

**The House met at eleven of the clock,
MR. CHAIRMAN in the Chair.**

MR. CHAIRMAN: Question No. 241. ... (Interruptions)...

श्री मुख्तार अब्बास नक़वी: सर, देश भर में, उत्तर प्रदेश में, उत्तराखंड में, तमाम महत्वपूर्ण जगहों पर बाढ़ आई हुई है।

श्री सभापति: कृपया आप इसे Zero Hour में उठाइएगा। Question No. 241.

Hon. Member is not present. Any Supplementaries? Yes, Voraji.

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श्री मोती लाल वोरा: सभापति महोदय, माननीय मंत्री जी ने अपने उत्तर में बताया है कि भारत में इस्पात की प्रति व्यक्ति खपत 55 कि.ग्रा. है, लेकिन मैं माननीय मंत्री जी से यह जानना चाहता हूँ कि अन्य जो विकासशील देश हैं, जो पड़ोस के देश हैं, वहां प्रति व्यक्ति इस्पात की कितनी खपत है? साथ ही, मैं यह भी जानना चाहता हूँ कि अर्थव्यवस्था के बारे में स्टील की खपत के संबंध में जो 9 बिन्दु दर्शाए गए हैं, इन बिन्दुओं पर कितनी खपत होती है?

श्री बेनी प्रसाद वर्मा: सर, भारत इस्पात उत्पादन में 5वें नम्बर पर है और हमसे आगे सिर्फ चीन, अमेरिका, कोरिया तथा जापान है।

श्री रुद्रनारायण पाणि: धन्यवाद, सभापति महोदय। महोदय, स्टील का प्रति व्यक्ति खपत बढ़ना विकास का लक्षण है, लेकिन हर काम में procedure भी ठीक होना चाहिए। देश में ज्यादा स्टील का उत्पादन करना है, तो इसका मतलब यह नहीं कि इसका उत्पादन गैर-कानूनी ढंग से होगा। ओडिशा में जो POSCO लगाया जा रहा है, वह एक अंतर्राष्ट्रीय प्रोजेक्ट है, ऑल इंडिया प्रोजेक्ट भी है और यह केवल स्टेट का मामला नहीं है। इसमें 52 हजार करोड़ रुपए का FDI का मामला है और कई मंत्रालय इसके ऊपर काम करते हैं। मेरा इतना निवेदन है कि 22 जून, 2005 को POSCO का ओडिशा सरकार के साथ पांच साल के लिए MoU हुआ था, लेकिन पांच साल समाप्त हो गये हैं। देश में स्टील का उत्पादन बढ़ाने के लिए POSCO के बारे में कुछ भी प्रगति करना गैर-

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क्रानूनी माना जाएगा। वहां पास में पारादीप पोर्ट है, आप इसे पोर्ट बनाने के लिए दे रहे हैं और उसको Iron ore एक्पोर्ट करने का काम दिया जा रहा है। वह iron ore export कराएगा, तो POSCO के बारे में अभी जो भी हो रहा है, वह गैर-क्रानूनी हो रहा है।

श्री सभापति: पाणि जी, कृपया आप अपना सवाल पूछिए।

श्री रुद्रनारायण पाणि: सर, क्या इस्पात मंत्री आपके माध्यम से इस सदन को, राष्ट्र को और समूची दुनिया को यह बताएंगे कि POSCO राष्ट्र हित में है और अभी जो गैर-क्रानूनी काम हो रहा है, उसको कब तक रोकेंगे तथा वे राज्य सरकार के साथ मामला उठा रहे हैं या नहीं उठा रहे हैं?

श्री बेनी प्रसाद वर्मा: सर, POSCO ओडिशा में आ रहा है और उसके लिए जमीन भी करीब-करीब मिल गई है। यह दायित्व मुख्य रूप से राज्य सरकार का है। हम उसके touch में हैं। POSCO के आने से हमको नई technology मिलेगी और देश में स्टील का उत्पादन बढ़ेगा, इसलिए हम उसको देश में लाने के प्रति इच्छुक भी हैं।

श्री सभापति: श्री एन.के. सिंहा ... (व्यवधान)...

श्री रुद्रनारायण पाणि: सर, मेरा जवाब नहीं आया। ... (व्यवधान) ... वहां जो हो रहा है, वह गैर-क्रानूनी हो रहा है। ... (व्यवधान) ...

श्री सभापति: पाणि जी, कृपया आप बैठ जाइए। ... (व्यवधान) ...

श्री रुद्रनारायण पाणि: सर, मैं आपके माध्यम से माननीय प्रधान मंत्री से गुहार लगाऊंगा...(व्यवधान)...

श्री सभापति: पाणि जी, कृपया आप बैठ जाइए। ...(व्यवधान)...

श्री रुद्रनारायण पाणि: सर, माननीय प्रधान मंत्री को इस संवेदनशील विषय पर बताना चाहिए...(व्यवधान).... यह राष्ट्रीय महत्व का विषय है।...(व्यवधान)...

श्री सभापति: पाणि जी, आपका सवाल हो गया, इसलिए कृपया आप बैठ जाइए।...(व्यवधान).... श्री एन.के. सिंह। ...(व्यवधान)...

श्री रुद्रनारायण पाणि: सर, आप माननीय प्रधान मंत्री जी से आग्रह कीजिए कि वे POSCO के बारे में इस सदन को, राष्ट्र को बताएँ।...(व्यवधान)...

श्री सभापति: पाणि जी, कृपया आप बैठ जाइए।...(व्यवधान).... इनको सवाल पूछने दीजिए।

(1b/SKC-DS पर आगे)

1b/11.05/skc-ds

SHRI N.K. SINGH: Sir, the hon. Minister, in the written reply, has himself conceded that the per capita consumption of steel in this country at 55 kg only is far below Asian averages, and certainly far below the global averages. Considering the daunting target of the Twelfth Five Year Plan, which seeks to promote the average growth in

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the region of nine per cent, what is the likely demand-supply gap in the consumption of steel which is likely to emerge? What steps does the Government have in mind to bridge this growing disequilibrium between demand and supply of steel in order to, at least, come up to Asian averages?

श्री बेनी प्रसाद वर्मा: सर, हमारा उत्पादन प्रति वर्ष करीब 10 फीसदी बढ़ रहा है और consumption भी 10 फीसदी बढ़ रही है। मांग और आपूर्ति में संतुलन बिल्कुल बना हुआ है। यह consumption देश की अर्थव्यवस्था, जीडीपी और जनसंख्या पर भी निर्भर करती है, लेकिन हमारे देश में जितनी आवश्यकता है, उतना हम स्टील प्रॉडक्शन कर रहे हैं।

SHRI N.K. SINGH: Sir, the hon. Prime Minister is here and he is the Chairman of the Planning Commission. My question was specific and related to the Twelfth Five Year Plan target, which we need in relation to the production of steel, what the likely supply would be and what the Government was doing to bridge this gap.

श्री बेनी प्रसाद वर्मा: सर, 2010-11 में स्टील क्षमता 78 मिलियन टन, फिनिशड स्टील उत्पादन 66 मिलियन टन और फिनिशड स्टील खपत 68 मिलियन टन है तथा 2020 तक हमारा उत्पादन का लक्ष्य 200 मिलियन टन है। ..(व्यवधान)...

MR. CHAIRMAN: That is all right. (Interruptions) Question 242.
(Interruptions)

श्री पुरुषोत्तम खोडाभाई रूपाला: सर, इन्होंने पॉस्को का तो कुछ किया ही नहीं।
..(व्यवधान).. सर, पॉस्को का तो कुछ करवाइये। ..(व्यवधान)..

MR. CHAIRMAN: Please, ask the supplementary question.
(Interruptions) Please don't... (Interruptions)... Nothing will go on
record. (Interruptions) What is this? (Interruptions)

श्री रुद्रनारायण पाणि: *

MR. CHAIRMAN: Mr. Pany, please resume your place.
(Interruptions)

श्री विनय कटियार: सर, ..(व्यवधान)..

श्री सभापति: अगर आप इस पर डिस्कशन चाहते हैं, तो नोटिस दीजिए।

श्री विनय कटियार: सर, हमने पहले ही हाथ उठाया था।..(व्यवधान)..

श्री सभापति: आप उस पर डिस्कशन मांग लीजिए। सप्लिमेंट्री तो खत्म हो चुकी
है।

*Not recorded.

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श्री विनय कटियार: सर, पॉस्को..(व्यवधान).. वरिष्ठ सांसद और वरिष्ठ पदाधिकारी पॉस्को को बन्द कराने की बात कह कर आये थे..(व्यवधान).. वहाँ से इस प्रकार की सहमति बन रही थी। ..(व्यवधान).. फिर क्या कारण है कि पॉस्को को चलाने की अनुमति मिली?..(व्यवधान)..

श्री सभापति: देखिए, आप इस पर डिस्कशन मांगिए। यह अलग चीज़ है।..(व्यवधान)..

श्री विनय कटियार: सर, ..(व्यवधान)..

श्री सभापति: नहीं, नहीं, प्लीज़।..(व्यवधान).. अब हम अगले सवाल पर चले गये हैं..(व्यवधान).. प्लीज़।

(समाप्त)

SHRI RAJKUMAR DHOOT: Sir, children are the future citizens of every nation. Naturally, malnourished children cannot grow up to be healthy citizens. Unfortunately, malnourishment is widely prevalent among children, particularly those belonging to poor families, who are in a majority in the country. A survey was conducted in Delhi by an NGO working for the children. Has the union Government, on its own or in cooperation with State Governments, conducted any survey about the state of malnutrition among children of urban as well as rural and tribal areas of the country? If so, will the hon. Minister be able to give us figures of the number of malnourished children in our country at present, State-wise and Union Territory-wise?

(Fd. by 1c/hk)

1C/HMS-HK/11.10

MR. CHAIRMAN: Your supplementary is longer than your question.

श्रीमती कृष्णा तीरथ : सभापति महोदय, माननीय सदस्य ने दिल्ली में एक सर्वे की बात कही है। दिल्ली में "क्राय" संस्था द्वारा किए गए सर्वे की methodology का पता नहीं चल रहा है, लेकिन इतना जरूर है कि नेशनल फेमिली हेल्थ सर्वे 3 की रिपोर्ट के अनुसार वर्ष 2005-06 में पाया गया कि दिल्ली में 26.1 परसेंट बच्चे

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underweight हैं जिस में 0 से 5 साल की उम्र के बच्चे हैं और दिल्ली स्लम एरियाज में यह प्रतिशत 35.3 है। महोदय, माननीय सदस्य ने पूछा है कि हम दूसरे राज्यों और अनुसूचित, जनजाति वाले राज्यों में क्या कर रहे हैं? महोदय, इस में हम ने आई0सी0जी0एस0 को restructure किया है। इस के साथ-साथ आई0सी0जी0एस0 को मिशन मोड में लाने की भी हमारी योजना है और कुपोषण की दर, एन0एच0एफ0एस0 2 और 3 में जो अंतर है, उस में कमी आयी है। कम वजनी बच्चों में 3 प्रतिशत की कमी आयी है। महोदय, एन0एच0एफ0एस0 2 के अनुसार यह 43 परसेंट से 40 परसेंटहुआ है और मुझे उम्मीद है कि एन0एच0एफ0एस0 4 आने के बाद underweight बच्चों में और कमी आएगी। महोदय, यह छोटा प्रोग्राम नहीं है बल्कि एक बड़ा प्रोग्राम है जिस में हम undernourished व malnourished बच्चों को पूरा खाना मिले, इस के लिए जिस तरह से आई0सी0जी0एस0 restructure कर रहे हैं, campaign शुरू कर रहे हैं। हमारी राज्य सरकार के मंत्रियों के साथ मीटिंग हुई है और इस में हर राज्य ने भी कुछ मदद करने की कोशिश की है। उन्होंने भी अपने यहां कार्यक्रम शुरू किए हैं। महोदय, मैं यह चाहती हूं कि हम ने इस में जो एक मॉनीटरिंग कमेटी बनायी है जिस में मेंबर ऑफ पार्लियामेंट, एम0एल0एज0 को रखा गया है। इस में नेशनल लेवल, स्टेट लेवल, डिस्ट्रिक्ट लेवल, ब्लॉक लेवल और

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विलेज लेवल तक कमेटीज बनी हैं। मुझे आप की मदद मिले तो मुझे लगता है कि कुपोषण की जो समस्या है इस से हम बाहर निकल सकते हैं।

SHRI RAJKUMAR DHOOT: My second question is: Does the Government intend to distribute multi-vitamin capsules and other nutrients to *kuposhit* children in *jhuggi jhopri* clusters and other slum areas through *Anganwadi* and mobile vans and intend to involve the genuine NGOs working for poor children in this regard? I shall be grateful if the hon. Minister could tell this august House about the role of her Ministry in the removal of malnutrition among the children who are dying due to *kuposhan* in tribal area in my home State Maharashtra.

श्रीमती कृष्णा तीरथ : सभापति जी, मैं आप के माध्यम से माननीय सदस्य को बताना चाहती हूँ कि यह प्रोग्राम पूरे भारत में चल रहा है। इस में हैल्थ मिशन की ओर से फॉलिक एसिड और आयरन टैबलेट्स दी जाती हैं। बच्चों के लिए भी इस तरह की टैबलेट्स हैल्थ मिनिस्ट्री की ओर से आंगनवाड़ी सेंटर्स में दी जाती हैं। माननीय सदस्य ने Specifically महाराष्ट्र के बारे में पूछा है, महाराष्ट्र में भी ये सारे कार्यक्रम चलाए जाते हैं। आंगनवाड़ी चूंकि पहले एक आवाज उठी, आंगनवाड़ी कार्यकर्ता का ऑनरेरियम बढ़ा दो उसे हम ने 1500 से 3000 किया

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जिससे उन में एक शक्ति आयी है। अब उन्होंने वह काम ज्यादा मेहनत से करना शुरू किया है। मैंने आप को बताया कि हम इसे मिशन मोड में करने जा रहे हैं और खास तौर से इसे हम restructure कर रहे हैं, पक्का आंगनवाड़ी देने की बात कर रहे हैं, इस से इस के ऊपर जल्दी काम होगा। महोदय, मैंने recently, पिछले महीने राज्य सरकारों के साथ मीटिंग की है जिस में राज्यों के मंत्री भी सहयोग दे रहे हैं और साथ में हमारी जो स्कीम्स हैं, उन्हें लागू करने के लिए उन को पूरी तरह से सारी चीजें देने की कोशिश की जा रही है। आप सभी लोगों की मदद मिले तो यह काम पूरी तरह से हो जाएगा।

श्री राम कृपाल यादव : सर, माननीय मंत्री जी ने अपने जवाब में कुछ महत्वपूर्ण योजनाओं की चर्चा की है। सर, माननीय मंत्री जी ने एक लिस्ट भी हम लोगों के पास भेजी है जिस में बच्चों में कुपोषण के बारे में प्रदेशवार स्थिति बतायी गयी है कि कम-वजनी बच्चे कहां-कहां और कितनी संख्या में हैं। महोदय, मैं माननीय मंत्री जी का ध्यान आकृष्ट कराना चाहूंगा कि तीन स्टेट्स में स्थिति बहुत ही खराब है।

(1 डी/ एनबी पर क्रमश)

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श्री राम कृपाल यादव (क्रमागत) : अब देखिए हमारे प्रदेश बिहार में शहरी इलाके में 47.8 परसेंट और ग्रामीण इलाके में 57.0 परसेंट यानी कुल मिलाकर 55.9 परसेंट कम वजनी बच्चे हैं। इसी तरह से मध्य प्रदेश में शहरी इलाके में 51.3 परसेंट और ग्रामीण इलाके में 62.7 परसेंट यानी कुल मिलाकर 60.0 परसेंट कम वजनी बच्चे हैं। इसी तरह से छत्तीसगढ़ में लगभग 47.1 परसेंट कम वजनी बच्चे हैं। मैं आपके माध्यम से माननीय मंत्री महोदया से यह जानना चाहूंगा कि उन्होंने जो कार्यक्रम चलाए हैं, उन कार्यक्रमों का लाभ इन प्रदेशों को क्यों नहीं मिल रहा है? जिन प्रदेशों में स्थिति बद से बदतर है, जहां बच्चे कुपोषण के शिकार हैं, क्या वहां कोई विशेष अभियान चलाकर इन कम वजनी बच्चों के परसेंटेज को आप कम करने का प्रयास करेंगी?

श्रीमती कृष्णा तीरथ : सभापति जी, मैं आपके माध्यम से माननीय सदस्य के प्रश्न का उत्तर देना चाहती हूं। इन्होंने छत्तीसगढ़, मध्य प्रदेश और बिहार की बात कही है। बिहार में मैं recently खुद visit करने गई थी। वहां यह पाया गया कि वहां के आंगनवाड़ी सेंटर्स पर पूरी तरह से खाना नहीं दिया जाता है, यहां तक कि हमारा जो supplementary nutrition है, उसे भी लेने के लिए वे तैयार नहीं हैं। मैं गया भी गई थी और वहां के दौरे के बाद मैंने मुख्य मंत्री को पत्र भी लिखा है कि हमारी जो स्कीम्स हैं, इनको ठीक से implement किया जाए। हम

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जहां-जहां भी गए, वहां जो-जो कमियां पाई गईं, उनके बारे में मैंने राज्य सरकारों को पत्र लिखे हैं और मैंने बिहार की राज्य सरकार का ध्यान भी इस ओर आकर्षित किया है। माननीय सदस्य, बिहार राज्य के हैं और मैं उनसे अनुरोध करूंगी कि वे इस मुद्दे को वहां उठाएं और जो मॉनीटरिंग कमेटी हमने बनाई है, उसे सहयोग दें। मैं निवेदन करूंगी कि वहां के MLAs और MPs इस बात पर जोर दें कि ICDS के अंतर्गत हमारी जो स्कीम्स हैं, उनको पूरी तरह से आंगनवाड़ी सेंटर्स पर implement किया जाए। इस दिशा में हम अपने कार्यक्रमों को आगे बढ़ा रहे हैं और जैसा मैंने बताया कि हम इन स्कीम्स को Mission Mode में ला रहे हैं। हमने उनका honorarium बढ़ा दिया है, उनके घंटे भी बढ़ाए जा रहे हैं। हमारी यह योजना है कि हम इस योजना में और प्वाइंट्स जोड़कर इसको implement करें, ताकि वहां बच्चों को अच्छी तरह से खाना मिल सके। हम चाहते हैं कि यहां से जो पैसा इन स्कीम्स के लिए जाता है, राज्य सरकारें उसे ठीक से utilize करें।

MS. SUSHILA TIRIYA: Sir, the report shows that malnutrition and anaemia is growing among women and children instead of reducing. So, I want to know from the hon. Minister that while preparing the budgetary action plan, whether she is giving any important incentive to the Scheduled districts, Scheduled V and Schedule VI districts, for

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special attention where hospitals are far away and other treatment is also not available.

