

up. Their consensus is already included in the consensus that has been evolved and therefore, this difficulty will not arise at all.

श्री हुकम देव नारायण यादव : इस समय एक ही उद्योग या संस्थान में कई मजदूर संगठन काम कर रहे हैं और उन का आपस में टकराव होता रहता है। जब सरकार की यह मान्यता है कि एक जगह पर एक ही मजदूर संगठन हो, और मजदूरों के गुप्त मतदान के आधार पर मजदूर संगठन का निर्माण हो, तो फिर इसे कार्यान्वित करने में विलम्ब क्यों हो रहा है ? और अब तक इस सिद्धान्त को क्यों नहीं लागू किया ? गुप्त मतदान के आधार पर रेलवे में एक मजदूर यूनियन का गठन क्यों नहीं किया गया ? विलम्ब क्यों हुआ।

श्री० मधु इंद्रवते : माननीय सदस्य को मैं याद दिलाना चाहता हूँ कि पहले ही मैंने कहा कि रेलवे की तरफ से कोई दिक्कत नहीं है लेकिन इंडियन लेबर कांफ्रेंस की तरफ से जब ट्रिपार्टाइट कमेटी बनाई गई और सब के बीच सन्ध्याओं ने मान लिया कि उस की रिपोर्ट के आधार पर काम करेंगे तो हम को इंतजार करना चाहिए और जो सुझाव उन्होंने दिया है मेरी जानकारी अगर सही हो तो, वह रिपोर्ट के अन्दर भी है। जब यह रिपोर्ट फाइनलाइज होगी तो हम उस पर अमल करेंगे।

Contributions made by Companies by way of Advertisements in Congress Party Magazines/Souvenirs

*23. SHRI L. L. KAPOOR: Will the Minister of LAW, JUSTICE & COMPANY AFFAIRS be pleased to state:

(a) the names and addresses of all companies/firms who contributed to Congress Party funds by way of purchasing advertisement space in various magazines/souvenirs which were brought out or were proposed to be brought out by the Congress Party

or their associate/subsidiary organisation/groups during Emergency period, giving the amount in each case;

(b) whether any action has been taken against these companies/firms; and

(c) if so, the details thereof?

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI SHANTI BHUSHAN): (a) All public limited companies and private companies belonging to Large Industrial Houses were asked to give information regarding contributions made by them to political parties by way of purchasing advertisement space in various souvenirs and bulletins brought out or to be brought out by the parties in respect of the period 1st January, 1974 to 31st March, 1977. Out of about 9,000 companies which were addressed, information from about 7,500 has been received in the Ministry so far. From a perusal of this information it has been noticed that about 960 companies had made contributions to the tune of about Rs. 9.46 crores out of which about Rs. 9.40 crores were contributed to the Congress Party and the balance (about Rs. 6.00 lakhs) to the other parties.

A list of companies with their addresses who have made the contributions as mentioned above is being compiled and will be placed on the Table of the House.

Firms are not governed by the provisions of the Companies Act and the Government has no information in respect of the contributions made by them, if any.

(b) and (c). Show cause notices under the relevant provisions of the Companies Act, 1956, have been issued to 202 companies who have contributed Rs. 1 lakh and more.

श्री लखन लाल कपूर : मैं मंत्री महोदय कि जानना चाहता हूँ कि क्या यह सही है कि डिपार्टमेंट आफ कम्पनी ला ने एक सर्कुलर

निकाल कर स्पष्टीकरण किया था कि इस प्रकार के चन्दे दिए जा सकते हैं और इस से कम्पनी ला का उल्लंघन नहीं माना जायगा ? यदि हां, तो यह सर्कुलर किस के निर्देश से निकाला गया था और क्या इस विषय में सम्बन्धित मंत्री ने कोई टिप्पणी लिख कर डिपार्टमेंट को दी अथवा डिपार्टमेंट के अधिकारियों ने स्वतः इस प्रकार का सर्कुलर निकाला था ?

