

Mr. Speaker: Thakur Sahib gets so lost in his own assertions that he never listens, never hears and never even looks to the Speaker as to what he is asking him. I have every respect for him but there ought to be some decorum in the House.

जब यह अदालत में चल रहा है कि शुद्ध है या नहीं है तो यहां इस तरह से आप क्यों कहते जा रहे हैं? यही तो ऐतराज किया है कामत साहब ने।

12.34 hrs.

PAPERS LAID ON THE TABLE

—Contd.

NOTIFICATION MAKING CERTAIN AMENDMENT TO KERALA SURVEY AND BOUNDARIES RULES, 1964

The Minister of Food, Agriculture, Community Development and Co-operation (Shri C. Subramaniam): I lay on the Table a copy of Notification S.R.O. No. 285/66, published in Kerala Gazette dated the 2nd August, 1966, making certain amendment to the Kerala Survey and Boundaries Rules, 1964, under sub-section (3) of section 22 of the Kerala Survey and Boundaries Act, 1961 read with clause (c) (iv) of the Proclamation dated the 24th March, 1965, issued by the Vice-President, discharging the functions of the President, in relation to the State of Kerala. [Placed in Library. See No. LH-6844/66.]

Mr. Speaker: Has Mr. Subramaniam laid his papers on the Table?

Shri C. Subramaniam: Yes, Sir.

Mr. Speaker: Mr. Bhagat.

THE PUNJAB LAND REVENUE (SECOND AMENDMENT) ORDINANCE, 1966, ETC.

The Minister of State in the Ministry of Finance (Shri B. R. Bhagat): I beg to lay on the Table a copy each of the following Ordinances, under provisions of Article 213(2) (a) of the Constitution read with clause (c) (iv)

of the Proclamation dated the 5th July, 1966, issued by the President, in relation to the State of Punjab:

(1) The Punjab Land Revenue (Second Amendment) Ordinance, 1966 (No. 4 of 1966) promulgated by the Governor of Punjab on the 25th June, 1966. [Placed in Library. See No. LT-6845/66].

(2) The Punjab Passengers and Goods Taxation (Amendment) Ordinance, 1966 (No. 5 of 1966) promulgated by the Governor of Punjab on the 1st July, 1966. [Placed in Library. See No. LT-6846/66].

Shri Hari Vishnu Kamath (Hoshangabad): Before the next item is reached. I rise on a point of order as well as clarification on Item No. 6 standing in the name of Mr. B. R. Bhagat.

You will be pleased to see that this item refers to a copy each of two Ordinances relating to the State of Punjab which is your own native State and a State which is very dear to me and to all of us here.

Mr. Speaker: Is it because it is mine or for some other reason?

Shri Hari Vishnu Kamath: I said 'and' and not 'because of that'.

May I invite your attention to Article 213—Legislative Power of the Governor. Before I read that Article, I would point out a statement of fact in regard to this item.

The Ordinances were promulgated on the 25th of June and the 1st of July, respectively; it is in the list of business, in the order paper, that they were promulgated on the 25th of June and the 1st of July. The President's rule was enforced, the proclamation about the President's rule was promulgated, on the 5th of July. That is to say, before the promulgation of the proclamation under which Punjab was taken over by the President, the two Ordinances were promulgated. Now let us see what Article 213 says. The Legislature at that time was not in

session, but it was not defunct; it was in existence and it will continue to function if properly summoned by the proper authorities. Art. 213 says:

"If at any time, except when the Legislative Assembly of a State is in session, or where there is a Legislative Council in a State, except when both Houses of the Legislature are in session, the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances...." etc.

I need not read that part of the Article.

Clause (2) of that Article says:

"An Ordinance promulgated under this Article shall have the same force and effect as an Act of the Legislature of the State assented to by the Governor, but every such Ordinance—

(a) shall be laid before the Legislative Assembly of that State...."

This is one count on which I base my objection. There are three counts on which I base my objections in regard to item No. 6 of the order paper.