श्रीमती कृष्णा तीरथ : सभापति जी, माननीय सदस्या ने बहुत अच्छा प्रश्न पूछा है। इन्होंने महिलाओं और बच्चों में एनीमिया की बात की है, इसके लिए मैं यही कहूंगी कि हमने इसके लिए multi-sectoral programme बनाया है और अभी हमने पूरे भारत में 200 high-burdened districts लिए हैं और हम कुपोषण के खिलाफ campaign चला रहे हैं। महिलाओं में जो एनीमिया है, इसको दूर करने के लिए हम हेल्थ मिनिस्ट्री के साथ मिलकर प्रयास कर रहे हैं। जो महिलाएं हमारे आंगनवाड़ी सेंटर्स पर आती हैं, उनके स्वास्थ्य के लिए हमारी ASHAs के माध्यम से पूरा कार्यक्रम चल रहा है। हमारी दो स्कीमें अभी चल रही हैं। इंदिरा गांधी मातृत्व सहयोग योजना अभी 52 डिस्ट्रिक्ट्स में pilot project के रूप में चल रही है, जिसमें इस तरह की महिलाओं को 4,000 रुपए देने का प्रोग्राम है, जो अभी चल रहा है और बाद में हम इस प्रोग्राम को पूरे भारत में चलाएंगे, जिससे महिलाओं और बच्चों में जो एनीमिया है, जो कुपोषण की समस्या है, वह दूर हो सके।

प्रो. एस.पी.सिंह बघेल : सभापति जी, देश इस समय दो प्रकार की समस्याओं से गुज़र रहा है। जब मुझे Peters, Patrick, St. Georges, Anthony, Mayo, Sherwood, Scindia Schools में जाने का मौका मिला, तो वहां सारे बच्चे मुझे

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overweight नज़र आए। एक तरफ कम वजनी बच्चे देश में हैं और दूसरी तरफ ज़्यादा वजनी बच्चे भी देश में हैं, यानी ज़्यादा वजनी बच्चों की समस्या भी हमारे सामने है।

(1E/MP पर क्रमशः)

MP-GSP/1E/11.20

प्रो. एस.पी. सिंह बघेल (क्रमागत) : एक तरफ पिज्जा, बर्गर, कोल्ड ड्रिंक और चॉकलेट खाने वाले बच्चे हैं और दूसरी तरफ आपका सर्वे जो भी कह रहा हो, उस पर मैं नहीं जाऊंगा, लेकिन हमारी आंखें दिन भर देहात में सर्वे करती हैं कि देहात में जो पंचायत के स्कूल के बच्चे हैं, वे कुपोषण के शिकार हैं। अगर आप फल और ड्राई फ्रूट्स को लेआउट कर दें, इन बच्चों से इनकी शिनाख्त कराएं, तो वे बच्चे शिनाख्त नहीं कर पाएंगे कि काजू, किशमिश और पिस्ता क्या होता है। मैं यह कहना चाहूंगा कि यह सर्वे भी आया है कि ज्यादातर elite class के बच्चे, इंग्लिश स्कूलों के बच्चे बहुत ज्यादा वजन होने की वजह से बीमार होते जा रहे हैं। दस-दस साल के बच्चों को diabetes हो रही है और वे कुपोषण के शिकार हो रहे हैं। इस प्रकार के बच्चों की हैल्थ के लिए आप क्या कर रही हैं, जो ज्यादा वजन वाले हो रहे हैं? क्या कोई dietician वगैरह उन स्कूलों में भेजे जा रहे हैं? गांवों में जब जच्चा बीमार होगी, तो बच्चा भी बीमार होगा और मंत्री महोदया के पास दोनों विभाग हैं - महिला भी और बाल विकास भी और जिस

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देश की जच्चाएं बीमार हों, anemic हों, तो बच्चे इन बीमारियों को लेकर ही पैदा होंगे। इसलिए ज्यादा वजन वाले और कम वजन वाले, दोनों प्रकार के बच्चों के लिए आप क्या करने जा रही हैं, यही मैं आपसे पूछना चाहता हूँ।

श्रीमती कृष्णा तीरथ : सभापति जी, माननीय सदस्य ने अच्छा प्रश्न पूछा है और इन्होंने obesity की बात की है, जो पूरे भारत में 6 प्रतिशत है। साथ ही इन्होंने कहा है कि हम स्कूल में जाकर देखते हैं, तो जो मेरे पास बच्चे हैं, वे 0 से 6 साल के हैं। जहां तक आपने स्कूल की बात की है, मैंने बताया कि देश में obesity 6 प्रतिशत है - रूरल में 6 प्रतिशत और अर्बन में 9 प्रतिशत। इसके लिए हम जो awareness campaign चला रहे हैं, कुपोषण के awareness की बात कर रहे हैं कि कुपोषण न हो, इसके खिलाफ कैसे-कैसे campaign हम पूरे भारत में चलाएं और जैसे मैंने कुपोषण की जानकारी दी, तो उसका एक कारण नहीं है - स्वच्छ पानी का न मिलना, proper sanitation न होना, स्कूल में एजुकेशन की कमी होना, खास तौर से जो माताएं हैं, वे अनपढ़ हैं और उन्हें पता ही नहीं चलता कि बच्चों को किस तरह का खाना दिया जाए। जो Public Distribution System है, उसको दुरुस्त करना भी ज़रूरी है और मैं यह चाहती हूँ कि स्कूल syllabus में nutrition को, पोषण को भी शामिल किया जाए, जिससे बच्चे शुरू से ही ओवरवेट या अंडरवेट न हों, बच्चे दुरुस्त रहें, इसके लिए घर से ही प्रयास हो और बहुत सारे एन.जी.ओज़ भी इसमें काम कर रहे हैं। मैं समझती हूँ कि जहां

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तक जंक फूड की बात है, इसके लिए हम एक awareness campaign भी करेंगे कि बच्चे जंक फूड न खाएं। जो McDonalds वगैरह का जंक फूड बच्चे खाते हैं, उसके लिए स्कूल टीचर्स को भी कहा जाए और स्कूलों में नोटिस भेजा जाए कि ये चीजें स्कूल की कैंटीन में बंद की जाएं।

श्री सभापति : प्रश्न संख्या 243 ...(व्यवधान)...

डा. सी.पी. ठाकुर : सर, इस पर एक विशेष चर्चा कराई जाए।

श्री सभापति : आप इस पर डिस्कशन मांग लीजिए।

(समाप्त)

Q.No. 243

SHRIMATI T. RATNA BAI: Sir, what does being a part of the Shanghai Cooperation Organisation (SCO) imply for India's security concerns against its immediate neighbours Pakistan and China?

SHRI S. M. KRISHNA: Sir, the Shanghai Cooperation Organisation offers an excellent platform and an opportunity for enhancing both security and economic cooperation in the region. It also offers an additional forum to discuss the situation in Afghanistan. It would also enhance opportunities for economic cooperation in joint projects, particularly, in the energy sector. India's entry into the Shanghai Cooperation Organisation will not only bring value to India but will also add weight and stature to the Shanghai Cooperation Organisation itself.

(Followed by SK-1F)

SK/1F/11.25

SHRIMATI T. RATNA BAI: Sir, what steps is the Government going to take in the direction of the coming Twelfth Five Year Plan?

Q. No. 243 (Contd.)

SHRI S.M. KRISHNA: Mr. Chairman, how does the Shanghai Cooperation Organisation have anything to do with the Twelfth Five Year Plan of India?

DR. KARAN SINGH: Mr. Chairman, Sir, with the implosion of the Soviet Union, the Central Asian Republics have now come into their own, and I see that the Shanghai Cooperation Organisation very largely deals with at least four or five Central Asian Republics. Strategically, economically and politically, it is extremely important to develop our relations in the Central Asia. May I request the hon. Minister to let us know whether his Ministry is taking some special steps to strengthen our relations with Central Asian Republics because my impression is that anybody posted in Central Asia looks upon it as a hardship posting, whereas they are much more interested to go to a tiny country like Luxembourg or Belgium or something like that. I think, we have to shift our focus. In the same way as we have shifted it to the East, we must shift it to the Central Asia. Will the hon. Minister please enlighten us?

Q. No. 243 (Contd.)

SHRI S.M. KRISHNA: Sir, it is a fact that the Shanghai Cooperation Organisation consists of the very weighty countries, which wield influence globally, such as Russia and China. They are important countries which are also members of the Shanghai Cooperation Organisation. India has always had a special relationship with the Central Asian Region and they are not of yesterday or the day before yesterday. I think, Sir, history and civilisation have provided ample opportunities for us to have interaction with the Central Asian Region and it is India's desire to continue to be active and engaged with Central Asian groupings in our economic and various other issues.

SHRI RAVI SHANKAR PRASAD: Sir, we are all aware that India has a historical civilisation linkage with the countries like Kazakhstan, Kyrgystan, Tajikistan and Uzbekistan. But, of late, we hear the reports that what is happening in Afghanistan and in the adjoining region is also have its reverberations in these countries. These countries are oil-rich countries. India can have a good strategic relationship with them as far as our fuel needs are concerned. In the light of this, just a kind of extension of what Shri Karan *Singhji* asked,

Q. No. 243 (Contd.)

what special efforts is our Government making to engage with these countries and have they pledged their support for India's case for being a Permanent Member of the UN Council?

SHRI S.M. KRISHNA: Mr. Chairman, I entirely agree with the hon. Member's suggestion that this is an important grouping and the countries that the hon. Member did mention are extremely important countries, not only for the economic potential that they offer but also politically. India has always been drawn very closer to these countries. I have been in touch with all the six countries who are the existing members of the Shanghai grouping. All of them are unanimous that India has played a very vital role in this region and India's association with the Shanghai grouping would only add strength to the Shanghai grouping itself. We will pursue it with all the diligence at the command of the Government.

SHRI T.K. RANGARAJAN: Sir, I am happy that the India's case for membership of the Shanghai Cooperation Organisation has received positive response. My question, through you, Sir, is this. The Shanghai Cooperation Organisation grouping is not liked by the United

Q. No. 243 (Contd.)

States. We are also moving towards United States. Can you assure this House that you will not succumb to the pressure of the USA in joining the Shanghai Cooperation Organisation?

SHRI S.M. KRISHNA: The question of India's succumbing to any pressure from any other country with reference to our relationship with such regional groupings is totally ruled out.

(Ends)

(Followed by 1G-ysr)

प्रश्न संख्या — 244

श्री धीरज प्रसाद साहू : सभापति महोदय, मेरा पहला पूरक प्रश्न है कि जो विमान काफी दिनों से इस्तेमाल नहीं हो रहे हैं और जिनके मेंटीनेंस का खर्च काफी ज्यादा है, जिससे वित्तीय नुकसान हो रहा है, इसलिए मैं जानना चाहता हूँ कि इन विमानों को किस उपयोग में लाया जाएगा?

SHRI V. NARAYANASAMY: Sir, the total number of aircraft, which have been grounded, is mentioned at Annexure-1. There are 17 aircraft. A310-300 is 25 years old, so it could not be operated. Out of another ten aircraft, five are out of service, and rest of the five aircraft are assumed to be out of service as per the approval of the Board. They are 20 years old. Sir, two A-320 aircraft were on lease. We are now going to return them. As far as five B737-200 aircraft are concerned, they are also pending disposal. There are two Dornier aircraft which are also very old. A total of 17 old aircraft are out of service because of their age and condition. They could not be operated because they are not safe for flying. Therefore, they have been grounded. The question of maintenance of those aircraft does not arise. Some of them have to be disposed of. That is the situation.

Q. No.244 (Contd.)

श्री धीरज प्रसाद साहू : सर, यह सच है कि पुराने विमानों के उपयोग के चलते दुर्घटनाएं होती रहती हैं और दुर्घटनाएं हुई भी हैं। क्या सरकार ऐसे पुराने विमानों को एयर इंडिया के बेड़े से हटाने के बारे में सोच रही है?

SHRI V. NARAYANASAMY: Sir, I already answered it in the first supplementary of the question when the hon. Member asked about the 17 aircraft. They are old, and they are unsafe for flying. Therefore, those aircraft have been grounded. The total number of operational aircraft in national and international routes is 125. It has been given very elaborately at Annexure-I.

SHRI PRAKASH JAVADEKAR: Sir, I am on Annexure-II which is about daily aircraft utilisation. Sir, while the private airlines in India and even the world average जहां हवाई जहाज का दिन में 14 और 16 घंटे उपयोग होता है, वहां अपना एवरेज आठ, दस, नौ, बारह, दस, सात ऐसा है। That is exactly what happened. जो स्केम की चर्चा हुई वह इसीलिए हुई कि इतना बड़ा एक्विजिशन कर लिया और उसका उपयोग नहीं कर पा रहे और इससे लॉस ही बढ़ेगा। My supplementary is this. In comparison with the world average and private airlines in India, how are you dealing with the deficiency in daily aircraft utilisation? This is part(a). और उसका

Q. No.244 (Contd.)

एक “b” है कि इतने लॉर्ज एक्विजिशन के बारे में हम बार-बार न्यूज सुन रहे हैं कि कुछ नया एयरक्राफ्ट एक्विजिशन भी करने जा रहे हैं और पहले का उपयोग नहीं कर रहे हैं और अब नया ले रहे हैं। तो इसके बारे में स्थिति क्या है?

SHRI V. NARAYANASAMY: Sir, the hon. Member asked the question on Annexure-II. Flying hours of each aircraft have been mentioned at Annexure-II. Some of the routes in which the Air India operates are shorter routes. When there are shorter routes, the number of flying hours will be less. The aircraft has to be stationed at the airport for a longer time. The hon. Member is right in saying about the flying hours of the private airlines. In terms of Jet Airways, it is 12 hours and 20 minutes. In terms of Kingfisher, it is 10 hours and 45 minutes. In terms of SpiceJet, it is about 12 hours.

(Contd. By VKK/1H)

-YSR/VKK-GS/1h/11.35

SHRI V. NARAYANASAMY (CONTD.): Go Air is 13 hours; Indigo is 11 hours and 40 minutes. Therefore, Sir, to study the whole situation for better utilisation of the aircrafts — long routes and short routes — apart from the turnaround plan which has been going on from the

Q. No.244 (Contd.)

Government side, a GoM has been constituted by the hon. Prime Minister. The hon. Finance Minister is looking into it for turnaround of aircrafts, for the purpose of better utilisation of the aircrafts. It will be worked out by the Government. Within a short period, the Government will come out with a package for the purpose of using those aircrafts and for maximum utilisation of those aircrafts which are flying for lesser hours. The plan is being worked out and it would be done in a short period of time.

श्री रामदास अग्रवाल : सभापति महोदय, मैं माननीय मंत्री जी से एक प्रश्न पूछना चाहता हूँ।

श्री सभापति : नहीं, आप बीच में मत बोलिए। ... (व्यवधान) ... नहीं, नहीं, आप बीच में मत बोलिए। ... (व्यवधान) ...

श्री रामदास अग्रवाल : कल जयपुर एयरपोर्ट पर मुझे कर्मचारियों ने बताया कि उन्हें ... (व्यवधान) ...

श्री सभापति : आप बीच में मत बोलिए। ... (व्यवधान) ...

श्री रामदास अग्रवाल : उन्होंने कहा कि उन्हें अभी तक जुलाई की सैलरी नहीं दी गई है। ... (व्यवधान) ...

श्री रवि शंकर प्रसाद : सर, एयर पोर्ट के एम्पलाईज को तनखाह नहीं मिल रही है। ... (व्यवधान) ...

Q. No.244 (Contd.)

श्री सभापति : देखिए, यह अलग सवाल है। ... (व्यवधान)... It's a different question.

श्री रामदास अग्रवाल : कर्मचारियों को सैलरी नहीं मिली है। ... (व्यवधान)...

SHRI V. NARAYANASAMY: If the hon. Chairman permits me, I would respond. (Interruptions)

श्री सभापति : अग्रवाल जी, आप बैठ जाइए। ... (व्यवधान)... It's a different question. प्लीज़, आप बैठ जाइए। ... (व्यवधान)... आप बैठ जाइए। ... (व्यवधान)...

DR. YOGENDRA P. TRIVEDI: Sir, with due respect, it is submitted that the Minister need not respond because these are interruptions. (Interruptions) He should respond to the supplementaries and not to interruptions. (Interruptions)

SHRI V. NARAYANASAMY: I would like to submit up to July 2011, the salary of the employees has been given. For July, it is being distributed now. I want to clarify. (Interruptions) I want to clear the doubt. (Interruptions)

MR. CHAIRMAN: All right. (Interruptions) Please go ahead with the supplementary. (Interruptions)

Q. No.244 (Contd.)

DR. YOGENDRA P. TRIVEDI: If the hon. Minister will respond only to interruptions and not to supplementaries, we will stop asking supplementaries and we will only have interruptions. (Interruptions)

Sir, I have gone through Annexure-I which is given and it gives a very intriguing picture. There is column 'sale and lease back'. Now, 'sale and lease back' is a method which is normally employed by corporations in order to do some tax planning. When a plant and machinery becomes old and on which, no depreciation is admissible, they sell it and take it back on lease so that they can get lease rent by way of deduction in order to decrease their profits. Air India is running at a loss. Why did they sell and then lease back the very same thing once again? Will the Minister be able to give reply to this?

SHRI V. NARAYANASAMY: Sir, in 'sale and lease back' column which is given, there are a total of 15 aircrafts. Wide body aircrafts are 3; narrow body aircrafts are 6; freighter is only one; and, non-operational are five. (Interruptions) Sir, as far as 'sale and lease back' is concerned, normally, it is put in the column. After selling, we are not getting those aircrafts back from the people to whom we have

Q. No.244 (Contd.)

sold. It is only mentioned in the column because when it is sold, it is not taken back on lease.

SHRI PREM CHAND GUPTA: Sir, I have gone through Annexure-II. The hon. Minister has given a reply that the turnaround time is too much and it takes most of the time. If you look at the figures given, A-330 is a long range aircraft. It is not a short range aircraft and the utilisation is 8 hours a day. If you look at B-777-300ER, the utilisation is only 13.6 hours a day. I think, this is a matter of mismanagement. There is total mess at Air India.

MR. CHAIRMAN: What's the question?

(Followed by KR/1j)

KR/LP/1J/11.40

SHRI PREM CHAND GUPTA: May I know from the hon. Minister what steps the Ministry is taking to ensure optimum utilization of the aircraft so that Air India doesn't go to a stage of no return?

SHRI V. NARAYANASAMY: Mr. Chairman, Sir, the hon. Member is right when he said that A-330 is a long haul flight. Sir, Boeing 777-300 is also like that. Its flying capacity is 13.6 hours; and A-330 flying

Q. No.244 (Contd.)

capacity is about eight hours. It is a matter of concern. Actually, A-330 is flying to Europe. There is heavy competition on this route. We would like to improve the flying hours of those aircraft. I agree with the hon. Member. This is one of the items which is a matter of concern for the Government because on some of the long routes we will have to fly these aircraft for long hours. Therefore, we will definitely consider this.

(Ends)

MR. CHAIRMAN: Q.No.245. ...(Interruptions)... No supplementary on supplementary.