श्री शान्ति भूषण : यह 8 मार्च 1977 को एक स्पष्टीकरण दिया गया था जिस में यह लिखा गया था कम्पनी अफेयर्स डिपार्टमेंट की तरफ से कि जो ऐडवर्टाइजमेंट किसी पोलिटिकल पार्टी के सोवैनियर में दिए जायें और उस के लिए जो रुपया दिया जाय वह 293 (ए) में डोनेशन नहीं होता। जो बात उस स्पष्टीकरण में लिखी गई थी वह तो एक तरह से गलत नहीं है क्यों कि यह तो कोई नहीं कह सकता कि अगर सोवैनियर में जेनुइन ऐडवर्टाइजमेंट हो और उस के लिए उतना ही रुपया दिया जाय जो कि उचित हो उस विज्ञापन के लिए तो वह 293 (ए) का उल्लंघन हुआ। यह बात दूसरी है कि नाम तो लिया जाय विज्ञापन देने का लेकिन असल में उस का मकसद डोनेशन देना हो जिस का पता इस बात से लगेगा कि वह जिस में दिया गया उस का कितना सर्कुलेशन है, किस रेट पर दिया गया, यह सब बातें देख कर यह तय हो सकता है कि उस में विज्ञापन देना उल्लंघन है या नहीं। जो स्पष्टीकरण दिया गया था क्योंकि पहले भी इस प्रकार के स्पष्टीकरण दिए गए थे जिस में इस प्रकार क्विड प्रोक्वो कहा गया था तो स्पष्टीकरण के लिए यह नहीं कहा जा सकता कि कानून की दृष्टि से वह गलत है।

श्री लखन लाल कपूर : क्या मंत्री महोदय यह बतलाने की कृपा करेंगे कि जिन कम्पनियों ने सोवैनियर के लिए चन्दे दिए हैं उन कम्पनियों पर किन विशेष व्यक्तियों ने दबाव डाला चन्दा देने के लिए ? क्या उस में कोई पदाधिकारी शामिल

है ? अगर है तो उन के नाम देने की कृपा करें या क्या किसी खास मंत्री महोदय ने उन पर दबाव डाला ?

श्री शान्ति भूषण : इस प्रश्न के सम्बन्ध में अभी इस समय मेरे पास ऐसी कोई बात नहीं है जिस से यह बता सकूँ कि किसी ने दबाव डाला या नहीं। परन्तु इस सम्बन्ध में यह बात जरूर है कि सी बी आई के द्वारा एक जांच कराई जा रही है जो कि अभी भी चल रही है। कि 293-ए के उल्लंघन के सम्बन्ध में क्या कोई ऐसी कांसपिरेसी थी कि इस तरह से चन्दे के नाम पर डोनेशन लिए जायें। वह जांच अभी जारी है, समाप्त नहीं हुई है।

श्री हुकमचन्द कछवाय : मैं आपके माध्यम से माननीय मंत्री जी से जानना चाहता हूँ कि उन पत्रिकाओं के नाम क्या हैं जिनको विज्ञापन दिये गये। मैं यह भी जानना चाहता हूँ कि किस कम्पनी से कितना कितना रुपया किन किन पत्रिकाओं को दिया गया ?

श्री शान्ति भूषण : अभी तक जो विवरण मिला है उसके हिसाब से 960 कम्पनियों की ओर से विज्ञापन दिये गये। एक कम्पनी ने कई पत्रिकाओं को विज्ञापन दिये होंगे जिसकी सूची बड़ी लम्बी होगी। उस सूची का संकलन करना होगा तभी पूरा विवरण दिया जा सकता है। (अवधान) जैसा कि मैं ने अपने उत्तर में बताया था, जब पूरा विवरण मिल जायेगा तो लिस्ट बनाकर सदन के पटल पर रखी जायेगी।

श्री हुकमचन्द कछवाय : अध्यक्ष महोदय, मेरे प्रश्न का उत्तर नहीं आया।

मंत्री महोदय उन पत्रिकाओं के नाम बतायें जिनको विज्ञापन दिये गये।

MR. SPEAKER: You want the names of the papers. How can he give the names

श्री शान्ति भूषण : We will try to find out the information.

