many.

श्री अटल बिहारी वाजपेयी : उपाध्यक्ष जी, इसमें इम्प्रोप्रायटी हुई है। ट्रांसपोर्ट मिनिस्टर ने कह दिया है कि दिल्ली में बसों के न राये बनेंगे।

MR. DEPUTY-SPEAKER : We will see it. I do not know. Let me examine it.

Before we resume discussion on the Demands of the Ministry of Information and Broadcasting, I want to say this. Yesterday Mr. Madhu Limaye raised certain issues about alleged atrocities committed by the members of the Railway Protection Force. I had directed the Minister to make a statement. The Minister has now come forward and he will make a statement at about 3.30, before we take up private Members' business.

There is also another important statement to be made by the Minister of Commerce relating to the revised Controlled Cloth Policy. These two statements will be made before we take up Private Members' Business.