प्रश्न संख्या 245

श्री गंगा चरण : सभापति महोदय, बुंदेलखंड में 2005 से लेकर 2010 तक, पांच साल का सूखा पड़ा। पानी के अभाव में फसलें बर्बाद हो गईं, पेय जल का संकट हुआ, आदमी की छोड़िए, जब जानवर पानी के अभाव में मरने लगे, तो हम सरकार से गुहार करते रहे कि हमारी कुछ अतिरिक्त सहायता कीजिए, लेकिन सरकार ने हमारी गुहार नहीं सुनी। 2007 में, जब उत्तर प्रदेश में बहिन कुमारी मायावती जी मुख्य मंत्री बनीं, तब वे सबसे पहले प्रधान मंत्री जी से आकर मिलीं और उन्होंने भी सहायता की गुहार की, बुंदेलखंड की भयावह स्थिति बताई। मैं बुंदेलखंड का रहने वाला हूं, मुझे याद है कि जानवर, जो गाय थीं, बछड़े थे, जब उनको चारा नहीं मिला, पानी नहीं मिला तो किसानों ने उनको रेलवे लाइन के किनारे खड़ा कर दिया। ट्रेन आती थी और कुचलती हुई चली जाती थी। तमाम लोगों ने आत्महत्याएं कीं, लोगों का पलायन हो गया। हर जगह जनसंख्या बढ़ी, लेकिन बुंदेलखंड में पलायन के कारण जनसंख्या घटी। जनसंख्या इतनी घटी कि वहां की दो विधान सभा सीटें भी कम हो गईं। मैं प्रधान मंत्री जी को बताना चाहता हूं कि जो विवरण सभा पटल पर रखा गया है, उसमें यह है कि 2009 में, 19 नवंबर को स्पेशल पैकेज की घोषणा हुई, यह बताया गया कि 7266 करोड़ रुपये दिए गए। इसमें उत्तर प्रदेश के बुंदेलखंड को 3506 करोड़ रुपये और मध्य प्रदेश के बुंदेलखंड को 3760 करोड़ रुपये दिए गए। आपका जो जवाब आया है, उसमें ACA, जो केंद्रीय अतिरिक्त सहायता दी गई है, उत्तर प्रदेश

प्रश्न संख्या - 245 (क्रमागत)

को 1696 करोड़ रुपये और मध्य प्रदेश को 1954 करोड़ रुपये दिए गए हैं। जब प्रधान मंत्री जी बांदा गए थे, उन्होंने पेय जल संकट के लिए 200 करोड़ रुपये दिए थे, उसमें वे 200 करोड़ रुपये भी शामिल हैं। मैं प्रधान मंत्री महोदय से जानना चाहता हूँ कि आपने जो 7266 करोड़ रुपये की घोषणा की थी, उसमें अतिरिक्त केंद्रीय सहायता तो आपने मात्र 1696 करोड़ रुपये और 1954 करोड़ रुपये मिलाकर मात्र 3650 करोड़ रुपये दिए हैं, बाकी आपने लिखा है कि शेष लागत केंद्रीय क्षेत्रक, जो centrally sponsored scheme थीं,..(व्यवधान)..

श्री सभापति : सवाल क्या है?

श्री गंगा चरण : उससे दिया है..(व्यवधान)..यह महत्वपूर्ण सवाल है। ये सदन को गुमराह कर रहे हैं, पूरे बुंदेलखंडवासियों को गुमराह कर रहे हैं..(व्यवधान)..ये 7200 करोड़ रुपये आपने दिए कहां हैं? ..(व्यवधान)..यह तो आपने मनरेगा का पैसा इसी में जोड़ दिया, इसी में RKVY का पैसा जोड़ दिया है, राष्ट्रीय कृषि विकास योजना का भी पैसा भी इसी में जोड़ दिया है, centrally sponsored scheme का भी जोड़ दिया है।

(akg/1h पर जारी)

प्रश्न संख्या - 245 (क्रमागत)

श्री गंगा चरण (क्रमागत) : मान्यवर, आपने कुल तो दिया है।

श्री सभापति : आप सवाल पूछिए।

श्री गंगा चरण : सवाल यही है कि आपने 7,200 करोड़ रुपए की जो घोषणा की थी, वह देंगे या नहीं?

श्री अश्विनी कुमार : सभापति जी, मैं आपके माध्यम से माननीय सदस्य को सूचित करना चाहता हूँ कि प्रधान मंत्री जी ने 19 नवम्बर 2009 को बुन्देलखण्ड के सूखाग्रस्त इलाके के लिए सिंचाई और कृषि के विकास के लिए 7,266 करोड़ रुपए का एक प्रावधान किया। उसके बाद 19 मई 2011 को पेयजल के लिए अतिरिक्त 200 करोड़ रुपए का प्रावधान किया गया। इस सारे पैकेज का मूल मकसद है बुन्देलखण्ड के इलाके में सिंचाई, पेयजल और कृषि के विकास की व्यवस्था करना। उसके कई heads हैं, जिनका प्रश्न के जवाब में जिक्र है। 7,266 जमा 200 करोड़, यानी 7,466 करोड़ का जो पैकेज है, उसका जो break-up है, वह भी जवाब में दिया गया है। अतिरिक्त केन्द्रीय असिस्टेंस के बारे में आपने जो आँकड़े पढ़े, जो हमारे जवाब से हैं, वह सही बात है। मगर चूँकि RKVY, मनरेगा और कई Centrally-sponsored schemes के जो मुख्य उद्देश्य हैं, वे इन्हीं चीजों के लिए हैं, जो बुन्देलखण्ड पैकेज में शामिल होते हैं। इसलिए जो टोटल पैकेज बना है, जिसका केन्द्र बुन्देलखण्ड का विकास है ...

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(व्यवधान) ... मैं अपनी बात पूरी कर लूँ, फिर आप पूछ लें। मैंने जो break-up दिया है ... (व्यवधान) ...

श्री सभापति : देखिए, प्लीज़ ... (व्यवधान) ...

श्री विनय कटियार : एक तरफ तो आप 7 हजार करोड़ रुपए के पैकेज की घोषणा करते हैं ... (व्यवधान) ...

श्री सभापति : विनय जी, आप बैठ जाइए प्लीज़। ... (व्यवधान) ... इससे कोई फायदा नहीं है।

श्री वीर सिंह : सर, इन्होंने पूछा है ... (व्यवधान) ... प्रधान मंत्री जी ने जो घोषणा की थी, वह कहाँ गई? ... (व्यवधान) ...

श्री सभापति : आप सवाल का जवाब सुनना चाहते हैं या नहीं? ... (व्यवधान) ... आप बैठ जाइए ... (व्यवधान) ... आप बैठ जाइए ... (व्यवधान) ...

श्री वीर सिंह : प्रधान मंत्री जी ने जो घोषणा की थी, वह कहाँ गई? ... (व्यवधान) ...

श्री सभापति : जवाब देने दीजिए ... (व्यवधान) ...

श्री अश्विनी कुमार : मैं किसका जवाब दूँ? ... (व्यवधान) ...

AN HON. MEMBER: This is a Budgeted item already.
...(Interruptions)...

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MR. CHAIRMAN: If you don't want supplementaries, I will go to the next question. ...(Interruptions)...

श्री गंगा चरण : सर, यह मेरा क्वेश्चन है, मैं पूछूँगा। ... (व्यवधान) ...

श्री अश्विनी कुमार : मैंने आपको जो जवाब दिया है, उसमें मैंने आपको 7,266 करोड़ जमा 200 करोड़ रुपए का विवरण दिया है। उस विवरण में हमने दो बातें कही हैं कि जो आँकड़े हमने दिए हैं, यानी 1,696 करोड़ रुपए उत्तर प्रदेश के लिए और 1,954 करोड़ रुपए मध्य प्रदेश के लिए, यह अतिरिक्त केन्द्रीय सहायता है। इसके अलावा Centrally-sponsored schemes के जो कार्यक्रम चल रहे थे, उनको बुन्देलखण्ड पर केन्द्रित किया गया है। इसलिए मकसद ... (व्यवधान) ...

श्री विनय कटियार : सर, मंत्री जी भोली भाली जनता को गुमराह कर रहे हैं ... (व्यवधान) ...

श्री गंगा चरण : कटियार साहब, आप हमें बोलने दीजिए, आप अपनी सप्लीमेंटरी में इसे पूछिए। ... (व्यवधान) ...

श्री कलराज मिश्र : सभापति जी, ... (व्यवधान) ...

श्री सभापति : कलराज जी, प्लीज़, आपकी बारी आएगी, आप ज़रा बैठ जाइए। ... (व्यवधान) ...

श्री विनय कटियार : देश को गुमराह किया जा रहा है ... (व्यवधान) ...

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श्री सभापति : कटियार जी, आप बैठ जाइए। ... (व्यवधान) ... यह उनका सवाल है। ... (व्यवधान) ... देखिए, सवाल उनका है। आप बैठ जाइए।
Okay. Second supplementary.

श्री गंगा चरण : सर, सेकंड सप्लीमेंटरी का सवाल तब उठता है, जब मेरे पहले प्रश्न का सही जवाब आ जाए। ... (व्यवधान) ...

श्री सभापति : आप सिर्फ दो प्रश्न पूछ सकते हैं। ... (व्यवधान) ... आप बैठ जाइए।

श्री गंगा चरण : सर, मेरा सवाल है कि इन्होंने 7,266 करोड़ रुपए के Special Package का announcement किया। या तो आप आज सदन के सामने कहिए कि हम इसे वापस लेते हैं, हमने मात्र लगभग 2,400 करोड़ रुपए का पैकेज दिया है ...।

(1एल/एससीएच पर जारी)

-MKS-AKG/TMV-SCH/1L/11.50

श्री गंगा चरण (क्रमागत): पैकेज का मतलब है - अतिरिक्त सहायता। मनरेगा में तो आप वैसे ही हर जगह पैसा देते हैं, कृषि विकास योजना के लिए भी आप पैसा देते हैं, रूरल डेवलपमेंट के अंतर्गत पेयजल के लिए भी पैसा देते हैं। लेकिन प्रधान मंत्री जी ने जो 7266 करोड़ रुपये की घोषणा की थी, उस घोषणा के

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अनुसार हमें 7266 रुपया पूरा चाहिए। या तो आप कहें कि पैसा नहीं दे रहे हैं अथवा कहें कि दे रहे हैं। जो भी स्थिति है, उसके बारे में सदन को बताया जाए।

श्री अश्विनी कुमार: सर, जवाब तो वही दिया जा सकता है, जो सच्चाई है।

श्री गंगा चरण: तो आप सदन को सच्चाई ही बताइए।

श्री अश्विनी कुमार: आप सच्चाई सुन तो लें। पहले आप जवाब सुन तो लें। जवाब यह है कि 7266+200 करोड़ रुपये यानी 7466 करोड़ रुपये का केन्द्रित पैकेज बुंदेलखंड पर है। यह सच्चाई है। अगर आप यह मानकर चलें कि जो एडीशनल केन्द्रीय सहायता है, केवल वही पैकेज है, तो मैं समझता हूं कि मेरी और आपकी समझ में अंतर है। पैकेज तो है, मगर यह कहना कि पैकेज वही माना जाएगा, जिसका नाम additional Central assistance होगा, यह उचित नहीं है, यह गलत है और सच्चाई से परे है ...(व्यवधान)

श्री विनय कटियार: आप देश को गुमराह क्यों कर रहे हैं? मनरेगा के अंतर्गत तो वैसे ही पैसा जाता है, लेकिन आप उसे भी इसके अंदर जोड़ रहे हैं...(व्यवधान)।

श्री कलराज मिश्र: सभापति महोदय, मुझे भी प्रश्न पूछना है ...(व्यवधान)।

MR. CHAIRMAN: Kalraj Ji, I am coming to you. (Interruptions)... Please. (Interruptions)... लेकिन आप अपने पड़ोसियों से कहिए कि ज़रा बैठ जाएं...(व्यवधान) आप ज़रा बैठ जाइए, पहले उनका दूसरा सवाल पूरा हो जाए ...(व्यवधान) वैसे आपका दूसरा सवाल हो चुका है...(व्यवधान)।

प्रश्न संख्या - 245 (क्रमागत)

श्री गंगा चरण: सर, अभी तो मेरे पहले सवाल का ही उत्तर नहीं आया है।

श्री सभापति: आपके दो सवाल हो गए, अब आप बैठ जाइए ...(व्यवधान)
प्लीज़, प्लीज़ ...(व्यवधान)

श्री गंगा चरण: सर, मेरा सैकेंड सप्लीमेंट्री भी है ...(व्यवधान) चलिए, आपने स्वीकार कर लिया कि आपने 7266 करोड़ रुपये का ...(व्यवधान)

श्री सभापति: देखिए, यह डिस्कशन नहीं है ...(व्यवधान)

श्री गंगा चरण: सर, मैं डिस्कशन नहीं कर रहा ...(व्यवधान) आपने स्वीकार कर लिया कि हमने 2400 करोड़ रुपये का स्पेशल पैकेज दिया, 7266 करोड़ रुपये नहीं दिया ...(व्यवधान)

श्री अश्विनी कुमार: 7266 करोड़ रुपये का ही पैकेज है...(व्यवधान)।

श्री गंगा चरण: लेकिन मैं प्रधान मंत्री जी से पूछना चाहता हूं कि बुंदेलखंड की भयावह स्थिति, गरीबी, भूख, बदहाली, बेरोजगारी ...(व्यवधान)

श्री सभापति: देखिए, आप लोग इस सवाल में बहुत समय लगा रहे हैं
...(व्यवधान)

श्री गंगा चरण: सर, मैं प्रधान मंत्री जी से जानना चाहता हूं कि बुंदेलखंड में उद्योगों को लगाने के लिए, प्रोत्साहन देने के लिए केन्द्रीय सरकार Central excise duty and income-tax में जैसे नये राज्यों को छूट देती है, क्या बुंदेलखंड को भी वैसी ही छूट देकर डेवलप करने का प्रयास करेगी?

प्रश्न संख्या - 245 (क्रमागत)

श्री विक्रम वर्मा: भारत सरकार सिर्फ राजनैतिक घोषणाएं करती है।

MR. CHAIRMAN: One minute, please. (Interruptions)... ज़रा एक मिनट बैठ जाइए ...(व्यवधान) देखिए, ज़रा एक मिनट बात सुन लीजिए ... (व्यवधान)

श्री रघुनन्दन शर्मा: सर, उत्तर प्रदेश को एक भी पैसा नहीं दिया।

श्री सभापति: एक मिनट, पहले मेरी बात सुन लीजिए ...(व्यवधान) Please, one minute. (Interruptions)... आप बैठ जाइए ...(व्यवधान) Hon. Members, please. (Interruptions)... बैठ जाइए ...(व्यवधान) अगर आप लोगों को सवालों का जवाब चाहिए तो खामोशी से जवाब सुनना होगा। अगर जवाब में गलती है, तो आप लिखित में उस पर सरकार की तवज्जोह दिलाइए, मगर आप जवाब सुन नहीं रहे हैं, इससे क्या फायदा होगा। इससे कुछ नहीं होगा। श्री चतुर्वेदी, प्लीज़ ...(व्यवधान)

श्री विक्रम वर्मा: सर, हमें सवाल पूछने तो दीजिए।

श्री सभापति: नहीं इस सवाल में आपने बहुत समय ले लिया, अब इससे ज्यादा और समय नहीं ...(व्यवधान) The House is adjourned till 12.00 hours.

**The House then adjourned at fifty-four minutes
past eleven of the clock.**

**The House reassembled at twelve of the clock,
MR. CHAIRMAN in the Chair**

**RE. UNSTARRED QUESTION NO. 585 ANSWERED ON 4TH
AUGUST, 2011**

**THE MINISTER OF STATE IN THE MINISTRY OF PERSONNEL,
PUBLIC GRIEVANCES AND PENSIONS AND MINISTER OF STATE
IN THE PRIME MINISTER'S OFFICE (SHRI V. NARAYANASAMY):**

Sir, I lay on the Table, a Statement (in English and Hindi) correcting the answer to Unstarred Question No.585 given in the Rajya Sabha on the 4th August, 2011, regarding “S-band Devas Deal”.

(Ends)

PAPERS LAID ON THE TABLE

SHRI V. KISHORE CHANDRA DEO: Sir, I lay on the Table—

I.(1) A copy each (in English and Hindi) of the following papers, under sub-section (1) of Section 619 A of the Companies Act, 1956:—

- (a) Ninth Annual Report and Accounts of the National Scheduled Tribes Finance and Development Corporation (NSTFDC), for the year 2009-10, together with the Auditor's Report on the Accounts and the comments of the Comptroller and Auditor General of India thereon.
- (b) Review by Government on the working of the above Corporation.

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(2) Statement (in English and Hindi) giving reasons for the delay in laying the papers mentioned at (1) above.

SHRIMATI KRISHNA TIRATH: Sir, I lay on the Table, a copy each (in English and Hindi) of the following papers:—

- (a) Annual Report and Accounts of the Rashtriya Mahila Kosh (RMK), for the year 2009-10, together with the Auditor's Report on the Accounts.
- (b) Statement by Government accepting the above Report.
- (c) Statement giving reasons for the delay in laying the papers mentioned at (a) above.

SHRI PABAN SINGH GHATOWAR: Sir, I lay on the Table, a copy each (in English and Hindi) of the following papers:—

- (i) Memorandum of Understanding between the Government of India (Ministry of Development of North Eastern Region) and the North Eastern Regional Agricultural Marketing Corporation Limited (NERAMAC), for the year 2010-11.
- (ii) Memorandum of Understanding between the Government of India (Ministry of Development of North Eastern Region) and the North Eastern Regional Agricultural Marketing Corporation Limited (NERAMAC), for the year 2011-12.
- (iii) Memorandum of Understanding between the Government of India (Ministry of Development of North Eastern Region) and the North Eastern Handicrafts and Handlooms Development Corporation Limited (NEHHDC), for the year 2011-12.

SHRI V. NARAYANASAMY: Sir, I lay on the Table, a copy each (in English and Hindi) of the following Notifications of the Ministry of

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Personnel, Public Grievances and Pensions (Department of Personnel and Training) :—

- (1) G.S.R. 442 (E), dated the 9th June, 2011, making amendment to the Second Schedule of the Right to Information Act, 2005, under sub-section (3) of Section 24 of the Right to information Act, 2005.
- (2) G.S.R. 472 (E) , dated the 21st June, 2011, publishing the Union Public Service Commission (Exemption from Consultation) Amendment Regulations, 2011, under clause (5) of article 320 of the Constitution of India.

SHRI JITIN PRASADA: Sir, I lay on the Table, a copy each (in English and Hindi) of the following Notifications of the Ministry of Road Transport and Highways, under Section 10 of the National Highways Act, 1956:—

- (1) S.O. 1216 (E), dated the 24th May, 2010, regarding rate of fee to be recovered from the users of the Aroor Kumbalam and Kumbalam Panangad bridges on National Highway No. 47 in the State of Kerala.
- (2) S.O. 1693 (E), dated the 19th July, 2010, amending Notification No. S.O. 2224 (E), dated the 18th September, 2008, to substitute certain entries in the original Notification.
- (3) S.O. 2112 (E), dated the 30th August, 2010, amending Notification No. S.O. 2646 (E), dated the 21st October, 2009, to substitute certain entries in the original Notification.
- (4) S.O. 2367 (E), dated the 30th September, 2010, regarding acquisition of land, with or without structure, from K.M. 0.000 to

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K.M.81.600 (Tiruttani-Chennai Section) on National Highway No. 205 in Tiruvallur District in the State of Tamil Nadu.