The first count is this: these shall be laid before the Legislative Assembly of the State concerned. When the Ordinances were promulgated on the 25th of June and the 1st of July, the Legislature of the State was in existence and is in existence today also. The President's proclamation came on the 5th of July, a few days after the Ordinances were promulgated. If the Ordinances were promulgated before the proclamation of the President's rule, before the President took it over under his wing—we accept it as a fact; it is quite true—then the Ordinances which were promulgated before the proclamation should have been laid, should be laid, before the Legislative Assembly of that State because that State Assembly is still in force, it is not defunct, it can be

summoned by the proper authorities—by the Governor—and because there is no retrospective effect—I hope the proclamation does not apply retrospectively. This is number one.

The second count is this, and it relates to the list of business on the opening day of this session, namely 25th July. On that day, we were happy to know that the ordinance promulgated by the President during the interregnum, that is, the parliamentary recess from the 19th May to the 25th July, were placed before the House. They were placed before the House on the very day of the commencement of the session of Parliament. All the seven ordinances promulgated during the interregnum were placed before the House. There was drought and famine everywhere in the country at that time, but it was fertile and prolific so far as ordinances were concerned. All the seven ordinances were, in a bunch presented to the House on that day. Even my hon. friend Shri D. C. Sharma looks happy at the moment.

Though the article does not say so or even use the phrase 'as soon as may be', yet in the spirit of the Constitution it is there, and it was reflected in this list of business of the 25th July, in regard to these seven ordinances. So, I would like to know why these two ordinances promulgated as far back as June and July, even before the Proclamation by the President, were not laid before the House on the opening day of the session; when seven ordinances promulgated by the President could be laid on the Table of the House, why were these two ordinances relating to the Punjab only not laid before the House? Why is there this discrimination against the Punjab? We have taken two States, namely Kerala and the Punjab under our wings, and I hope the people of those States do feel that we are doing justice to them and we are not maltreating them or treating them in a cavalier fashion.

[Shri Hari Vishnu Kamath]

Then, I invite your attention to rule 71. You may kindly read both the sub-rules. There are two sub-rules to that rule. I know that sub-rule (1) refers to a Bill. But you may, in the interests of the proper functioning of parliamentary democracy . . . (*Interruption*) If the hon. Member does not understand, at least let there be no interruption.

Shrimati Renuka Ray (Malda): He is trying to beat the lawyers at their own game.

Shri Hari Vishnu Kamath: Sometimes, I have got to, because your lawyers are absolutely useless. So, I have got to do it myself.

Shri Shivaji Rao S. Deshmukh (Parbhani): Talk sense.

Shri Hari Vishnu Kamath: I would like to have a explanatory statement as to why first of all the Governor's legislative powers were invoked to promulgate the ordinances and why that statement is not laid before the House, and secondly why this delay took place in laying the ordinances before the House.

Mr. Speaker: But this does not bar . . .

Shri Hari Vishnu Kamath: You may overlook it if you want. It does not say so in so many letters, but the spirit was what I was pointing out . . .

Mr. Speaker: That objection can be raised when the Bill is to be introduced . . .

Shri Hari Vishnu Kamath: You may overlook it if you like. I was only emphasising the spirit of it.

Then, I want an explanation for the delay indicating why these ordinances were not laid on the Table of the House on the opening day.

I am now coming to the third count. The first is why they were not laid before the House on the opening day. Secondly, the explanation for the delay must come indicating why it has not been laid before the legislature of the State, because the legislature still continues to be in existence and is not defunct yet.

Regarding the third count, I would request you to be a little patient. I would crave your indulgence because it is an important issue that I am presently raising. Under the Constitution, you will see that every ordinance promulgated by the President, now that we have taken over Punjab and it has come to our domain more or less, rather more than less, has to be regularised, and has got to be validated by an Act of Parliament, within six weeks of the commencement of the session in which it is so laid.

Shri D. C. Sharma (Gurdaspur): Yes.

Shri Hari Vishnu Kamath: I am glad he follows. That is very good. I am glad that at least one Member is following me.

Shri D. C. Sharma: I always follow him.

Shri Hari Vishnu Kamath: You will find that Government have not yet passed a Bill or enacted a measure under which the authority vested in Parliament under article 352 of the Constitution has been delegated to the President. That has not yet been done. It is still pending. The Bill has only been introduced. It was almost blocked on Friday last, but due to your magnanimity, their mistake was condoned and they had it their own way. That is all right, and I have no quarrel with that score. I think they will pass it also with their bulldozer majority.

Mr. Speaker: I have been patient, but now Shri Kamath should come to the main point.

Shri Hari Vishnu Kamath: I have to convince the House also.

