

Shri Syed Ahmed: The Member is present here. He can make a statement.

Mr. Speaker: That is not the practice.....

Sardar A. S. Salal: I will put it in writing.

Mr. Speaker: That makes no difference. Even if he puts it in writing, it does not do away with the necessity of giving the person, against whom an allegation is made, an opportunity of answering the allegation. And then I have to be satisfied on that point.

Shri Syed Ahmed: When should we expect this matter to be taken up?

Mr. Speaker: I cannot say. (Interruptions). Order, order. I must have ample time and ample opportunity. The matter is not at all urgent in any sense of the term.

Shri Gidwani (Thana): Sir. I had given notice of a Short Notice Question. What about that.....

Mr. Speaker: Will the hon. Member please enquire at the office. There are so many Short Notice Questions for different days.

MOTIONS FOR ADJOURNMENT PROMULGATION OF SECTION 144 IN AND AROUND AGARTALA

Mr. Speaker: Now, I have received notices of two adjournment motions. I will take them up in the order I got them. One is from Shri H. N. Mukerjee. It reads thus:

"This House be adjourned to discuss the situation arising out of the promulgation of Section 144 in and around Agartala, Tripura State, which has prevented the holding of the Communist Party's Conference at Agartala".

Now, in this connection, it has been the standing practice of this House from very old times not to entertain any adjournment motion in respect of orders passed in the ordinary course of administration, and particularly orders under Section 144. I do not think I need refer to the previous rulings of the Chair on this question, given so far back as 1944 by my predecessor and this is one of those which follows up the strings of rulings on that point.

Shri H. N. Mukerjee (Calcutta North-East): May I submit . . .

Mr. Speaker: He may submit as regards admissibility, not as regards the merits.

Shri H. N. Mukerjee: My submission is that in regard to Part C States where the public opinion has no forum for ventilating grievances against the operation of the administration, this is the only place where questions of this description can be agitated. So I would appeal to you to reconsider your decision.

Mr. Speaker: Well, it will be a matter for some other occasion. I am inclined to think that the argument that he is urging may perhaps be good for one occasion, but if that is accepted—I am speaking without deciding the question; I am giving my *prima facie* reactions—we shall be flooded with '144' notices every day about Part C States. Even in advanced provinces there are always areas which are very much backward, and the argument of 'backward' as against 'advanced' might create difficulties. I do not propose to entertain this unless a case is made on some other ground. The hon. Member may, if he likes, come and discuss it with me.

Shri H. N. Mukerjee: May I submit that I have got a telegram from a Member of Parliament, Mr. Biren Dutt, who is absent in the House because of his association with the organisation of this Conference, and he as a Member of Parliament wishes to see that the rights of the people of his constituency and his State are not invaded in this fashion by executive orders.

Mr. Speaker: Why he only? He by his absence, but all others by their presence here are keen to see that the rights of the people are protected, including the Chair, of course.

Shri Nambiar (Mayuram): That being a Part C State and this being the Parliament which has something to do with the Government there, we are making the submission that it may be discussed here.

Mr. Speaker: The point is not as to whether there is any responsibility, finally, immediately or remotely, of the Central Government. The point is that it is an administrative order—in the due course of administration—and further, if I remember aright—I have not been able to verify the point—there is by an amendment of the Criminal Procedure Code, a remedy given by an application to the court. Am I right there? I have not verified it.

Shri M. A. Ayyangar (Tirupati): To the subordinate court..... Even to the High Court.

Mr. Speaker: Even to the High Court. So that remedy is there. I know what the procedure has been.

ELECTION OF Sadar-i-Riyasat BY THE CONSTITUENT ASSEMBLY OF JAMMU AND KASHMIR.

Mr. Speaker: Now there is another adjournment motion from Shri V. G. Deshpande. It reads thus:

"The House do stand adjourned for considering the situation created by the election of *Sadar-i-Riyasat* by the Constituent Assembly of Jammu and Kashmir against the provisions of the Constitution of India."

I really feel confused as to how this matter can be taken up for discussion, and if at all, on an adjournment motion. In the first place, I think it is a matter of interpretation of the provisions of the Constitution. Now, I cannot see how an interpretation of the Constitution can be arrived at by a discussion in this House. The proper forum for that will be a reference to the Supreme Court; and it is the Supreme Court only who can decide as to whether whatever was done is or is not against the Constitution of India. I do not think this House will be the proper forum for this purpose. That is one. I am stating my doubts.

The other thing is, the election has taken place. Of course, the whole motion is based on the assumption that it is against the provisions of the Constitution. If you once concede that it is not against the provisions of the Constitution, then the other point is, that it is a thing done by another State in its own Assembly. It is not for this House to discuss it. That is again really the interpretation of the Constitution and for that I have already stated my own reactions. Then about this election. It is also going beyond the scope of what is necessary for the purpose of disposing of this adjournment motion. This has arisen out of, I believe, some agreement which the hon. Prime Minister mentioned in this House at full length when he made a statement with regard to Kashmir. At that time also a question was raised about the Constitution and some arguments were advanced in this House and the Prime Minister made the statement.

"Now that it was agreed that the head of the State shall be the person recognised by the President on the recommendation of the Legislature of the State, how the Legislature of the State recommends is a matter for the Legislature. Whether it is by the process of election or not, it is for them to decide. It may be by the process of

a majority or a two-third majority; it is entirely for them to decide, anyhow, they recommend and then it is for the President to recognise."

That is the explanation as regards the powers of the State Assembly of that particular State. I do not think this motion is in order and I am not inclined to give my consent to this motion.

Dr. S. P. Mookerjee (Calcutta South-East): I have given a Short-Notice Question on this very issue, Sir.

Mr. Speaker: That has been referred to the Prime Minister and if he accepts to answer it at short notice it will be answered.

Dr. S. P. Mookerjee: You may remember, it was said that this election of an elected head of Jammu and Kashmir will require an amendment of the Constitution. How it is to be done is a different matter and for that I have asked this Short-Notice Question.

Mr. Speaker: That raises a different issue altogether. That again comes to the Constitution, if change is necessary on the present interpretation of the Constitution. I am saying that it is not competent for this House to decide.

The Minister of Home Affairs and States (Dr. Katju): I may give some additional facts. The statement was made by the Prime Minister on 25th July and it was discussed at great length on the 7th August and a resolution was actually passed. That resolution said, "Having considered the Prime Minister's statement, this House approved of the steps taken so far in the matter." Therefore, the matter has already been discussed for one full day in this House.

Dr. S. P. Mookerjee: That does not mean that the Constitution need not be amended. The arguments advanced by the hon. Member admit the need for amending the Constitution. If that is admitted, then it is certainly beyond the scope of the Constitution.

Shri V. G. Deshpande (Guna): I may be permitted to make a submission. Section 366 of the Constitution.....

Mr. Speaker: Is the hon. Member going to argue the Constitution?

Shri V. G. Deshpande: No, Sir, I am going to say that this election is a challenge to the provisions of the Constitution. That is not a question of the interpretation of the Constitution. But certain articles of the Constitution remain and this election is made against them.

Mr. Speaker: The hon. Member assumes that his interpretation of the Constitution is correct and argues that