- (5) S.O. 2582 (E), dated the 18th October, 2010, regarding acquisition of land, with or without structure, from K.M. 270.000 to K.M. 332.600 (Mannuthy-Aluva Section) on National Highway No. 47 in Thrissur and Ernakulam Districts in the State of Kerala.
- (6) S.O. 2630 (E), dated the 25th October, 2010, regarding acquisition of land, with or without structure, from K.M. 180.000 to K.M. 182.000 (Kannur Section) on National Highway No. 17 in Kannur District in the State of Kerala.
- (7) S.O. 2637 (E), dated the 25th October, 2010, regarding acquisition of land, with or without structure, from K.M. 0.000 to K.M.81.600 (Tiruttani-Chennai Section) on National Highway No.205 in Tiruvallur District in the State of Tamil Nadu.
- (8) S.O. 2664 (E), dated the 28th October, 2010, regarding acquisition of land, with or without structure, from K.M. 171.200 to K.M. 185.960 on National Highway No. 17 in Kannur District in the State of Kerala.
- (9) S.O. 2703 (E), dated the 2nd November, 2010, regarding acquisition of land, with or without structure, from K.M. 171.200 to K.M. 185.960 on National Highway No. 17 in Kannur District in the State of Kerala.
- (10) S.O. 2739 (E), dated the 8th November, 2010, regarding acquisition of land, with or without structure, from K.M. 75.200 to K.M. 94.000 (Tiruchirapalli-Karaikudi Section) on National Highway No. 210 in Sivaganga

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District in the State of Tamil Nadu.

- (11) S.O. 2802 (E), dated the 18th November, 2010, regarding acquisition of land, with or without structure, from K.M. 239.000 to K.M. 282.000 (Sambalpur-Raipur Section) on National Highway No. 6 in Raipur District in the State of Chhattisgarh.
- (12) S.O.2828(E), dated the 24th November, 2010, regarding acquisition of land, with or without structure, from K.M.10.400 to K.M.56.630 (Madurai-Ramanathapuram-Rameshwaram-Dhanuskodi Section) on National Highway No. 49 in Sivaganga District in the State of Tamil Nadu.
- (13) S.O. 2829(E), dated the 24th November, 2010, regarding acquisition of land, with or without structure, from K.M.56.630 to K.M.190.550 (Madurai-Ramanathapuram-Rameshwaram-Dhanuskodi Section) on National Highway No. 49 in Ramanathapuram District in the State of Tamil Nadu.
- (14) S.O. 2832 (E), dated the 24th November, 2010, regarding acquisition of land, with or without structure, from K.M. 65.420 to K.M. 77.900 (Raipur-Bilaspur Section) on National Highway No. 200 (New NH-130) in Durg District in the State of Chhattisgarh.
- (15) S.O. 2833 (E), dated the 24th November, 2010, regarding acquisition of land, with or without structure, from K.M. 77.900 to K.M. 126.000 (Raipur-Bilaspur Section) on National Highway No. 200 (New NH-130) in Bilaspur District in the State of Chhattisgarh.
- (16) S.O. 2920 (E), dated the 9th December 2010, regarding acquisition of land, with or without structure, from K.M. 365.600

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to K.M. 387.100 (Panipat-Jalandhar Section) on National Highway No. 1 in Jalandhar District in the State of Punjab.

- (17) S.O. 2923 (E), dated the 10th December 2010, regarding acquisition of land, with or without structure, from K.M. 39.965 to K.M. 41.945 (Zirakpur-Parwanoo) Section) on National Highway No. 22 in Sahibjada Ajit Singh Nagar District in the State of Punjab.
- (18) S.O. 2953 (E), dated the 15th December, 2010, regarding acquisition of land, with or without structure, from K.M. 33.412 to K.M. 93.000 (Athipalli-Krishnagiri Section) on National Highway No. 7 in Krishnagiri District in the State of Tamil Nadu.
- (19) S.O. 203 (E), dated the 1st February, 2011, regarding acquisition of land, with or without structure, from K.M. 0.000 to K.M.17.000 (Nagapattinam-Thanjavur Section) on National Highway No. 67 in Anandapettai village, Nagapattinam Taluk of Nagapattinam District in the State of Tamil Nadu.
- (20) S.O. 204 (E), dated the 1st February, 2011, regarding acquisition of land, with or without structure, from K.M. 0.000 to K.M.17.000 (Nagapattinam-Thanjavur Section) on National Highway No. 67 in Themangalam village, Nagapattinam Taluk of Nagapattinam District in the State of Tamil Nadu.
- (21) S.O. 333 (E), dated the 14th February, 2011, regarding appointment of competent authority for acquisition of land on National Highway No. 75 in Satna District in the State of Madhya Pradesh, along with delay statement.
- (22) S.O. 335 (E), dated the 14th February, 2011, regarding acquisition of land, with or without structure, from K.M. 116.000 to K.M. 312.400 on National Highway No. 200 in

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Bilaspur District in the State of Madhya Pradesh, along with delay statement.

- (23) S.O. 336 (E), dated the 14th February, 2011, regarding acquisition of land, with or without structure, from K.M. 70.000 to K.M. 149.000 on National Highway No. 75 in Chattarpur District in the State of Madhya Pradesh, along with delay statement.
- (24) S.O. 414 (E), dated the 23rd February, 2011, regarding appointment of competent authority for acquisition of land on National Highway No. 12 in Bhopal District in the State of Madhya Pradesh, along with delay statement.
- (25) S.O. 506 (E), dated the 11th March, 2011, regarding appointment of competent authority for acquisition of land on National Highway No. 92 in Gwalior District in the State of Madhya Pradesh, along with delay statement.
- (26) S.O. 1184 (E), dated the 26th May, 2011, regarding acquisition of land, with or without structure, from K.M. 506.000 to K.M. 546.400 on National Highway No. 7 in Seoni District in the State of Madhya Pradesh.
- (27) S.O. 1200 (E), dated the 26th May, 2011, regarding acquisition of land, with or without structure, from K.M. 221.000 to K.M. 295.620 (Bareilly — Bhopal Section) on National Highway No. 12 in Raisen District in the State of Madhya Pradesh.
- (28) S.O. 1219 (E), dated the 27th May, 2011, regarding appointment of competent authority for acquisition of land on National Highway No. 7 in Rewa District in the State of Madhya Pradesh.
- (29) S.O. 1246 (E), dated the 31st May, 2011, regarding

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acquisition of land, with or without structure, from K.M. 1.60 to K.M. 67.000 (Biaora-MP/Rajasthan Border Section) on National Highway No. 12 in Rajgarh Tehsil of Rajgarh District in the State of Madhya Pradesh.

(30) S.O. 1247 (E), dated the 31st May, 2011, regarding acquisition of land, with or without structure, from K.M. 1.600 to K.M. 67.000 (Biaora-MP/Rajasthan Border Section) on National Highway No. 12 in Khilchipur Tehsil in Rajgarh District in the State of Madhya Pradesh.

(31) S.O. 1358 (E), dated the 13th June, 2011, regarding acquisition of land, with or without structure, from K.M. 10.250 to K.M. 19.500 (Jhansi-Lakhnadon Section) on National Highway No. 26 in Tikamgarh District in the State of Madhya Pradesh.

(32) S.O. 1562 (E), dated the 8th July, 2011, regarding appointment of competent authority for acquisition of land, from K.M. 77.000 to K.M.80.600 (Balasore-Baripada-Jharpokharia Section) on National Highway No. 5 in Balasore District in the State of Orissa.

(33) S.O. 1667 (E), dated the 21st July, 2011, regarding appointment of competent authority for acquisition of land on National Highway No. 27 in Rewa District in the State of Madhya Pradesh.

SHRI MUKUL ROY: Sir, I lay on the Table, under Section 38 of Inland Waterways Authority of India Act, 1985, a copy (in English and Hindi) of the Ministry of Shipping Notification No. IWAI/Cargo/184/2009, dated the 16th July-22nd July, 2011, publishing the Inland Waterways Authority of India (Levy and collection of fees and charges) Regulations, 2011.

SHRI TUSHARBHAI CHAUDHARY: Sir, I lay on the Table—

I. A copy each (in English and Hindi) of the following Notifications of the Ministry of Road Transport and Highways, under sub-section (3) of Section 20 of the Carriage by Road Act, 2007:—

- (1) G.S.R. 176 (E), dated the 1st March, 2011, publishing the Carriage by Road Rules, 2011, along with delay statement and an Explanatory Memorandum.
- (2) G.S.R. 205 (E), dated the 10th March, 2011, publishing the Corrigendum to Notification No. G.S.R. 176 (E), dated the 28th February, 2011, along with delay statement.

II. A copy (in English and Hindi) of the Ministry of Road Transport and Highways Notification No. G.S.R. 367 (E), dated the 9th May, 2011, publishing the Motor Vehicles (All India Permit for Tourist Transport Operators) Amendment Rules, 2011, under sub-section (4) of Section 212 of the Motor Vehicles Act, 1988, along with an Explanatory Memorandum on the Notification.

(Ends)

**REPORTS OF THE DEPARTMENT RELATED PARLIAMENTARY
STANDING COMMITTEE ON RURAL DEVELOPMENT**

डा. राम प्रकाश (हरियाणा): महोदय, मैं विभाग सम्बन्धित ग्रामीण विकास सम्बन्धी संसदीय स्थायी समिति (2010-11) के निम्नलिखित प्रतिवेदनों की एक-एक प्रति (अंग्रेजी तथा हिन्दी में) सभा पटल पर रखता हूँ:-

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- (i) ग्रामीण विकास मंत्रालय (पेयजल और स्वच्छता विभाग) की 'अनुदान माँगें (2011-12)' के सम्बन्ध में उन्नीसवाँ प्रतिवेदन;
और
- (ii) ग्रामीण विकास मंत्रालय (ग्रामीण विकास विभाग) की 'अनुदान माँगें (2011-12)' के सम्बन्ध में बीसवाँ प्रतिवेदन।

(समाप्त)

**STATEMENT RE. IMPLEMENTATION OF TWENTY-EIGHTH
REPORT OF THE DEPARTMENT-RELATED PARLIAMENTARY
STANDING COMMITTEE ON FINANCE**

THE MINISTER OF STATE IN THE MINISTRY OF PLANNING (SHRI ASHWANI KUMAR): Sir, I make a statement regarding Status of implementation of recommendations contained in the Twenty-eighth Report of the Department-related Parliamentary Standing Committee on Finance on the Demands for Grants (2010-11) of the Ministry of Planning.

(Ends)

LEAVE OF ABSENCE

MR. CHAIRMAN: I have to inform the Members that three letters have been received from Shri P.R. Rajan stating that he is under medical treatment. He has, therefore, requested for grant of leave of absence

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from 1st to 19th August, 2011 of the current 223rd Session of the Rajya Sabha.

Does he have the permission of the House for remaining absent from 1st to 19th August, 2011 of the current Session of the Rajya Sabha?

(No hon. Member dissented)

MR. CHAIRMAN: Permission to remain absent is granted.

(Ends)

FAREWELL TO RETIRING MEMBERS

MR. CHAIRMAN: Hon. Members, on the completion of the term of office, some of our colleagues from the States of Gujarat and West Bengal are retiring today, the 18th of August, 2011. I am glad that Shri Ahmed Patel and Shri Sitaram Yechury have already been reelected.

On behalf of the whole House and on my own behalf, I bid farewell to the retiring Members, namely, Shri Surendra Motilal Patel, Shri Pravin Naik, Shri Abani Roy, Shrimati Brinda Karat, Shri Swapan Sadhan Bose and Shri Mohammed Amin.

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The retiring Members have made valuable contributions to the proceedings of the House on many memorable occasions. I am sure they will cherish the memory of their association with this august House.

I wish them good health, happiness and success in every sphere of life. The House shall ever remember their association.

Now the retiring Members may wish to say a few words as per our traditional practice.

(Followed by 1N)

-PSV/VNK-RG/1n/12:05

श्री अवनि राय) पश्चिमी बंगाल : (माननीय सभापति महोदय और साथ देने वाले सांसदों, मैंने इस सभा में इतने दिनों तक देश की समस्याओं को सामने रखने की कोशिश की। आप चाहे इसे उपदेश कहिए या सचेत करना कहिए, मैंने सरकार को कभी-कभी सचेत किया कि उसे कैसे चलना चाहिए या उसे कैसा होना चाहिए। देश में जो समस्याएं हैं, उनमें संसद की खास भूमिकाएं हैं। हमने इन भूमिकाओं के बारे में भी बात की। संसद में अपने इन 13 सालों के राजनीतिक जीवन में हमने संसद की गरिमा को बनाए रखने की कोशिश की।

इसके साथ-साथ, मैं यह भी कहूंगा कि हमारे देश में फिलहाल जो position चल रही है, उसमें पिछले कई सालों से एक प्रयास जारी है कि हम

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जनवादी व्यवस्था को कैसे खत्म करें ? मैं आप सबसे अनुरोध करता हूँ कि भारत की जनवादी व्यवस्था को खत्म करने के लिए बहुत दिनों से जो प्रयास हो रहे हैं , उनमें संसद के बारे में , सांसदों के बारे में , हमारे देश की नीतियों के बारे में जो चीज़ सबसे ऊपर उभर कर आई है , वह है भ्रष्टाचार। जनवादी व्यवस्था में हमारे तीन स्तंभ हैं। जितना संभव हो सके , हमें हर स्तम्भ को साथ लेकर चलना चाहिए , नहीं तो हम भ्रष्टाचार को कम नहीं कर पाएंगे। हम भ्रष्टाचार को अभी खत्म करने की बात नहीं कहेंगे , क्योंकि इसकी जड़ इतनी फैल गई है कि आज यह समाज के अंदर भी चली गई है। इन सबको खत्म करने के लिए जनवादी व्यवस्था को ठीक से कायम करके हमें ऐसे कदम उठाने चाहिए कि कोई संसद या सांसदों पर कभी भी कहीं पर कोई टिप्पणी न कर पाए।

जाते वक्त मैं इतना ही कहूंगा कि कभी-कभी जब चर्चा होती है , तो हम किसी न किसी पर व्यक्तिगत या राजनीतिक रूप से आक्रमण करते हैं। अगर हम ऐसा न करके एक ठोस कार्यक्रम दें , तो उससे हम देश की जनता को सुविधाएं दे सकते हैं , उनका साथ दे सकते हैं और साथ ही साथ हम देश को आगे ले जा सकते हैं।

महोदय , मैं माननीय प्रधान मंत्री जी से यह दरखास्त करूंगा कि देश को चलाने के लिए आपने जो जिम्मेदारी ली है , उस जिम्मेदारी को अपने हाथों में लेकर आप देश को आगे बढ़ाएं। भारत एक ऐसा देश है , जो एक समय सबसे ऊपर था और आज हम सबसे नीचे जा रहे हैं। क्यों न हम सब मिल कर कोशिश

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करें। चाहे वह पक्ष हो या विपक्ष ,हम देश को आगे बढ़ाने के लिए सबको साथ लेकर चलें। देश की जनता भुखमरी से मर रही है ,महंगाई से त्रस्त है और देश में बेरोजगारी तथा अशिक्षा की समस्या है ,तो क्यों न हम इन समस्याओं को दूर करके भारत को ऊंची जगह पर ले जाएं और आगे बढ़ाएं। मैं माननीय प्रधान मंत्री से यह दरखास्त करूंगा कि यह जिम्मेदारी आपके पास है ,इसलिए आप इसको जरूर आगे बढ़ाएंगे। यह आशा करते हुए ,संसद के सभी सदस्यों को हमारी तरफ से नमस्कार! अगर इन 13-12 सालों में हमसे व्यक्तिगत रूप से कोई गलती हुई हो ,तो उसके लिए मैं क्षमा चाहता हूँ। हम संसद में रहें या बाहर रहें , राजनीतिक लड़ाई तो होती रहेगी ,लेकिन पार्टी की जो राजनीतिक इच्छा है , उसको हम आगे बढ़ाएंगे। आप सभी को हार्दिक शुभकामना देते हुए मैं इतना ही कहूंगा कि आप सब देश के लिए एक साथ होकर आगे चलिए और देश को आगे बढ़ाइए। धन्यवाद।

)समाप्त(

)10/डी.एस .पर आगे _____ (

10/12.10/DS-KS

श्री सुरेन्द्र मोतीलाल पटेल (गुजरात): सभापति जी, मैं आभार मानता हूँ कि आप सब ने मुझे सहकार दिया। यहाँ आने के पहले मैं अर्बन डेवलपमेंट अथॉरिटी का चेयरमैन था। मुझे नरेन्द्र भाई ने बताया कि अर्बन में बहुत काम करना है, इसलिए आप संसद में जाइए, क्योंकि वहाँ की जानकारी के माध्यम से आप यहाँ

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बहुत काम कर सकते हैं। यहाँ आने के बाद हमें बहुत जानकारी मिली और उस जानकारी के आधार पर हमने अहमदाबाद के अर्बन एरियाज़ में कई प्रोजेक्ट्स चलाए, जो एक जगह नहीं, सभी जगह सक्सेसफुल हुए। इसी प्रकार, हमने बाकी के भी कई प्रोजेक्ट्स सक्सेसफुल कर दिए। यहाँ मुझे बहुत जानकारी मिली और बहुत सहकार मिला।

वैसे ही शिक्षा के क्षेत्र में भी मैं एक यूनिवर्सिटी का प्रेजिडेंट हूँ और यहाँ से मुझे यूनिवर्सिटी की शिक्षा के क्षेत्र में काम करने की भी बहुत प्रेरणा मिली और आशा है कि आगे भी मुझे ऐसा सहकार मिलेगा। आप सभी लोगों ने मुझे सहकार दिया, इसलिए मैं आप सब का आभारी हूँ। धन्यवाद।

(समाप्त)

SHRIMATI BRINDA KARAT (WEST BENGAL): Sir, I rise to bid farewell to this august House where I have served for the last six years.

I wish to express my deep appreciation to you, the Chairman of this House, to the Deputy Chairman, to the Rajya Sabha Secretariat, the Secretary-General and, of course, all the staff who make our work so much easier.

Sir, as a young woman -- I am not going to go into my autobiography; I know I have limited time -- I was inspired by the

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Marxist ideology and the thought that, hitherto, philosophers have only interpreted the world, but the point, however, is to change it. Inspired by this sermon when I was just 22 years old, I joined my Party. I am now 64. So, it is 42 years in politics for me in different fields, in trade unions, with women's movements and, I must say, in these 42 years, this six year period as a Member of Parliament, as it is for all of us, has been quite unique. These six years have been eventful and educative and I certainly hope to take with me the lessons learnt in this august House -- some good; some perhaps not so good; but certainly lessons — for my work outside this House.

I was also very happy, Sir, to be here in this House when the Women's Reservation Bill, a historic Bill, was passed. There is a belief that women's movements are pitted against men. But I think that was an occasion when the whole country saw that for women's movements to go forward, for gender equality and emancipation to be established, we do need the support of thoughtful and sensitive men. And, I am so glad, Sir, that this House expressed that sensitivity by passing the Bill. I thank you all for that. I believe that there should

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not be any further delay in bringing that Bill to the Lok Sabha so that it can be enacted as law.

Sir, I was also very glad to be associated at the time with a negotiating team set up by my Party to discuss with the Government various provisions of the Rural Employment Guarantee Bill, which later became an Act and also for the Forest Rights Act. I believe that Parliament is the strongest and at its best when we enact laws which reflect the needs and requirements of the poor, the working poor of this country because, after all, as parliamentarians, it is our privilege to be here to serve the people and we do that in a spirit, not of patronage or charity, but of recognizing the entitlements of the mass of people of this country. I think that bringing such enactments that provide a share to the poor in the resources of this country as an entitlement, as a right, is something which we have to assert again and again.