पता लगा कर बाद में बतायेंगे।

SHRI K. LAKKAPPA: In the method of political witch-hunting process of

the Janata Party, the collection of funds for the souvenir by the Congress Party has been brought in. I would like to know from the Minister whether it is also a fact that he has issued notice to one Mr. Palkhiwala, an executive director of a company, and also to the present Minister of Finance, Shri H. M. Patel, who was also working as a director in a Company. Is he prepared to make a probe, irrespective of political parties, to what extent political money collection has been made in the name of souvenir? What action will he take against those people? In view of the statement which has appeared in the press, is he going to recall Shri Palkhiwala and request Shri H. M. Patel to resign his post? I want a categorical answer from the Minister.

SHRI SHANTI BHUSHAN: Sir, I have no information of either Shri Palkhiwala or the other gentleman referred to by him having contravened section 293-A of the Companies Act.

SHRI K. LAKKAPPA: Have such notices gone to them or not?

SHRI SHANTI BHUSHAN: Notices have gone only to the companies, as required under the Companies Act, to show cause why they have contravened section 293-A of the Companies Act. May be, copies of these might have been sent to the directors of the companies also. Whether any copies of such notices have been sent to Mr Palkhiwala I am not aware at the moment. I do not know, I want notice. The same applies to Shri Patel also. I do not have any information.

SHRI VINODBHAI B. SHETH: I am a Director of Digvijai Woollen Mills, Jamnagar, and I am also a member of the Janata Party. That company had contributed Rs. 2 lakhs to the souvenir. As a director, I have received a notice asking why prosecution should not be launched against me.

MR. SPEAKER: What is the question?

SHRI VINODBHAI B. SHETH: May I know whether such notices to Gov-

ernment directors will be withdrawn or not?

SHRI SHANTI BHUSHAN: As I said earlier, the notices have been sent only to the companies. Maybe, copies of those notices which have been addressed to the companies have been sent to the directors also, but the question of all directors being guilty under section 293-A does not arise. That offence requires *mens rea*. It is only to those persons who have really contravened this section that it applies because there are several questions which arise. As I have said earlier, the mere fact that some company has given an advertisement in a souvenir of a political party by itself would not amount to contravention of section 293-A. It will depend upon the facts of each case, and that is the reason why notices have been sent to these companies, so that full facts can be collected from them, and then mind might be applied to the facts of each case. It will depend upon the rates at which the advertisements have been given, the amount that is given, the nature of the souvenir or the journal, its circulation etc.

DR. VASANT KUMAR PANDIT: Apart from companies, may I know whether autonomous corporations like the LIC, GIC and Govt. Controlled Companies have also contributed to the souvenir etc., and if so, if any investigation has been done of these type of sources?

SHRI SHANTI BHUSHAN: Section 293-A of the Companies Act is applicable only to companies and, therefore, there is violation of that provision only in the case of companies making donations to political parties. So, the question of any corporation or firm does not arise.

SHRI AMRIT NAHATA: Is the Minister aware that getting advertisements in political souvenirs by companies was a devious method of circumventing the law banning political donations by companies? I would like to

know whether Government is committed to continue and retain the ban on political donations by companies and whether Government would like to make that ban fool-proof by plugging the loopholes?

SHRI SHANTI BHUSHAN: So far as this device is concerned, that is the reason why notices have been given to these companies to show cause why they should not be prosecuted for contravention of section 293-A of the Companies Act. So far as the intention of the Government is concerned, the section is very clear. So far as the revision of the Companies Act is concerned, there is a committee which is seized of the matter. So, as and when any proposal is received from that committee, it will be considered by the Government.

SHRI SHYAMNANDAN MISHRA: On a point of clarification. The question raised was whether it applies to the public sector companies as well. The Minister has said that it applies to companies, but he has not made it clear whether it would apply to the public sector companies also. That point has to be made clear.

SHRI SHANTI BHUSHAN: I am obliged to the hon. Member because the question that was asked earlier related to corporations like the LIC and not public sector companies. So far as public sector companies are concerned, the section is undoubtedly applicable to them also.

We have collected information, and the information which has been received up to 10th November, 1977, is like this. Six hundred Government companies were issued letters making this enquiry. Replies already received from 470 companies indicate that 386 did not give such advertisements in souvenirs while 77 gave. The total amount given by these 77 Government companies is Rs. 3.17 lakhs, out of which Rs. 2.77 lakhs was given to the Congress Party. Out of 18 Registrars of companies, information has been received only from 13.