Mr. Speaker: He does not convince them by turning his face towards the Members.

Shri Hari Vishnu Kamath: I am grateful to you for the light that you have shed. Now that the Bill has been introduced and it is before the House, I can refer to it. The Bill makes provision—I would not read all the provisions, but I would merely say this—for the Acts passed by the President to be laid before the House, and unless and until—such an Act is laid before the House and unless and until the House examine it and suggests modifications, if necessary in the Act enacted by the President, the Act will not be regarded as finally validated or finalised in law. I am not a lawyer, and so, I may not be using the correct legal terms. So, you will kindly help me in that matter. The Act is not finally an Act of Parliament unless the Act enacted by the President comes before Parliament, Parliament examine it and if necessary modifies it in its own wisdom to such extent as it may deem necessary. That is the provision in the Punjab State Legislature (Delegation of Powers) Bill introduced but not yet considered by the House, and which will be passed, I am sure, in the course of this session.

Now, kindly read article 213 of the constitution and this Bill which is before the House. I have got two weapons in my hand, two non-violent weapons. One is the Constitution and the other is this Bill.

Shri Alvares (Panjim): The third is in the mouth.

Shri Hari Vishnu Kamath: I am glad they are appreciating it. May I, therefore, request you to consider this most important crucial point which will weigh upon,—I shall not say 'criminal, but—upon—the remissness and which will have a direct bearing on the remissness and negligence and perfunctoriness of the Government to which I had drawn attention yesterday also? If this Bill is passed as it would be in the course of this session, the Act which will be passed or enacted by the President in the first instance under this Bill and then passed into law validating the ordinance will have to come before Parliament and Parliament must be given adequate time to scrutinise that Act passed by the President and suggest modifications in it if necessary so that Parliament passes it before the session expires; otherwise, it will cease to have any effect and it will be regarded as having been repealed, and it will lapse. That is the legal word; the ordinance will lapse and nothing will remain. So, I would like to know this from Government, you cannot perhaps help us in this matter, but you can help us on the grounds that I have raised earlier; I would like to know from Government whether Government propose to lay before the House the Acts enacted by

[Shri Hari Vishnu Kamath]

the President under this Punjab State Legislature (Delegation of Powers) Act before the House in this session and give adequate time also to the House to consider them and suggest modifications in them and, if so, whether Government will be prepared to extend the session for that purpose, if necessary, and not to something hopelessly wrong during the recess.

All these matters are for your consideration and the consideration of the House. Therefore, unless and until the hon. Minister gives an explanation for the delay in laying these ordinances before the House, one month after the opening of this session, he should not be allowed to lay those ordinances on the Table of the House today; tomorrow he can do so after giving us a statement explaining the reasons for the delay.

Shri B. R. Bhagat: At the moment it is my intention just to bring to the notice of the House the ordinances promulgated by the President. It is true that they should have been laid before the House on the opening day or as early as possible. But obviously these had not reached us in time. This was done by the Punjab Government...

Shri Hari Vishnu Kamath: They are getting worse day by day.

Shri B. R. Bhagat: That is the reason why they are being placed today before the House.

At the moment, we are not concerned with the legality of it. Whatever the Members may say may be right, but we shall take up the question of the necessary legal actions subsequently. At the moment, my intention is only to bring these things to the notice of the House by placing these two documents before the House.

Shri Hari Vishnu Kamath: What is his statement?

Mr. Speaker: He made those enquiries of Government, whether Government intend to have that Bill that might have been enacted or promulgated by the President placed before the House, and whether it is their intention to have that approved or passed by this Parliament after some time whether that would be done during this session.

Shri B. R. Bhagat: It will be examined, and if legally necessary, we will certainly do it. We cannot say now.

Shri Hari Vishnu Kamath: Ordinance itself is a pernicious thing.

Mr. Speaker : Of course, the delay is there and there ought to have been some explanation for it. It ought to have been laid on the Table earlier if not on the opening day—on the opening day all the Ordinances promulgated by the President must be laid on the Table of the House, but this was concerned with a State—at least soon after. That ought to have been done. But that does not prove fatal to it.

Shri Hari Vishnu Kamath : You must help the House to uphold the Constitution and the rights of the State Assembly.

Mr. Speaker : The second thing he has raised is most important. It concerns article 213.