I say farewell at a time when questions of democracy and the role of Parliament are being discussed with unusual intensity all through the country. Yesterday, we had a discussion on it. I do not want to labour any further on those points. But, today, I believe,

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more than ever, when social and economic inequalities give rise to the danger of India regressing from a democracy to a plutocracy, it is all the more required to remember the words of the founder of the Indian Constitution, Dr. Babasaheb Ambedkar, who had warned that political democracy is in perpetual conflict and contradiction with economic inequalities.

(contd. by 1p/kgg)

Kgg/hms/1p/12.15

SHRIMATI BRINDA KARAT (CONTD.): Unless the contradiction is resolved by removing the economic inequalities, the edifice of political democracy itself will be in peril. I am sure that we as representatives of the people, and you as the representative of the people, will always keep this as a centrality in political agenda.

I thank all of you at my personal level. I have found so many friendships across the party-lines, Sir. I thank you for your warmth and the cordial relations.

अभी वो दिदा वो दिल की घड़ी नहीं आयी।

चले चलो कि वह मंजिल अभी नहीं आयी।

(Ends)

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SHRI SWAPAN SADHAN BOSE (WEST BENGAL): Sir, thank you. I thank you esteemed colleagues for the cooperation and help you have given me during my six years' tenure here. I have been given 3 minutes' time. But, today, I will become a friend of Panyji. Then, I would get six minutes' time. This I would teach to my son who will come tomorrow. (* **The hon. Member spoke in Bengali**)

This was just a little humour at a time when I am leaving. Since Mr. Prime Minister is here, I am going to say something, and nothing about me. I cannot say I am fat and all that. The Planning Commission and the Prime Minister and everything else are the assets of this country. I think, my children are my main assets. Accordingly, the children of this country are the assets of this country. In this, I have a small finding. I would not read all of that. The effective literacy rate in the Census 2001 was 64.83 per cent which improved to 74.04 as per the Census 2011. Now, the average level of education is also in progress. But, as per a finding, as the Vice-President of the country released in January, 2011, it is well above 96 per cent. But, the big news is, there is no change in children's ability to read or do mathematics. The survey has found that only 53 per cent children in

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Class-V can read a Class-II level text and even worse. There has been a decline in their ability to do basic mathematics. In Class-V, only 36 per cent students can do simple division; a 2 per cent drop in numbers as compared to 2009. I would not go into more details because I will have to follow your stricture. But, I have a small thing to say. There is one District Primary Education Programme and there is Sarva Shiksha Abhiyan, which are too bureaucratic, Mr. Prime Minister.

We have now, a very, very learned Education Minister, Mr. Kapil Sibal. I know him because once he pleaded my Mohan Bagan Club case. Being an advocate, I admire; Mr. Jethmalani, you also have fought for my Club. But, with Mr. Kapil Sibal as Education Minister, and Mr. Manmohan Singh as Prime Minister, I expect that this bureaucratic procedure in the education system is minimized. Why not an SEZ coming to do business? Why not a special education zone created? I am an NRI. I run a radio station in Dubai. I have seen in a desert place how education is given the topmost priority, as a special zone. Mr. Prime Minister, it is high time that our children's welfare is taken up.

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I have the last word. I just now told the Leader of the Opposition, Shri Arun Jaitley, about two States—Karnataka and Andhra Pradesh; one is run by the BJP Government and another by the Congress Government. In Bangalore and Hyderabad, an NGO is running mid-day meals scheme. What an excellent mid-day meal it is! Rs.3 is given by the Government; actually it spends just one-and-a-half rupees.

(Contd. By tdb/1q)

TDB-NB/1Q/12.20

SHRI SWAPAN SADHAN BOSE (CONTD.): One-and-a-half rupee goes to the contractor, the system, bureaucrats. In this NGO, they give three rupees, and six rupees are collected. The money comes from Clinton Fund. All the Indian businessmen have now learnt one word, 'give'. Quietly they do. People who publicize, they do not give. There are very big industrialists and big businessmen who have learnt the word, 'give'. I know some people who, in their will, have given 50 per cent to charity and 25 or 50 per cent to their family.

Sir, coming back to that point, why should we not improve the system of mid-day meal? We talked about fast food; we talked about

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fat boys. No; mid-day meal is the solution for nutrition. With the cooperation of BJP, the CPM and everyone, education should be promoted. I am saying this because everyone has got children. During this tenure, the hon. Prime Minister should complete his dream of bringing India to the top by nourishing the children. Thank you ladies and gentlemen.

(Ends)

श्री मोहम्मद अमीन (पश्चिमी बंगाल) : सभापति जी, मैं आपका शुक्रगुज़ार हूँ कि इस हाउस में मुझे अपनी बातें कहने का मौका मिला और इतने ज़माने से जो कुछ मैं कहना चाहता था, उसे कहने में मैं कामयाब हुआ। अपनी बातें यहां रखते हुए मैंने उर्दू शैरो-शायरी का सहारा लिया और आज जब मैं रिटायर हो रहा हूँ, मेरे दिल में जो अहसास हो रहा है, उस पर मैं आपको आज भी एक शेर सुनाना चाहता हूँ -

"ये कैसा वक्त मुझ पर आ गया है,

सफर बाकी है और घर आ गया है।"

सर, यह सफर जारी रहेगा, इस हाउस में नहीं, इस हाउस के बाहर मैं जिस काम में लगा हुआ हूँ, उस काम में लगा रहूंगा और ज़िंदगी की आखिरी सांस तक लगा रहूंगा। मैं समझता हूँ कि हमारे देश की जो हालत है, उसको बदलने में, उसको बेहतर बनाने में तमाम लोगों के तआवुन की ज़रूरत है।

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इस दौरान मैंने इस बात की कोशिश की कि अपनी बात भी कहूं, दूसरों की बात भी सुनूं और मैंने इससे बहुत कुछ सीखा। मैंने कभी भी किसी के बोलने पर कोई रुकावट नहीं डाली, न शोरगुल मचाया। मैं चुपचाप अपनी जगह पर बैठा रहता था। इससे मैंने सीखा है और सबकी बातों से सीखा है, इससे मुझे बड़ा फायदा भी हुआ है। मैं समझता हूं कि पार्लियामेंटरी डेमोक्रेसी का यही तरीका, माकूल तरीका है कि आप अपनी बात भी कहें, दूसरों की बात भी सुनें और फिर जो फैसला हो, सब मिलकर उस पर अमल करें।

इस वक्त देश में दो मसले सबसे संगीन हैं - एक है महंगाई और बेरोजगारी का और दूसरा है करप्शन का। देश का भला चाहने वाले तमाम लोग तहेदिल से यह चाहते हैं कि ये हालात ठीक हों, लेकिन मेरी समझ यही है कि जब तक देश पूंजीवाद के रास्ते पर चलेगा, तब तक यह मसला हल होने वाला नहीं है। इसको बदलने के लिए आपको सोशलिस्ट रास्ता अख्तियार करना पड़ेगा और आज नहीं तो कल सारे देश को इसी नतीजे पर आना है।

सभापति जी, मैं एक बात और कहना चाहता हूं कि मेरी सदस्यता के दौरान मैंने बहुत से बीमार लोगों के इलाज के लिए प्रधान मंत्री जी के फंड से पैसे की सिफारिश की थी और मैं इस बात के लिए प्रधान मंत्री जी का शुक्रिया अदा करना चाहता हूं कि उन्होंने सभी केसेज में पैसा दिया - 25,000 रुपए, 50,000 रुपए, 40,000 रुपए और सभी लोग भले-चंगे हो गए तथा वे सरकार को दुआ दे रहे हैं। मेरी यह गुजारिश है कि रिटायर होने के बाद भी अगर इस किस्म का

کوئی موسیبت‌زدہ کےس ہمارے پاس آئے، تو جو Ex MPs ہیں، انکی سفارشیوں پر سرکار دھیان دے اور انکی یہ مدد جاری رہے۔ اسسے دےش کا بہت ہلا ہوگا۔ ایتنی بات کھکر اور آک شےر سوناکر میں اپنی بات ختم کرنا چاہتا ہوں کف -

"ہم رہیں یا ن رہیں، یہ چمن آبااد رہے۔

کارواں چلتا رہے، ایتنا فکرت یاد رہے۔"

(سماپت)

جناب محمد امین (مغربی بنگال) (Mohammad Amin) : سبھا پتی جی، میں آپ کا شکرگزار ہوں کہ اس ہاؤس میں مجھے اپنی باتیں کہنے کا موقع ملا اور اتنے زمانے میں جو کچھ میں کہنا چاہتا تھا، اسے کہنے میں کامیاب ہوا۔ اپنی باتیں یہاں رکھتے ہوئے میں نے اردو شعر و شاعری کا سہارا لیا اور آج جب میں ریٹائر ہو رہا ہوں، میرے دل میں جو احساس ہو رہا ہے، اس پر میں آپ کو آج بھی ایک شعر سنانا چاہتا ہوں۔

یہ کیسا وقت مجھ پر آ گیا ہے

سفر باقی ہے اور گھر آ گیا ہے

سر، یہ سفر جاری رہے گا، اس ہاؤس میں نہیں، اس ہاؤس کے باہر میں جس کام میں لگا ہوا ہوں، اس کام میں لگا رہوں گا اور زندگی کی آخری سانس تک لگا رہوں گا۔ میں سمجھتا ہوں کہ ہمارے دیش کی جو حالت ہے، اس کو بدلنے میں، اس کو بہتر بنانے میں تمام لوگوں کے تعاون کی ضرورت ہے۔

اس دوران میں نے اس بات کی کوشش کی کہ اپنی بات بھی کہوں، دوسروں کی بات بھی سنوں اور میں نے اس سے بہت کچھ سیکھا۔ میں نے کبھی بھی کسی کے بولنے پر کوئی رکاوٹ نہیں ڈالی، نہ شور و غل مچایا۔ میں چپ چاپ اپنی جگہ پر بیٹھا رہتا تھا۔ اس سے میں نے سیکھا ہے اور سب باتوں سے سیکھا ہے، اس سے مجھے بڑا فائدہ بھی ہوا ہے۔ میں

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سمجھتا ہوں کہ پارلیمنٹری ڈیموکریسی کا یہی طریقہ، معقول طریقہ ہے کہ آپ اپنی بات کہیں، دوسروں کی بات بھی سنیں اور پھر جو فیصلہ ہو، سب مل کر اس پر عمل کریں۔

اس وقت دیش میں دو مسئلے سب سے سنگین ہیں، ایک ہے مہنگائی اور بے روزگاری کا اور دوسرا ہے کرپشن کا۔ دیش کا بھلا چاہنے والے تمام لوگ تہہ دل سے یہ چاہتے ہیں کہ حالات ٹھیک ہوں، لیکن میری سمجھ یہی ہے کہ جب تک دیش پونجی واد کے راستے پر چلے گا، تب تک یہ مسئلہ حل ہونے والا نہیں ہے۔ اس کو بدلنے کے لئے آپ کو سوشلسٹ راستہ اختیار کرنا پڑے گا اور آج نہیں تو کل سارے دیش کو اسی نتیجے پر آنا ہے۔

سبھا پتی جی، میں ایک بات اور کہنا چاہتا ہوں کہ میری سدسینٹہ کے دوران میں نے بہت سے بیمار لوگوں کے علاج کے لئے پردھان منتری جی کے فنڈ سے پیسے کی سفارش کی تھی اور میں اس بات کے لئے پردھان منتری جی کا شکریہ ادا کرنا چاہتا ہوں کہ انہوں نے سبھی کیسیز میں پیسہ دیا، 25,000 روپے، 50,000 روپے، 40,000 روپے اور سبھی لوگ بھلے چنگے ہو گئے اور وہ سرکار کو دعا دے رہے ہیں۔ میری یہ گزارش ہے کہ ریٹائر ہونے کے بعد بھی اگر اس قسم کا کوئی مصیبت زدہ کیس ہمارے پاس آئے، تو جو ایکس ایم پی۔ ہیں، ان کی سفارشوں پر سرکار دھیان دے اور انکی یہ مدد جاری رہے۔ اس سے دیش کا بہت بھلا ہوگا۔ اتنی بات کہہ کر اور ایک شعر سنا کر میں اپنی بات ختم کرنا چاہتا ہوں کہ

ہم رہیں یا نہ رہیں، یہ چمن آباد رہے

کارواں چلتا رہے، اتنا فقط یاد رہے

(ختم شد)

(Followed By 1R/KLS)

(Mr. Deputy Chairman in the Chair)

BILLS INTRODUCED

The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Bill, 2011

THE MINISTER OF LABOUR AND EMPLOYMENT (SHRI MALLIKARJUN KHARGE): Sir, I beg to move for leave to introduce a Bill further to amend the Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979.

The question was put and the motion adopted.

SHRI MALLIKARJUN KHARGE: Sir, I introduce the Bill.

(Ends)

The Border Security Force (Amendment) Bill, 2011

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI JITENDRA SINGH): Sir, I beg to move for leave to introduce a Bill further to amend the Border Security Force Act, 1968.

The question was put and the motion was adopted.

SHRI JITENDRA SINGH: Sir, I introduce the Bill.

(Ends)

The Administrator's General (Amendment) Bill, 2011

THE MINISTER OF LAW & JUSTICE AND MINISTER OF MINORITY AFFAIRS (SHRI SALMAN KHURSHEED): Sir, I beg to move for leave to introduce a Bill further to amend the Administrators-General Act, 1963.

The question was put and the motion was adopted.

SHRI SALMAN KHURSHEED: Sir, I introduce the Bill.

(Ends)

Matters raised with permission of the Chair

Re: Grim flood situation in Assam

SHRI BIRENDRA PRASAD BAISHYA (ASSAM): Thank you, Mr. Deputy Chairman, Sir. The flood situation in Assam has created a critical situation especially in Dehmaji, Dhakuthana, Jonai and

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Gahpur. It has worsened in the last few days. Sir, eight people lost their lives. Lakhs of people became homeless, thousands of hectares of cultivated land has been washed away in floods. Sir, the most tragic incident took place in Dehmaji in Assam where after losing their house, a family took shelter on the top of a tree but later the floods washed away the tree and all the family members lost their lives, Sir. Most of the affected people took shelter either in open environment or on roofs without food, drinking water and medical help. Disaster management and relief and rehabilitation totally failed in our State. The State Government is not providing any relief to the affected people. The affected people took shelter on the roads and roofs without food, drinking water and medical help. Sir, it is the long standing demand of the people of Assam to declare Assam's flood problem as a national problem. The hon. Prime Minister is present here today, Sir, representing our State here. On behalf of the people of Assam, I demand from the Centre to declare Assam flood problem a national problem. Secondly, Sir, I request the hon. Prime Minister to send a Central team to the flood affected areas of Assam where people took shelter on the roads without food, drinking water and medical help. I

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would like to request the hon. Prime Minister to send an experts' team to Assam and provide the people of Assam food, drinking water and medical help. Sir, Dhemaji, Gahpur, Jonai and a certain area of Arunachal Pradesh are totally cut off from the rest of the country. Lack of railway communication and road communication worsened the flood situation, Sir. The National Highway No.53 was destroyed due to flood waters in Assam.

(Contd 1s/NBR)

-SSS/NBR-SC/1S/12.30

SHRI BIRENDRA PRASAD BAISHYA (CONTD.): Trains are also not running since railway tracks were washed away with flood water. So, certain parts of Arunachal Pradesh and the Northern Brahmaputra are totally cut off from the rest of the country. Hence, I request the hon. Prime Minister to kindly respond to the situation. I also request him to help us in this critical juncture. Thank you.

(Ends)

SHRI KUMAR DEEPAK DAS (ASSAM): Sir, I want to draw the attention of the House to the problem where all the districts of Assam are reeling under floods. Sir, what happened in Dhamaji has been

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explained by hon. Birendra Baishya. Sir, the administrator of Dhemaji district not attended to the people of this district. In Dhemaji district, Sir, 10 people washed away by floods when they have taken shelter under a tree. I demand that the administrator should be punished and the adequate compensation should be paid to those people. I also request the hon. Prime Minister to visit those places and a Central Team should immediately be sent to Assam to assess the damage so that this problem is settled. Sir, some of the villages in my area have washed away. Today also some of the villages have been washed away. It is all happening because of erosion. That is why, I sincerely hope and sure that the hon. Prime Minister take necessary action on this grave situation in Assam. Thank you.

(Ends)

SHRI BISWAJIT DAIMARY (ASSAM): Sir, I associate myself with the submission made by my friends on the flood situation in Assam. Thank you.

(Ends)

RE. FLOOD SITUATION IN UTTAR PRADESH

श्री कलराज मिश्र (उत्तर प्रदेश) : उपसभापति महोदय, उत्तराखंड और उत्तर प्रदेश, दोनों प्रदेशों में अत्यधिक बारिश के कारण जबर्दस्त बाढ़ आयी हुई है। उत्तराखंड में तो ऐसी स्थिति निर्मित हो गयी है कि ऋषिकेश और बद्रीनाथ का जो मार्ग है, वह पूरा अवरुद्ध हो गया है। बारिश के साथ-साथ वहां पर लैंड-स्लाइड भी हुई है और सैकड़ों यात्री रास्ते में पड़े हुए हैं। इस प्रकार से वहां पर स्थिति बहुत दुर्दशापूर्ण है, जिसकी वजह से जनमानस काफी परेशान है। उत्तर प्रदेश में, जहां यमुना, गंगा और घाघरा के बाढ़ के प्रकोप से गोरखपुर, वाराणसी, आजमगढ़ और देवरिया का इलाका बहुत बुरी तरह से प्रभावित हुआ है, वहीं मुजफ्फरनगर और पश्चिमी उत्तर प्रदेश का हिस्सा भी इस समय बाढ़ से ग्रस्त है। हजारों गांव इस बाढ़ से प्रभावित हुए हैं, जिसकी वजह से लोग बड़ी परेशानी का अनुभव कर रहे हैं। राज्य सरकार की तरफ से इस संबंध में प्रयत्न चल रहे हैं, लेकिन लगता है कि वे प्रयत्न नाकाफी हैं। इसलिए मेरा अनुरोध है कि केन्द्र सरकार को उन इलाकों की ओर विशेष ध्यान देना चाहिए। महोदय, केवल बाढ़ से जो गांव प्रभावित हो रहे हैं, वे तो अलग हैं, उसके साथ-साथ जो तटवर्ती क्षेत्र हैं, उन क्षेत्रों में भी अनेक प्रकार की संक्रामक बीमारियां लोगों को परेशान कर रही हैं। मैं विशेष रूप से गोरखपुर की तरफ की बात कहना चाहूंगा, पूर्वी उत्तर प्रदेश की बात कहना चाहूंगा कि उन इलाकों में उन बीमारियों से काफी संख्या में लोगों की मृत्यु हुई है। वहां पर मस्तिष्क ज्वर भी तेजी के साथ

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बढ़ा है, जिसके कारण काफी लोग काल को लिप्त हो गये हैं। वहां पर इस तरह की हालत उत्पन्न हो गयी है कि अगर तत्काल कोई व्यवस्था नहीं की जाती तो बड़ी परेशानी पैदा हो जाएगी। मैं सरकार का ध्यान इस मामले में आकर्षित करूंगा कि दोनों प्रदेशों में विशेष ध्यान देते हुए, किस तरीके से वहां पर लोगों को प्राकृतिक आपदा से बचाया जा सके, ऐसा प्रयत्न करें तो ज्यादा अच्छा होगा।
धन्यवाद।

(समाप्त)