DR. SARADISH ROY: Whether it is a fact that certain bulletins or souvenir have not been published but the contributions were made. If so, what are the names of those bulletins or souvenirs and what is the contribution made by the companies?

SHRI SHANTI BHUSHAN: The difficulty is that the Company Affairs Department is only charged with the duty of supervising the functioning of the companies Act so that it can collect information from the companies. Since this information may not be possessed by the companies it may not be possible to collect the information. But we will try to ascertain the facts.

SHRI V. ARUNACHALAM: Whether there is any time-limit to complete the work for taking action against the companies who have contributed to the Congress Party. Or is it a threat to the political enemies of the Janata Party?

SHRI SHANTI BHUSHAN: The purpose of giving show cause notices is to get the relevant facts because the legal opinions of eminent people are there, and some of the companies who have sent replies have relied upon legal opinions of eminent people saying that in these circumstances if an advertisement is given laying down criteria as to when it would amount to a violation of

MR. SPEAKER: That you have already mentioned.

SHRI KRISHAN KANT: May I know whether the Minister has enquired that these companies who have give advertisements to the souvenirs had taken any benefits from the Government at that time or later?

SHRI SHANTI BHUSHAN: So far as the Company Affairs Department is concerned, it is not relevant as to what motive the donation, if it was donation and violation of Section 293-A was given. It is a different matter if some other offence has been committed by somebody etc. namely, somebody

has been pressurised or somebody has done something *quid pro quo*.

SHRI SHAMBHU NATH CHATURVEDI: Is it one of the points in the show cause notice that the souvenir for which advertisements were given, was published or not?

SHRI SHANTI BHUSHAN: So far as the publication of the souvenir is concerned, we will try to collect the facts whether those souvenirs have been published.

Principle of Seniority of Judges in Appointments to Supreme Court

+

*24. **SHRI G. S. REDDI:**

SHRI BAPUSAHEB PARULKAR:

Will the Minister of LAW, JUSTICE AND COMPANY AFFAIRS be pleased to state:

(a) whether recent appointments to the Supreme Court have been made adhering to the principle of seniority of judges; and

(b) if not, the reasons thereof?

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI SHANTI BHUSHAN): (a) and (b). Recently two appointments have been made to the Supreme Court. These appointments were made on the recommendation of the Chief Justice of India and in accordance with the provisions of Article 124(2) of the Constitution. Appointments of Puisne Judges of the Supreme Court are selection appointments and such appointments do not depend on the seniority of judges of High Courts.

SHRI G. S. REDDI: What is the number of cases in which seniority has been overlooked. (Interruptions)

MR. SPEAKER: Kindly don't drag me in.

SHRI SHANTI BHUSHAN: Unlike the appointment of a Chief Justice

either in the Supreme Court or in the High Court where seniority plays and has played a very important part in the appointment of a Chief Justice, so far as the appointments to the Supreme Court from amongst the judges of the High Courts are concerned, the seniority has never played a part in them, at least not an important part, because it has always been felt by everybody that these appointments to a higher court must go on the basis of merit and suitability of each judge. That is why throughout, from the very beginning, in a very large number of cases, the judges of the High Courts have been appointed to the Supreme Court irrespective of their seniority in the all-India list. Even when their position in their own High Courts was 4th, 5th, 6th or 7th, in a large number of cases, very eminent people have been appointed as judges to the Supreme Court. On that basis, even Justice Shastri when he was appointed to the Federal Court, his position in his own High Court was 4th and in the case of Justice Bhushan Kumar Mukherjee, his position in his own High Court was 3rd.....

MR. SPEAKER: His question was as to in how many cases junior judges have been appointed to the Supreme Court. If you have got the information, you give it.

SHRI SHANTI BHUSHAN: Out of 59 appointments made to the Supreme Court, before this, in as many as 29 cases the persons who were not even the senior most in their own High Courts were appointed as the judges to the Supreme Court. In two cases, direct appointments were made from the Bar.

SHRI G. S. REDDI: In view of the executive interference and the independence of the judiciary being affected by counting only the merit, is it not pos-