Shri Hari Vishnu Kamath : Retrospective effect.

Mr. Speaker : No question of retrospective effect. Of course, the order of the President taking over was subsequent to the Ordinances that were promulgated by the Governor of the State. So there was time for placing those Ordinance on the Table of that Assembly, if there was a meeting of the Assembly. If there was no meeting, it could not be done.

Shri Hari Vishnu Kamath : It could have been summoned.

Mr. Speaker : Only a few days had elapsed when the President took over. Then the legislative functions of the Assembly came over to the President himself. It was not possible to place them before the Assembly at that time.

Shri Ranga (Chittoor) : They have committed an illegal act.

Mr. Speaker : When the Ordinances were promulgated, the Assembly was in existence. This is one thing.

Shri Vasudevan. Nair : Even now it exists.

Mr. Speaker : Not now. The legislative powers of the Assembly have been taken over. That is the difficulty. The Assembly exists, but the legislative powers are not with it. That is what has been done (*Interruptions*).

Shri Hari Vishnu Kamath : Then has it been suspended, is it an impotent Assembly?

Mr. Speaker : Whether it is impotent or not, I have not to say. That would be for Shri Kamath to say. That remark might come from others. I would not say anything on that.

Shri Hari Vishnu Kamath : All right

Shri Hem Barua (Gauhati): It is known as the *Legislative Assembly*. If you take away the legislative powers from it, what remains of the Assembly?

Shri U. M. Trivedi (Mandsaur): Unlawful assembly!

Mr. Speaker: Order, order. I have not to argue on that. Because there was no Assembly sitting at that time, therefore, during that short period, they could not be placed before that Assembly. And when the President took over, all the functions became his. It became the function of the President to place them here, and then of course it would be for this Parliament to pass it when the Bill is placed before it.

Shri Ranga: The President has also failed . . .

Mr. Speaker: No question of failing. There is no impediment that these Ordinances cannot be placed on the Table, though I do say that they are very late; it ought to have been done earlier.

Shri Hari Vishnu Kamath: They have not explained the delay.

Shri U. M. Trivedi: I want to raise a very important point to which a reply must be made by the hon. Finance Minister if he wants to. Only one Ordinance has been promulgated on the 25th June 1966. This was not placed on the same day on which the President took over the administration, and this Ordinance having lapsed, as it stands . . .

Mr. Speaker: It has not lapsed.

Shri U. M. Trivedi: . . . it cannot be placed before the House.

Shri Hari Vishnu Kamath: When was the Punjab Assembly prorogued? The date?

Shri U. M. Trivedi: This Ordinance is defunct. Retrospective effect cannot be given . . .

Mr. Speaker: No, no. W. will see when they come up.

FOOD CORPORATION (SEVENTH AMENDMENT) RULES

The Deputy Minister in the Ministry of Food, Agriculture, Community Development and Co-operation (Shri Shinde): On behalf of Shri Govinda Menon, I beg to lay on the Table a copy of the Food Corporations (Seventh Amendment) Rules, 1966, published in Notification No. G.S.R. 1188 in Gazette of India dated the 27th July, 1966 under sub-section (3) of section 44 of the Food Corporations Act, 1964. [Placed in Library. See No. LT-6847/66].

NOTIFICATIONS UNDER SEAMEN'S PROVIDENT FUND, KERALA MOTOR VEHICLES TAXATION ACT ETC., ETC.

The Deputy Minister in the Ministry of Transport and Aviation (Shrimati Jahanara Jaipal Singh): On behalf of Shri C. M. Poonacha, I beg to lay on the Table—

- (1) The Seamen's Provident Fund Scheme, 1966, published in Notification No. G.S.R. 1206 in Gazette of India dated the 6th August, 1966, under section 24 of the Seamen's Provident Fund Act, 1966. [Placed in Library. See No. LT-6848/66].
- (2) A copy of Notification S.R.O. No. 123/66 published in Kerala Gazette dated the 22nd March, 1966, making certain amendment to the Kerala Motor Vehicles Taxation Rules, 1963, under sub-section (4) of section 24 of the Kerala Motor Vehicles Taxation Act, 1963, read with clause (c) (iv) of the Proclamation dated the 24th March, 1965, issued by the Vice-President, discharging the functions of the President, in relation to the State of Kerala [Placed in Library. See No. LT-6849/66].