श्रीमती कुसुम राय (उत्तर प्रदेश) : महोदय, मैं माननीय सदस्य के वक्तव्य से स्वयं को संबद्ध करती हूं।

(समाप्त)

उपसभाध्यक्ष (प्रो० पी.जे.कुरियन) पीठासीन हुए

RE. FLOOD SITUATION IN BIHAR, UTTARAKHAND, ASSAM, WEST BENGAL AND OTHER PARTS OF THE COUNTRY

श्री मुख्तार अब्बार नकवी (उत्तर प्रदेश) : महोदय, जैसा अभी माननीय कलराज मिश्र जी ने कहा, यह विषय काफी महत्वपूर्ण है। आज जब हम इस सदन में शून्यकाल में इस विषय पर चर्चा कर रहे हैं तो निश्चित तौर से यह केवल एक

राज्य की बात नहीं है। उत्तर प्रदेश, उत्तराखंड, बिहार, असम, पश्चिमी बंगाल और ऐसे तमाम राज्य हैं, जो पूरी तरह से भयंकर तरीके से बाढ़ से प्रभावित हैं।

(1टी-एमसीएम पर क्रमशः)

SC/MCM-USY/1T/12-35

श्री मुख्तार अब्बास नक़वी (क्रमागत) : उत्तर प्रदेश के लगभग 24 जिले ऐसे हैं जो बाढ़ से प्रभावित हैं। उत्तराखंड का भी यही हाल है जैसा कलराज मिश्र जी ने भी जिक्र किया कि पहाड़ के गिरने से तमाम ऐसे यात्री हैं जो कि रास्ते में फंस गए हैं, तमाम तीर्थयात्री हैं जो रास्ते में फंसे हुए हैं। मैं अभी एक हफ्ते पहले रामपुर गया था। वहां पहाड़ों पर तमाम गांव और गांव में रहने वाले लोग बुरी तरह से प्रभावित थे और वे सड़कों पर आ गए थे। बच्चे सड़कों पर आ गए थे। नौजवान और बच्चे बाढ़ की वजह से वहां नदियों में डूब गए तथा उनका कोई पता भी नहीं है। अनेकों मौतें हो गई हैं। तमाम मवेशी, जानवर मर रहे हैं और उनकी लाशों से जो सड़ांध हो रही है उससे महामारी फैल रही है, उससे बीमारी फैल रही है। अभी कल पता चला कि जिन सड़कों पर परिवार के लोग तथा महिलाएं और बच्चे शरण लेने आए थे, उन सड़कों पर भी पानी भर गया है और अब मजबूर होकर के उनको आज दर-बदर भटकना पड़ रहा है। उपसभाध्यक्ष महोदय, मैं आपके माध्यम से यह बताना चाहूंगा कि आज यह सरकार तिहाड़ जेल को मेनेज करने में व्यस्त है, रामलीला मैदान को मेनेज करने में व्यस्त है। मैं बताना चाहूंगा कि सितारों के आगे जहां और भी है। आज देश की इतनी तमाम

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जगहों पर बाढ़ की विभिषिका है, बाढ़ से आधे से ज्यादा देश प्रभावित है, लेकिन सरकार की तरफ से इस संबंध में कोई भी किसी भी उपाय के बारे में आज तक नहीं कहा गया है।

उपसभाध्यक्ष महोदय, इसके अतिरिक्त मैं आपसे कहना चाहूंगा कि उत्तर प्रदेश में तीन दर्जन से अधिक जिले ऐसे हैं जो बाढ़ से बुरी तरह प्रभावित हुए हैं। सैंकड़ों गांव तबाही से बुरी तरह से प्रभावित हो गए हैं, फसलें पूरी तरह से डूब गई हैं, इंसानी मौतें हुई हैं और मवेशी मर रहे हैं। इसके अलावा बीमार लोगों को चिकित्सा सुविधा पहुंचाने के रास्ते बंद हो गए हैं। उन तक चिकित्सा सुविधा नहीं पहुंच पा रही है। उपसभाध्यक्ष महोदय, यह एक महत्वपूर्ण विषय है। केन्द्र सरकार से मेरा अनुरोध है कि उत्तर प्रदेश के बारे में जैसा कलराज मिश्र जी ने कहा कि पश्चिमी उत्तर प्रदेश हो, पूर्वी उत्तर प्रदेश हो या जो बाढ़ से प्रभावित हैं, उत्तराखंड है, पश्चिम बंगाल है, असम है या अन्य जो देश के राज्य हैं वे भी आज बाढ़ से प्रभावित है, इसलिए वह थोड़ा सा तिहाड़ जेल से समय निकाल कर, रामलीला मैदान से समय निकाल करके कम से कम देश की इस महान समस्या के बारे में कुछ विचार करें और यहां से एक विशेष टीम भेजें।.....(व्यवधान)

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): It is over.

(Interruptions) Mike has been switched off. (Interruptions) Nothing

is going on record. (Interruptions) It is over. (Interruptions)

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तीन मिनट हो गया है, आप बैठिए। (व्यवधान) Now, Shri Moinul Hassan.

(Interruptions)

SHRI RAM KRIPAL YADAV: Sir....(Interruptions) It is regarding floods. (Interruptions)

श्री कलराज मिश्र : महोदय, राजस्थान के बाड़मेर और जैसलमेर में भी बाढ़ आई हुई है और वहां पर भी लोग परेशान हैं।

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): आपका नोट कर लिया है। ठीक है।.....(व्यवधान)

श्री राम कृपाल यादव : सर.....

उपसभाध्यक्ष : हो गया, आपका सपोर्ट रिकार्ड में आ गया है। Your support is already recorded. (Interruptions)

श्री राम कृपाल यादव : सर, हम एक मिनट बोलेंगे।

उपसभाध्यक्ष : कैसे हो सकता है, मैंने मोइनुल हसन जी को बुला लिया है, उसके बाद नहीं हो सकता।.....(व्यवधान) नहीं, That is against the rule.

(Interruptions) Don't ask me for that. (Interruptions) I have already called his name. (Interruptions) You cannot speak now.

(Interruptions)

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**RE.: KILLING OF AN R.T.I. ACTIVIST AND SAFETY ISSUES
CONCERNING WHISTLE BLOWERS**

SHRI MOINUL HASSAN (WEST BENGAL): Providing information to the millions of citizens is the motto of the Right to Information Act. But there is a new meaning of the Act. The RTI activists can get answer only in death. Day-before-yesterday, a thirty-five-year-old lady, named Shehla Masood, was killed in Bhopal. The incident, once again, has brought to light the fact that safety of whistleblowers is very dismal. After the murder of Shehla Masood, the police told that her campaign for wild life and tiger conservation might have hurt some vested interests. The social activist are exposing various illegal activities, throughout the country, ranging from diamond mafia, to mining scam, land scam, violations of environment laws. During the last year, ten social activists were killed. (Contd. by 1 u — VP)

-USY/VP/12.40/1U

SHRI MOINUL HASSAN (CONTD.): But, virtually, no action has been taken. Ms. Shehla Masood incident happened when lakhs and crores of people are protesting on the road against corruption.

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So, Sir, I urge upon the Government to provide sufficient safety measures. There is an urgent need to provide protection to these whistleblowers along with ensuring that the laws such as the RTI Act don't go waste due to fear created by the killing of whistleblowers. These incidents are happening throughout the country. Last year ten people were killed. It has started again with the sad killing of Ms. Shehla Masood. I am raising this issue with your permission during Zero Hour. Thank you. (Ends)

SHRI KUMAR DEEPAK DAS (ASSAM) : Sir, I associate myself with the point made by the hon. Member.

SHRI BIRENDRA PRASAD BAISHYA (ASSAM): Sir, I also associate myself with the point made by the hon. Member.

SHRIMATI BRINDA KARAT (WEST BENGAL): Sir, I also associate myself with it. (Ends)

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): I am requesting that every Member should lay his Special Mention on the Table of the House.

(Followed by PB/1 W)

SPECIAL MENTIONSNBR/9A**CONCERN OVER VACANCIES IN TOP TECHNICAL/MANAGEMENT INSTITUTIONS**

DR. GYAN PRAKASH PILANIA (RAJASTHAN): Sir, it is a matter of serious concern that 1/3rd of teaching posts in top technical and management educational institutions, funded by the Ministry of Human Resource Development, is lying vacant. Out of 12,114 sanctioned posts, 4,083 are lying vacant in IITs/IIMs/National Institute of Technology, etc. The IITs, Altogether, have a sanctioned strength of 4,712 teaching posts, but only 3,148 are filled. The National Institutes of Technology have 4,632 posts, but there is vacancy for 1,522 slots. The Indian Institute of Science, Bangalore, has 150 vacancies -- out of 518 posts, only 368 are filled.

The prestigious Indian School of Mines, Dhanbad, has filled only 172 of the 275 sanctioned posts. The National Institute of Training and Industrial Engineering, Mumbai, has 34 vacancies out of the total strength of 84. The Central Institute of Technology, Kokrajhar, has

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almost 50 per cent vacancy -- 18 out of sanctioned 37 posts have not been filled. The National Institute of Foundry and Forge Technology, Ranchi, has 13 vacancies out of the total sanctioned strength of 42.

In view of the above alarming scenario of vacancies of academy, I would urge the hon. Minister of HRD to examine what ails our top institutions. Thank you.

(Ends)

(FOLLOWED BY USY "9B")

USY/9B

**DEMAND TO ENHANCE AMOUNT OF PENSION GIVEN UNDER
EMPLOYEES PENSION SCHEME, 1995**

SHRI TAPAN KUMAR SEN (WEST BENGAL): The Employees Pension Scheme, introduced in 1995, with much fanfare by the Central Government by diverting employers' contribution to the Provident Fund to the tune of 8.33 per cent of the wage of the workers, covered by the EPF, has proved to be a cruel joke to workers. No guaranteed minimum pension is ensured, as committed by the Government. More than one-third of pensioners get monthly pension much below Rs. 500 and 84 per cent of them get less than Rs. 1000, whatever be

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their last drawn wages, mocking at the very concept of pension. Government had unilaterally withdrawn its commitment for minimum guaranteed pension, annual revision of the pension amount matching the price rise and discontinued provision of return of capital and commutation for workers while rewarding the defaulting employers by drastically reducing the penalty for their deliberate defaults.

The Expert Committee, appointed by the Government, ignored unanimous recommendation of the Parliamentary Standing Committee on Labour (14th Lok Sabha) to enhance Government's contribution in pension fund to, at least, half the rate of employer's contribution and restoration of unilaterally withdrawn benefits.

I urge upon the Government to implement unanimous recommendations of the Parliamentary Standing Committee on Labour on EPS-1995 to enhance Government's contribution and ensure, at least, a minimum guaranteed pension of Rs. 1000 or pension calculated on the last pay drawn, whichever is higher, plus 3 per cent annual increase for price rise; to restore the benefits of commutation, return of capital, etc., unilaterally withdrawn by the

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Government, with retrospective effect for all the pensioners under the Scheme.

(Ends)

SHRI RUDRA NARAYAN PANY (ORISSA): Sir, I associate myself with what the hon. Member, Shri Tapan Kumar Sen, has said.

(Ends)

VNK/9c

**DEMAND TO ENHANCE THE AMOUNT OF FINANCIAL ASSISTANCE
GIVEN TO WIDOWS LIVING UNDER BELOW POWERTY LINE**

श्रीमती विप्लव ठाकुर (हिमाचल प्रदेश): महोदय, मैं सरकार का ध्यान एक बहुत गम्भीर विषय की ओर दिलाना चाहती हूँ। ग्रामीण विकास मंत्रालय के अन्तर्गत 'नेशनल फैमिली बेनेफिट स्कीम' कार्यान्वित है, जिसके अन्तर्गत ऐसे परिवार, जो गरीबी रेखा के नीचे रह रहे हैं और उनके परिवार के कमाऊ सदस्य की मृत्यु हो गई हो, तो उसकी विधवा को दस हजार रुपए आर्थिक सहायता के रूप में दिए जाते हैं।

महोदय, यह योजना 1995 में लागू की गई थी और तब से आज तक इस योजना के अन्तर्गत विधवा महिलाओं को दस हजार रुपए की ही आर्थिक सहायता प्रदान की जा रही है। आज तक इस राशि में किसी प्रकार की कोई बढ़ोत्तरी नहीं की गई। सर से पति का साया उठने की वजह से परिवार का भरण-पोषण कैसे करें, यह अहम सवाल उनके सामने बना रहता है। ऐसे समय

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में इस योजना के माध्यम से दी जाने वाली राशि उनके लिए बड़ी मददगार साबित होती है। बढ़ती महंगाई को ध्यान में रखते हुए, दस हजार रुपए की यह राशि बहुत कम है।

महोदय, यह योजना तभी कारगर साबित होगी, जब इसके अन्तर्गत उचित आर्थिक सहायता प्रदान की जाएगी। अतः मैं सरकार से पुरजोर अपील करती हूँ कि सरकार, 'नेशनल फैमिली बेनेफिट स्कीम' के अन्तर्गत गरीबी रेखा के नीचे रह रही विधवाओं को दी जाने वाली आर्थिक सहायता दस हजार रुपए की राशि को बढ़ाकर कम से कम पच्चीस हजार रुपए करे, जिससे उन विधवा महिलाओं को उचित आर्थिक मदद मिल सके। धन्यवाद।

(समाप्त)

9D/DS/SPECIAL MENTION/18.8.2011

**DEMAND FOR SPEEDY DISPOSAL OF HEALTH INSURANCE
CLAIMS OF WEAVERS OF UTTAR PRADESH**

श्री मोती लाल वोरा (छत्तीसगढ़): महोदय, भारत सरकार द्वारा बुनकर समुदाय के कल्याण हेतु आई.सी.आई.सी.आई. लोम्बार्ड जनरल इंश्योरेंस कम्पनी लि0 के माध्यम से “बुनकर स्वास्थ्य बीमा योजना” विगत चार वर्षों से चलायी जा रही है। किन्तु, इस आशय की अनेक शिकायतें बुनकर समुदाय के लोगों से मिली हैं कि आई.सी.आई.सी.आई. की निष्क्रियता के कारण उनके हजारों क्लेम्स लखनऊ ब्रांच में लम्बित हैं। उदाहरण के लिए, आजमगढ़ जनपद के सैंकड़ों

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बुनकरों के कुल 3030 क्लेम्स विगत दो वर्षों से इस ब्रांच में अटके पड़े हैं, जिनका भुगतान नहीं किया गया है। दिनांक 5.5.2009 को 1205 क्लेम्स विकास आयुक्त, हथकरघा कार्यालय, नई दिल्ली के माध्यम से आई.सी.आई.सी.आई. को भेजे गये, जिनमें 1078 क्लेम्स वीवर्स के एवं 182 क्लेम्स हैंडीक्राफ्ट के थे, उनका निस्तारण अब तक नहीं हो पाया है।

उत्तर प्रदेश में बुनकरों की सर्वाधिक संख्या है। बुनकरों को “स्वास्थ्य बीमा योजना” का लाभ देने की भारत सरकार की योजना का लाभ इन बुनकरों को नहीं मिल पा रहा है। उत्तर प्रदेश के अन्य जनपदों के बुनकरों की भी कमोबेश यही स्थिति है।

मेरा केन्द्र सरकार से अनुरोध है कि बुनकरों को स्वास्थ्य लाभ मिले और उनके लम्बित पड़े क्लेम्स का शीघ्र निपटारा कराया जाए।

(समाप्त)

VP/9E

**CONCERN OVER DELAY IN IMPLEMENTATION OF
ASSAM ACCORD.**

...

SHRI BIRENDRA PRASAD BAISHYA (ASSAM): Sir, I would like to draw the attention of the Government towards a matter which is about the enormous delay in implementation of the Assam Accord, signed between the Centre, the State, the AASU, and the All Assam

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Gana Sangram Parishad in the presence of the then Prime Minister, Shri Rajiv Gandhi. The six years of mass agitation evoked against the illegal foreign nationals in Assam which concluded with some specific clauses in the Accord was not only a dream for the indigenous people of Assam, but also for the then Prime Minister, Shri Rajiv Gandhi. After 26 years of the signing of the Assam Accord, the Centre has totally failed to implement the core clauses. This is not only the betrayal of the people of Assam, but also of late Shri Rajiv Gandhi, who had taken the initiative of signing the Accord. The implementation of detention and deportation of foreigners /illegal migrants, deletion of foreigners names from voters' list, border fencing, and NRC update in the entire State is going at a slow pace. Similarly, for national security reasons, highest priority is being given to the Indo-Pakistan Border and shoot-at-sight orders have been given. That Border is sealed, whereas, the Indo-Bangladesh Border remains open. The Border is porous, so, it is easily accessible for the Hujjis, Jehadis and the foreign nationals. Accordingly, as per the Accord, revitalisation of the Ashok Paper Mill is far from implementation and operational status. May I, therefore, urge upon

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the Government to intervene and take up the matter seriously and consider safeguarding the ethnicity of the people of Assam for which the most-awaited Accord was signed. (Ends)

PB/9f

**NEED TO TAKE SUITABLE MEASURES FOR THE INDUSTRIAL
DEVELOPMENT OF BACKWARD REGIONS OF THE COUNTRY**

DR. JANARDHAN WAGHMARE (MAHARASHTRA): Development of backward regions or areas is a crucial problem. We find a marked imbalance between advanced regions and backward regions. Industries — heavy, medium or small — play a vital role in the development of a particular area or region. Backward regions like Marathwada, Vidarbha and Telangana, Bundelkhand or North-Eastern parts of the country are backward because industrialization has not taken place there. The result is poverty, illiteracy and unemployment. The scenario of the backward areas is frustrative.

We have adopted the policy of disinvestment. It is part of liberalization and privatization. Government does not want to take the responsibility of starting industries. It is of course gradually

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withdrawing itself from the public sector. The public sector is shrinking day-by-day. But that will be disastrous ultimately. The recession or depression world-over has shown that the policy of disinvestment worsens the situation.

India should establish industries in backward areas to develop them. It can kill two birds with one stone by this. It can develop the backward areas industrially and provide employment to the poor. This task can be accomplished through public-private-partnership (PPP). Imbalance in development creates several problems. It will adversely affect the inclusive growth and development of the country. We should not neglect the public sector. Inclusive growth is necessary for establishing an egalitarian society. We should take measures to eradicate poverty, illiteracy and unemployment in backward areas. Modernization comes with industrialization.

I call upon the Government to establish industries in backward areas and regions.

(Ends)

9G/HMS

**DEMAND FOR SEPARATE RESERVATION FOR BACKWARD
CLASSES AND OTHER BACKWARD CLASSES**

डा० राम प्रकाश (हरियाणा) : मण्डल कमीशन लागू करने से पूर्व सामाजिक और शैक्षणिक रूप से पिछड़ी बिरादरियों को पिछड़े वर्ग की संज्ञा दी गयी थी। इन में प्रजापत, कश्यप, पाल - गढरिया, नाई, धोबी, वैरागी, तरखान, लुहार, धीमान, जांगड़, पांचाल, सुथार, रामगढ़िया, भट्ट, जोगी, सुनार, छिंबा, नाथ, कुचबंध, तेली, रायबारी, डकौत, शोरागिर, नट आदि प्रायः भूमिहीन शामिल हैं। एक गांव में इन की संख्या भले ही थोड़ी है पर हर गांव में इन के घर पाए जाते हैं। अकेले हरियाणा में इन की आबादी लगभग 17 प्रतिशत है। इन्हें पिछड़ा या अति पिछड़ा वर्ग माना गया है। प्रत्येक प्रांत में इन्हें नौकरियों और दाखिले में आरक्षण प्राप्त है। मण्डल कमीशन के बाद इन में कुछ और जातियां जोड़ दी गयीं जिन्हें अन्य पिछड़ा वर्ग (ओ०बी०सी०) कहा गया। ये दोनों वर्ग अलग-अलग हैं। इन्हें अलग-अलग आरक्षण चाहिए। कुछ प्रांतों में इन्हें बी०सी०-ए, बी०सी०-बी कहकर आरक्षण दिया गया है। पंजाब हरियाणा उच्च न्यायालय ने इसे "आरक्षण के भीतर आरक्षण" मानकर अलग आरक्षण को रद्द कर दिया। इसलिए मेरा सरकार से अनुरोध है कि पिछड़े वर्ग को अन्य पिछड़े वर्ग से उसी तरह भिन्न माना जाए जैसे अनुसूचित जाति और अनुसूचित जनजाति को माना जाता है। एस०सी०/एस०टी० के तर्ज पर इसे पिछड़ा/अन्य पिछड़ा वर्ग लिखा जाए।

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जनगणना के आधार पर दोनों के आरक्षण का अलग-अलग प्रतिशत तय किया जाए। यह आरक्षण प्रांतीय तथा केन्द्रीय स्तर पर उपलब्ध हो। यदि किन्हीं बिंदुओं पर और चिंतन की जरूरत हो तो पिछड़ा/अति पिछड़ा वर्ग कमीशन नियत कर के समयबद्ध सीमा में निर्णय किया जाए।

(समाप्त)

9h/skc

NEED TO INCREASE FOODGRAINS' STORAGE CAPACITY

DR. K. V. P. RAMACHANDRA RAO (ANDHRA PRADESH): Sir, rice production during 2010-11 was about 95 million MT. Buffer stocks with Government storage are now about 290 lakh tons, whereas the buffer-norm is around 142 lakh tons. I understand that in the last season the Government had faced a lot of problems in the procurement of rice. In Andhra Pradesh, adequate quantities of rice were not procured.

I am given to understand that the storage capacity of the FCI and the State agencies, put together, is less than 45 MT. The stocks now are about 65 MT. Sir, I am also given to understand that the FCI is facing a severe cash crunch due to which the procurement of

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foodgrains may be affected. India has now a record harvest and the Government has announced a bonus of Rs.50 to wheat-farmers. The FCI is also gearing itself to increase its food stocks in view of the forthcoming Food Security Bill. In this scenario, within a week of India announcing a record harvest, it has been reported in the media that the nation's main grain buying agency, the Food Corporation of India, is running out of money for its massive nation-wide purchase operation. If this crisis continues, the FCI and the State agencies funded by it will not be able to procure grains. On the one side, the FCI is facing financial crunch to procure foodgrains and, on the other, there is a scarcity of the storage capacity. Under these circumstances, the Government needs to meet the situation very cautiously.

I urge upon the Government of India to take immediate necessary steps to increase the storage capacity for foodgrains and release the required amount to FCI to ensure that the procurement is not affected.

(Ends)

HK/9j

**CONCERN OVER THE DETERIORATING FINANCIAL CONDITION
OF THE HINDUSTAN PAPER CORPORATION LTD. IN ASSAM**

SHRI KUMAR DEEPAK DAS (ASSAM): Sir, the major industries like Jagiroad Paper Mill and Panchgram Paper Mill of Hindustan Paper Corporation Ltd., in Assam is under a big financial crisis. HPC has continuously incurred a loss of about Rs.180 crores during the last two years. There is no permanent Chairman-cum-Managing Director (CMD) at the top most level. HPC has increased the price of bamboo of North Cachar Hills in Assam from Rs.1850.00 per MT to Rs.5600.00 per MT and has been paying this enhanced rate to the contractors. Surprisingly, the royalty of bamboo (Rs.300 to Rs.350 per MT) and price of home-grown bamboo (Rs.2100 per MT) being supplied by farmers of the State remained the same. Again, presently HPC is bringing wood from other States like Andhra Pradesh, West Bengal, etc., at a high rate (Rs.7100 per MT) whereas such home-grown soft wood is locally available at much lower cost. There are two examples which have also led to unsustainable cost of production in comparison to the market price of its finished product. On the other hand, the

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HPC being a 25 years old organization is mainly dependent on State forests resources for continuously producing paper.

Therefore, HPC needs a permanent CMD in the interest of the well growth of the Corporation. It also needs complete modernization and technical upgradation of the Jagiroad and Panchgram plan. And, HPC Ltd. should declare a clear cut policy to ensure suitable compensation to the local bamboo growers to keep the required flow of this raw material and a foolproof price fixing mechanism of HPC Ltd., for procurement of raw materials.

(Ends)

KSK/9K

**DEMAND TO ALLOCATE ADEQUATE FUNDS FOR NEW RAILWAY
LINE BETWEEN TUTICORIN AND MADURAI**

SHRI S. THANGAVELU (TAMIL NADU): I request the Government to allocate adequate funds for newly-announced important railway line between Tuticorin and Madurai. The new railway line on this industrial corridor was under survey for the past few years and has been approved by the Railway Ministry. This new line also has many interlinked towns like Kariyappatti, Mallankinnar, Aruppukkottai, Vilathikulam including connectivity with VOC port of Tuticorin.

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Further, there are a number of small and large-scale industries like manufacturing of power equipments, fertilizer industries and various production units situated along the line between Madurai and Tuticorin. So, the new railway line would be beneficial for industrial transportation, would provide link to various other places, State destinations and would help in development of export, import and other commercial activities. This new line was announced in the last Budget and actual estimated cost for this new line is Rs.601 crore, but the fund allocation made by the Government till now is just Rs.1 crore. Further, there is a long-pending demand for new day-time train between Tuticorin and Chennai which would benefit a number of employees, students and other patients who prefer to have medication in Madurai Government Hospitals and small traders. The meagre allocation for the new line between Tuticorin and Madurai raises questions about the realization of this new project and seems to be neglected. Therefore, I request the Government to look into this new line and speed up the same by allocating sufficient funds as well as introduce a new day-time train facility between Tuticorin and Chennai.

(Ends)

GSP-9L

**NEED TO TAKE EFFECTIVE STEPS FOR PROPAGATION
OF HINDI THROUGHOUT THE COUNTRY**

SHRI AMBETH RAJAN (UTTAR PRADESH): Sir, strength of our nation lies in its unity in spite of vast diversity. Article 351 of the Constitution envisages that to preserve the composite culture of India, Hindi as well as other languages mentioned in Schedule VIII, will be used as medium of expression.

The Official Languages Rule, 1976 categorize States into three regions — region ‘A’, ‘B’ and ‘C’. It is well known that in three-fourth States of our country, Hindi is in use in one form or another. The people of non-Hindi speaking States are deprived of learning Hindi through any proper way. So, a non-Hindi speaking person feels the pinch of not knowing Hindi whenever he or she moves to another place from his or her usual place of residence. So, it is the duty of the Government to take all possible steps like teaching Hindi through school curriculum or through specialized institutions as is being done by the Dakshin Bharat Hindi Prachar Sabha.

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The Central Hindi Directorate is the only organization which imparts teaching of Hindi to the general public through correspondence courses and is functioning under the Department of Higher Education in the Ministry of Human Resource Development. The Budget for this department is Rs. 85,00,000/- and around 10,000 students are studying. How will Hindi language be propagated with this amount of money?

Sir, I request the Government to take steps like giving incentives to Hindi learning persons, giving priority in employment for Hindi-knowing persons etc., and take concrete steps to propagate Hindi not only at the Central level but also encourage the State Governments to undertake this task.

(Ends)

SK/9M

**DEMAND TO ALLOCATE ADEQUATE QUANTITY OF FERTILIZERS
TO THE STATE OF TAMIL NADU**

SHRI A. ELAVARASAN (TAMIL NADU): Sir, I would like to request the Government through this august House for adequate supply of

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fertilizers to the State of Tamil Nadu. Fertilizer is the key input for increasing the productivity of crops. The total requirement of various fertilizers is estimated to be 26 lakh tones, comprising 11.12 lakh tones of urea, 3.66 lakh tones of DAP, 4.80 lakh tones of MOP and 6.52 lakh tones of complex fertilizer. Timely supply of above quantity of fertilizers is very essential for better and enhanced productivity. Especially the DAP is a critical input to raise paddy nurseries and to apply as basal dose to all crops. The Central Government has allocated to our State of Tamil Nadu 47,000 tonnes of DAP for the months of April and May, 2011, but the supply was 26,000 tonnes, leaving a shortfall of 21,000 tonnes of DAP. The current availability of water in the major reservoirs in this State is quite encouraging for crop cultivation. Further, the south-west monsoon has just commenced in the western part of the State. So, the adequate supply of fertilizers at this time is pertinent, lest the meager supply would affect the entire cultivation and resultantly there is a chance for the less food production. The State of Tamil Nadu is contributing a considerable percentage to agricultural production of this country. Hence, I urge upon the Government to allocate adequate fertilizers to our State

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keeping in view the necessity of adequate supply of fertilizers at this time and to ensure higher foodgrains production.

(Ends)

YSR/9N

**CONCERN OVER DANGER TO COUNTRY DUE TO CHINA HAVING
OBTAINED APPROVAL FOR EXPLORATION IN INDIAN OCEAN
FROM INTERNATIONAL SEABED AUTHORITY**

SHRI ANIL MADHAV DAVE (MADHYA PRADESH): As per a report, China has obtained approval from the International Seabed Authority (ISA) to explore 10,000 sq km in an international seabed region in the Indian Ocean. The association will sign a 15-year exploration contract with the ISA around November this year. This move marks China's attempt to gain a foothold in the Indian Ocean. This is an alarm for our country. Such a craft could be potentially used to intercept or sever undersea communication cables to retrieve foreign weaponry on the ocean floor, or to repair or rescue naval submarines. They may try to develop their military goals in the areas which are closed to scrutiny from India. As per the Directorate of Naval Intelligence (DNI), it would provide them an opportunity to collect oceanographic and hydrological data in a legitimate manner. Further, it would also

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provide an excuse to operate their warships in this area. China's move has made a simple mining decision a national security concern. For at least the past six years, strategists in the Indian Naval establishments have been asking the Government to utilize India's mining rights in the Indian Ocean before China got it there first, and now China has. 'The difficulty,' said officials who are participating in the policy review, 'is the lack of coordination among various Government departments.'

Therefore, I request that the Government should discuss all aspects with major political parties, policy makers, security experts, and concerned officials with proper coordination between various departments. This is an issue of utmost national importance with grave portent for our national security. Without any further delay, the Indian Government should raise this issue at every possible international forum and authority.

(Ends)

90/NB

**DEMAND TO TAKE EFFECTIVE STEPS FOR EARLY DISPOSAL
OF LARGE NUMBER OF PENDING CASES IN THE
COURTS OF THE COUNTRY**

...

श्री कलराज मिश्र (उत्तर प्रदेश) : महोदय, यह पुरानी कहावत है कि "Justice delayed is justice denied." देश की विभिन्न अदालतों में लंबित मुकदमे हमारी न्याय व्यवस्था के लिए चुनौती बने हुए हैं। त्वरित न्याय का न हो पाना भी प्रशासन में फैले भ्रष्टाचार का एक कारण है। जहां देश के विभिन्न उच्च न्यायालयों में लंबित मामलों की संख्या लाखों में है, वहीं अधीनस्थ न्यायालयों में यह संख्या करोड़ों में है। वादी या अपीलकर्ता अपनी बारी का इंतजार करते और तारीख पर तारीख लेते-लेते काल के गाल में समा जाते हैं और यह काम उनके पुत्र-पुत्रियों या कभी-कभी तो पौत्र-पौत्रियों को करना पड़ता है। भारत के पूर्व रेल मंत्री - स्वर्गीय श्री ललित नारायण मिश्र की हत्या हुए लगभग 40 वर्ष का समय हो चुका है और मामला अभी भी दिल्ली की एक कोर्ट में लंबित है। ऐसे ही न जाने कितने मुकदमे हैं, जो दशकों से अदालतों में लटके हुए हैं। दूसरी ओर अदालतों में न्यायाधीशों के सैकड़ों पद खाली पड़े हैं। मेरे गृह राज्य - उत्तर प्रदेश के उच्च न्यायालय में न्यायाधीशों के स्वीकृत पदों की संख्या 160 है, जब कि इनमें से मात्र 62 न्यायाधीश कार्यरत हैं, अर्थात् लगभग 65 प्रतिशत पद खाली हैं। ऐसे में लंबित मुकदमों के निपटान की उम्मीद कैसे की जा सकती है? न्यायालयों

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में खाली पदों को भरने का क्या प्रयास हो रहा है? क्या न्यायाधीशों की सेवा निवृत्ति आयु (Retirement Age) को 62 से 65 वर्ष करने पर सरकार विचार कर रही है? यदि हां, तो इस विषय में शीघ्र कार्यवाही की आवश्यकता है, जिससे देश के गरीब लोग शीघ्र न्याय पा सकें। इसके अतिरिक्त न्यायालयों में खाली पद भी शीघ्रता से भरे जाने चाहिए।

(समाप्त)

VKK/9p

**DEMAND TO GRANT PRESIDENTIAL ASSENT TO THE
KARNATAKA PREVENTION OF SLAUGHTER AND
PRESERVATION OF CATTLE BILL**

SHRI M. RAMA JOIS (KARNATAKA): Sir, Karnataka Prevention of Slaughter and Preservation of Cattle Bill passed by the Karnataka Legislature was sent by the Governor of Karnataka to the President of India having reserved the Bill for the assent of the President and was sent to the President in the month of May 2010.

In view of the inordinate delay in giving the assent, 250 citizens of Karnataka commenced *Pada Yatra* from Hubli in Karnataka to Delhi on 17th January 2011 and had reached Delhi on 24th March 2011, and held demonstration at Jantar Mantar urging the President to give

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assent to the Bill. Later, they came to know from news item published in Garden City Patrika that the Bill has not reached the Office of the President and its whereabouts are not known. Concerned Ministry of the Government of India not sending the Bill for the consideration of the President though it is more than one year, is highly regrettable.

Hence, through this Special Mention, I urge upon the concerned Department to send the Bill to the President for consideration.

(Ends)

(Followed at 9q)

MP/9Q

**CONCERN OVER THE DELAY IN MAKING REFUNDS OF
CANCELLED TICKETS AND EXCESSIVE CANCELLATION
CHARGES BEING IMPOSED BY THE PRIVATE AIRLINES
IN THE COUNTRY**

श्री मोहम्मद अली खान (आन्ध्र प्रदेश) : महोदय, मैं इस सदन का ध्यान प्राइवेट एयर लाइन्स के ज़रिए कैंसल कराए गए टिकटों का रिफ़न्ड देने में देरी और कैंसलेशन चार्ज के नाम पर ज्यादा पैसे काटने की पॉलिसी की तरफ़ दिलाना चाहता हूँ। टिकट कैंसल कराने पर एयर इंडिया सिर्फ़ 200 रुपए चार्ज करती है और बकाया पैसे भी जल्दी वापस कर देती है, लेकिन प्राइवेट एयर लाइन्स

کینسلیشن چارج کے نام پر نہ صرف 750 روپے سے 1000 روپے تک چارج کرتی ہیں، بلکہ بکاوا پائے واپس کرنے میں دو سے تین مہینے تک کا وقت لیتی ہیں جس سے مسافروں کو بہت پریشانی ہوتی ہے۔ کبھی-کبھی تو وی.آئی.پی. اور وی.وی.آئی.پی. مسافروں کو بھی اپنے ریفرنڈ کے پائے واپس لینے کے لیے دو-تین مہینے تک انتظار کرنا پڑتا ہے۔ اتنے دنوں تک یہ ایئر لائسنس اس پائے کو اپنے استعمال میں لاتی ہیں۔ فی الحال پرائیویٹ ایئر لائسنس کو منمانے کینسلیشن چارج واصل کرنے سے روکنے کے لیے کوئی مینیکنزم نہیں ہے اور بکاوا پائے واپس کرنے کے لیے بھی کوئی مؤدد مؤکرر نہیں کی گئی ہے، جس کا ناچار فایدا پرائیویٹ ایئر لائسنس اٹا رہی ہیں۔ اس لیے اس سدن کے ماڈیم سے میں سivil ایشن مینسٹر ساہب سے درخواست کرتا ہوں کہ وہ اس ماملے میں مؤداخلت کریں اور یہ یقینی بناؤں کہ پرائیویٹ ایئر لائسنس بھی ایئر انڈیا کے برابر ہی کینسلیشن چارج واصل کریں اور بکاوا رکم کو جلد سے جلد مسافروں کو واپس کر دیں۔

(سماپت)

جناب محمد علی خان (آندھرا پردیش): مہوڈے، میں اس سدن کا دھیان پرائیویٹ ایئر لائسنس کے ذریعے کینسل کرائے گئے ٹکٹوں کا ریفرنڈ دینے میں دیری اور کینسلیشن چارج کے نام پر زیادہ پائے کاٹنے کی پالیسی کی طرف دلانا چاہتا ہوں۔ ٹکٹ کینسل کرائے پر ایئر انڈیا صرف 200 روپے چارج کرتی ہے اور بقیہ پائے بھی جلدی واپس کر دیتی ہے، لیکن پرائیویٹ ایئر لائسنس کینسلیشن چارج کے نام پر نہ صرف 750 روپے سے 1000 روپے تک چارج کرتی ہیں، بلکہ بقیہ پائے واپس کرنے میں دو سے تین مہینے تک کا وقت لیتی ہیں جس سے مسافروں کو بہت پریشانی ہوتی ہے۔ کبھی کبھی تو وی-آئی-پی۔ اور وی-وی-آئی-پی۔ مسافروں کو بھی اپنے

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ریفنڈ کے پیسے واپس لینے کے لئے دو-تین مہینے تک انتظار کرنا پڑتا ہے۔ اتنے دنوں تک یہ ائیر لائنس اس پیسے کو اپنے استعمال میں لاتی ہیں۔ فی الحال پرائیویٹ ائیر لائنس کو منمانے کیسلیشن چارج وصول کرنے سے روکنے کے لئے کوئی میکینزم نہیں ہے اور بقایا پیسے واپس کرنے کے لئے بھی کوئی مدّت مقرر نہیں کی گئی ہے، جس کا ناجائز فائدہ پرائیویٹ ائیر لائنس اٹھا رہی ہیں۔ اس لئے اس سدن کے مادھیم سے میں سول ایونیشن منسٹر صاحب سے درخواست کرتا ہوں کہ وہ اس معاملے میں مداخلت کریں اور یہ یقینی بنائیں کہ پرائیویٹ ائیر لائنس بھی ائیر انڈیا کے برابر کیسلیشن چارج وصول کریں اور بقایا رقم کو جلد سے جلد مسافروں کو واپس کر دیں۔

(ختم شد)

sc/9r

DEMAND TO REVIEW THE DECISION OF ALLOWING FOREIGN DIRECT INVESTMENT INTO RETAIL SECTOR OF THE COUNTRY

श्रीमती माया सिंह (मध्य प्रदेश) : महोदय, प्रत्यक्ष विदेशी निवेश (एफडीआई) की सचिवों की समिति द्वारा देश में बहु ब्रांड खुदरा कारोबार में 51 फीसदी की सिफारिश से खुदरा बाजार में लगे देश के कोने-कोने में किराना व छोटे-मझोले व्यवसाय करने वाले व्यापारियों तथा कामगारों के हित इस कदम से चरमराने वाले हैं और बहुराष्ट्रीय कम्पनियों के कुचक्र में फंसकर दशकों पुरानी भारतीय व्यापारिक व्यवस्था इस अनुमति से दम तोड़ देगी।

एकल ब्रांड खुदरा क्षेत्र में 51 फीसदी और थोक बाजार में 100 फीसदी की अनुमति एफडीआई को पहले से ही मिली हुई है। परिणामस्वरूप देश में बहुराष्ट्रीय कम्पनियों की हिस्सेदारी बाजार पर 15 फीसदी के आसपास है। यदि सचिवों की समिति की संस्तुति को सरकार मान लेती है तो देश के बाजारों में

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बहुराष्ट्रीय कम्पनियों की हिस्सेदारी 15 से बढ़कर 100 फीसदी हो जाएगी, जिससे देश का व्यवसायी पूरी तरह से प्रभावित होगा और पिछड़ जाएगा।

मेरा आग्रह है कि सचिवों की समिति द्वारा एफडीआई की अनुमति देने के सुझाव पर पुनः विचार हो और देश के व्यापारियों के हितों से जुड़े हर पहलू को बड़ी सावधानी से जांचा-परखा जाए। इसके अलावा यह सुनिश्चित हो कि छोटे व्यापारियों को ऐसी किसी भी अनुमति से कोई नुकसान न हो, नहीं तो आगे चलकर परिणाम घातक होंगे और फिर संभलने का वक्त नहीं मिलेगा क्योंकि हमारी व्यवस्थाएं तब तक चरमरा चुकी होंगी। धन्यवाद।

(समाप्त)

MCM/9S

**DEMAND TO RESTORE THE AVAILABILITY OF COAL AND POWER
TO THE STATE OF MADHYA PRADESH**

श्री कप्तान सिंह सोलंकी (मध्य प्रदेश) : महोदय, केन्द्र सरकार द्वारा मध्य प्रदेश को मिलने वाले बिजली के कोटे को बार-बार कम किया जा रहा है, जिसके कारण मध्य प्रदेश में बिजली की समस्या उत्पन्न हो रही है। केन्द्रीय क्षेत्र के पूर्वी क्षेत्र में स्थित विद्युत गृहों से विवेकाधीन कोटे में लगातार कमी करते हुए पूर्व में मध्य प्रदेश राज्य को 350 मेगावाट बिजली मिला करती थी जिसको अब समाप्त कर दिया गया है। इसी प्रकार 2003 में केन्द्र सरकार द्वारा उत्तरी ग्रिड से

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राजस्थान के कोटा स्थित परमाणु विद्युत गृह से 143 मेगावाट का विशेष आबंटन किया गया था जिसको केन्द्र सरकार ने अब बंद कर दिया है। केन्द्रीय क्षेत्र के दामोदर घाटी निगम से हुए एक अनुबंध से पहले 400 मेगावाट बिजली मिलने की सम्भावना थी लेकिन इससे भी केवल 120-130 मेगावाट बिजली ही प्राप्त हो रही है। महोदय, केन्द्रीय क्षेत्र के वेस्टर्न कोल फील्ड द्वारा सतपुड़ा ताप विद्युत गृह से खराब कोयला प्रदर्शित किया जा रहा है, जिससे विद्युत के उत्पादन में 150-200 मेगावाट की कमी आई है। केन्द्र सरकार मध्य प्रदेश राज्य को मिलने वाली बिजली के कोटे में लगातार कटौती कर रही है। केन्द्र सरकार द्वारा मध्य प्रदेश के कोयले को राज्य से बाहर भेजा जा रहा है, जिससे राज्य के बिजली उत्पादन में कमी आई है। महोदय, मेरा आपसे आग्रह है कि सरकार द्वारा मध्य प्रदेश राज्य को निर्बाध कोयले की आपूर्ति की जाए तथा केन्द्रीय पूल से मिलने वाली बिजली भी पूर्व की भांति मिलनी चाहिए।

(समाप्त)

GS/9T

**DEMAND TO SET UP A REGULATORY AUTHORITY TO
MONITOR AND SET PARAMETERS FOR SAFE ENERGY
DRINKS IN THE COUNTRY.**

श्री प्रभात झा (मध्य प्रदेश): महोदय, देश में बिक रहे एनर्जी ड्रिंक्स में खतरनाक स्तर तक कैफीन का इस्तेमाल किया जा रहा है। सेंटर फॉर साइंस एंड

एनवायरमेंट्स पॉल्युशन मॉनिटरिंग लैब (सीएसई) के एक अध्ययन के अनुसार 44 प्रतिशत सैंपल में कैफीन का स्तर तय पैरामीटर से ज्यादा मात्रा में पाया गया। कैफीन की ज्यादा मात्रा से न केवल हार्ट अटैक बल्कि लकवे का खतरा बढ़ जाता है। यहां तक कि कैफीन की ज्यादा मात्रा शरीर में जाने से व्यक्ति की जान भी जा सकती है। देश में बेचे जा रहे एनर्जी ड्रिंक्स में कंपनियों द्वारा धड़ल्ले से तय पैरामीटर से ज्यादा कैफीन का इस्तेमाल किया जा रहा है, परन्तु इन पर नज़र रखने के लिए देश में कोई नियम, संस्था नहीं है। जाहिर है इसका फायदा उठाकर एनर्जी ड्रिंक्स कंपनियां देश के भोले-भाले लोगों की सेहत के साथ खिलवाड़ कर रही हैं।

अतः देश के लोगों के स्वास्थ्य हित में, मैं सरकार से यह मांग करता हूं कि एक नियामक संस्था का गठन किया जाए जो कि देश में एनर्जी ड्रिंक्स कंपनियों के व्यापार एवं क्रियाकलाप पर नज़र रखे।

देश में एनर्जी ड्रिंक्स की मुक्त बिक्री पर प्रतिबंध लगाया जाए तथा मेडिकल प्रेस्क्रिप्शन की स्थिति में ही इसकी बिक्री की अनुमति का प्रावधान किया जाए। सरकार द्वारा एनर्जी ड्रिंक्स के प्रयोग से होने वाले साइड इफेक्ट्स के सन्दर्भ में देश के लोगों के बीच जागरूकता फैलाई जाए।

अंत में, मेरी सरकार से मांग है कि उपरोक्त बिन्दुओं को ध्यान में रखते हुए शीघ्र उचित कदम उठाए। धन्यवाद।

(समाप्त)

KR/9U

SHORTAGE OF POWER IN BIHAR

DR C.P. THAKUR (BIHAR): Sir, Bihar is a large State with a population of 9.2 crore; and 15 years of misrule during the RJD regime, there has been a complete infrastructural failure, including availability of electricity in Bihar. At present, Bihar produces electricity only at two small plants, that is, at Kanti and Barauni. Share in the Central quota is also not adequate. Naturally, no businessman wants to start any industry in Bihar because power is the key for industrial development. Even agriculture is suffering because of this. There is drought in Bihar except a bit of North Bihar. Even for getting drinking water, adequate electrical energy is required and, therefore, Bihar is not able to develop adequately in spite of the best intentions of the Government. To meet the day to day requirement of this huge population adequate power is required. Therefore, it is the responsibility of the Central Government to manage and supply of adequate power for all round development of Bihar. For this purpose, negotiation with neighbouring countries like Nepal and Bhutan would be important for supply of hydel power. If there is a possibility of

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accessing facilities of hydel power in any of our northern Himalayan States, then, Bihar can access those facilities. Even neighbouring countries like Nepal and Bhutan should be approached. This is a matter of urgent important for development of Bihar and it needs Central help and intervention.

(Ends)

MKS-9W

DEMAND FOR STRENGTHENING SECURITY OF MAHARASHTRA

SHRI SANJAY RAUT (MAHARASHTRA): Sir, I would like to raise a serious issue regarding the lethargic attitude of both State and Central Governments towards purchasing modern weapons and better intelligence resources for the Mumbai security. Mumbai Police Department is demanding, from time to time, for modern weapons and other intelligence communication equipments for the security of Mumbai. Due to lethargic procedure for procurement of modern weaponry for the force, the Mumbai Police is unable to tackle armed extremists. There has been a complete deficiency of local and police intelligence. National intelligence is paper-thin, and despite repeated

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attacks, we have not learnt our lessons. The devastating attacks on Mumbai show that the Indian financial capital urgently needs a more modern police force and better intelligence resources.

There have been many loopholes in the security cover of Mumbai which has already been a terror victim for five times.

The Mumbai City Police and the entire Maharashtra Police were unprepared for such an eventuality. The reaction of the Mumbai Police was amateurish and unprofessional on account of lack of preparedness to deal with the situation.

More than anything, we need to prepare a professional response team and keep them well-trained, equipped and paid handsomely.

In view of security of Mumbai and Maharashtra, I request the Government to take immediate steps for providing weapons and latest communication equipments to Maharashtra Police for tackling the war against terrorists and its organisations.

(Ends)

TMV-9X

**DEMAND FOR PROVIDING STAFF COMPONENT WITH SALARY
ON GOVERNMENT SERVANTS' PATTERN TO STAFF WORKING IN
PARLIAMENTARY PARTY OFFICES OF POLITICAL PARTIES**

DR. BHARATKUMAR RAUT (MAHARASHTRA): Sir, I wish to mention an issue of providing staff component with salary on the pattern of Government servants for staff working in Offices of Parliamentary Parties situated in Parliament House.

Every national and regional political party has been provided office space in Parliament House for performing the parliamentary duties by its Members of Parliament. The necessary facilities, e.g., furniture, telephone, computers, internet, electricity, etc., have been provided by Government to these offices. But necessary staff is not provided by Government to assist the MPs.

Parliamentary Parties have employed a few staff on their own in these offices and give salaries from the monthly contributions collected from salaries of their respective MPs. Due to shortage of funds, party offices are unable to employ required staff, thus office work is hampered. Employees have been working for a long time (10 to 15 years) in these offices, but no basic facility such as provident

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fund, bonus, pension plan, etc., is being provided to them. Their future is uncertain. The Parliament is committed and responsible to make laws for the welfare of citizens of the country; then why justice is not done to persons who are serving the representatives of the people.

I request the Government to provide staff component with salary, allowances, etc., on the pattern of Government servants for staff working in the offices of Parliamentary Parties situated in Parliament House. By doing this future of present staff will be secured and the work in the Offices of Parliamentary Parties may be done properly.

(Ends)

VK/9Y

**DEMAND FOR EARLY COMPLETION OF CUDDAPAH-BANGALORE
RAILWAY LINE**

SHRI Y.S. CHOWDARY (ANDHRA PRADESH): The Cuddapah-Bangalore new railway line is one of the South Central Railway's largest projects and the foundation stone for the project has been laid at the Cuddapah Railway Station. The new line will reduce the

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distance considerably between Cuddapah and Bangalore. It has the potential to boost the economy and generate employment in the region. The Cuddapah-Bangalore railway line once completed will shorten the distance by 226 kms. as compared to the route via Renigunta and will also provide a shorter alternative route between north India and Bangalore.

The project involves an investment of Rs. 2,000 crores, which the Central Government and the States of Andhra Pradesh and Karnataka have agree to bear on a 50:50 basis.

In view of the benefits that are likely to accrue to the people of the region and the economy from the new railway line between Cuddapah and Bangalore, I urge upon the hon. Minister of Railways to take interest in the railway line and ensure that the line is completed at the earliest. Thank you.

(Ends)

LP/9Z

CONCERN OVER ROTTING OF FOODGRAINS IN THE COUNTRY

श्रीमती कुसुम राय (उत्तर प्रदेश) : एक ओर देश में गरीबी रेखा से नीचे रहने वालों की संख्या 37.52% से ऊपर पहुंच गई है और विश्व के 22% गरीब भारत

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में रहते हैं। UNFAO के अनुसार भारत में 23 करोड़ लोग भूख और कुपोषण के शिकार हैं और 56% महिलाएं एनीमिया की शिकार हैं।

एक अन्य सर्वेक्षण के अनुसार उ०प्र० स्थित बुन्देलखण्ड क्षेत्र में 3 वर्षों में भूख और गरीबी से त्रस्त आकर लगभग 1400 लोगों ने आत्महत्या की है और इनमें से अधिकांश दलित हैं।

दूसरी ओर भारतीय खाद्य निगम के गोदामों में लाखों टन अनाज भण्डारण सुविधा के अभाव में सड़ रहा है। यह कैसी त्रासदी है कि एक ओर, जहां लोग भूखे मर रहे हैं, वहीं लाखों टन अनाज गोदामों में सड़ रहा है। जिस भारत देश में दरिद्र नारायण की पूजा होती थी, उसी भारत वर्ष में लोग भूखों मर रहे हैं, अनाज गोदामों में सड़ रहा है और सरकार आंखें मूंदे बैठी है।

मैं सदन के माध्यम से मांग करती हूं कि सरकार अनाज को सड़ने से बचाने हेतु शीघ्र कदम उठाए तथा जरूरतमंदों तक अनाज पहुंचाने की शीघ्र व्यवस्था करें।

(समाप्त)

THE VICE-CHAIRMAN (PROF. P.J. KURIEN): The House is adjourned to meet at 2.00 p.m.

The House then adjourned for lunch at fifty minutes past twelve of the clock.

**The House re-assembled after lunch at two of the clock,
MR. CHAIRMAN IN THE CHAIR.**

MR. CHAIRMAN: We shall now resume discussion on the Motion that could not be finished yesterday. The hon. Leader of Opposition.

MOTION RE. PRESENTING AN ADDRESS UNDER ARTICLE 217 READ WITH CLAUSE (4) OF ARTICLE 124 OF THE CONSTITUTION TO THE PRESIDENT FOR REMOVAL FROM OFFICE OF JUSTICE SOUMITRA SEN OF THE CALCUTTA HIGH COURT;

AND

MOTION RE. CONSIDERING THE REPORT OF THE INQUIRY COMMITTEE CONSTITUTED TO INVESTIGATE INTO THE GROUNDS ON WHICH REMOVAL OF SHRI SOUMITRA SEN, JUDGE, CALCUTTA HIGH COURT WAS PRAYED FOR;

AND

MOTION RE. ADDRESS TO THE PRESIDENT UNDER CLAUSE (4) OF ARTICLE 124 OF THE CONSTITUTION - (CONTD.)

THE LEADER OF THE OPPOSITION (SHRI ARUN JAITLEY): Mr. Chairman, Sir, yesterday, after some initial observations with regard to the bar being raised on issues of probity when it comes to Constitutional functionaries like the Judges, I had dealt with at length what the learned Judge had to say in his defence when he appeared before the House yesterday.

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In a nutshell, so as to maintain the continuity, if I can just repeat two or three sentences, the case against the Judge is that from his tenure as an Advocate-Receiver to his tenure as a Judge, there is a thread of continuity where he never rendered accounts for monies which came into his possession as Receiver. He created, on his own admission, encumbrances. And I was trying to build up a case that he even misappropriated those funds. And, that is the case the Inquiry Committee has established and the in-House Judges Committee has established. This misappropriation spilled over into his tenure as a Judge. He became a Judge on 3rd December, 2003. It is only in 2006, when the Court passed an Order against him, that he had to then repay it under a coercive threat of a Court Order.

The second limb of the charge against him is that before various authorities, whether it was the Court, the in-House Committee, or the Inquiry Committee, he misrepresented the facts. He misled them, and this entire misrepresentation was during his tenure as a Judge. A Judge is expected to be candid. A Judge is expected to be a role model litigant. A Judge does not come up and

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say, 'I invested this money erroneously, by an error of judgement, in Lynx India. The money got lost because of insolvency', when the fact is that he did not, from the monies, in this case, of Steel Authority of India, invest any monies in Links India.

Sir, since the House had adjourned yesterday for continuing this debate today, I got a further opportunity to read the entire evidence which came up before the Committee set up under The Judges Inquiry Act by the hon. Chairman. And, I must say that even when the learned Judge was here yesterday, and he made a very persuasive presentation, some of the facts that he stated -- and I say this with a sense of responsibility -- were not merely a continuation of this exercise to mislead the entire enquiry process, and earlier, the judicial process; when he appeared before this House, the entire basis of his defence, on the basis of documents admittedly before the inquiry which the hon. Chairman appointed, was completely at variance. The truth was something else. I will refer to three illustrations of this fact.

The hon. Judge says, "The Committee that the hon. Chairman appointed mentioned that the Judge was a holder of a particular

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account whereas the account belonged to some other Soumitra Sen, and that he was being hanged because the Committee attributed a bank account to him which was in the name of some other Soumitra Sen.

(contd. at 1y/hk)

HK/1y/2.05

SHRI ARUN JAITLEY (CONTD.): When all of us heard this, we were actually surprised that how the Committee could commit such a patent error on the face of it. I checked up the entire evidence. When the charge was made against him that you obtained moneys by sale of goods in the Steel Authority case, you usurped those moneys; you misappropriated those moneys. On the contrary, from some other case of Calcutta Fans where you were a Special Officer, you invested those moneys in a company called Lynx India. The Committee or any other litigant did not make this charge of this account against him. This judge, in the first instance, through his mother went to a single judge of the Calcutta High Court and he told the single judge of the Calcutta High Court, "Well I had kept this money in Account No.O1SLP0156800 and this money was invested in Lynx India."

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Through his mother he filed a written note. This account number that he himself gave was the account of the other Soumitra Sen. And that written note -- I hold in my hand the relevant extract -- is before the Inquiry Committee. The Calcutta High Court never had an opportunity to see it. Even the in-house inquiry did not get it. It's only the Inquiry Committee appointed by the hon. Chairman that obtained this by directing the bank to come here. Not only this, when we challenged the order of the Division Bench at two places -- and I will read it and those familiar with court proceedings will appreciate that this is in form of grounds of appeal and an interim application -- he makes the same observation. "For the learned judge failed to appreciate that all investments made by the erstwhile Receiver in the company were by way of cheques drawn on ANZ Grindlays Bank from bank Account No.01SLP0156800." His defence was that from this account he made the investments in Lynx. So, both the High Court and everybody called for this account and they found that from this account no investments had been made. Twice he told the Division Bench this. After he told the Division Bench this and the single judge did not accept his case and they found that from this account no moneys had

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been paid to Lynx, the matter came up for inquiry under the Judges (Inquiry) Act. They charged him not for holding this account; but you say that from this account you paid moneys to Lynx, unfortunately, from this account no money has been paid. The copy of the charge is then given to him. He doesn't correct the error. The charge is then given to him. The charge doesn't say that you hold this account. The charge says from this account also no money has been paid to Lynx. So, the defence is false. When he comes up before the inquiry Committee, he files a detailed reply. Even in the reply, he doesn't say that this belongs to some other Soumitra Sen. It is only when the bank official comes his counsel now very conveniently puts a question to him, 'Well this account doesn't belong to my client, it belongs to somebody else'. So, the bank rightly says, 'Yes, it belongs to somebody else.' So, the Inquiry Committee says, 'You yourself put up a false account from which you had made the payments and when it is found out that this is not the real account, they get the account opening form. The account opening form is of one Soumitra Sen who is an employee of Food Specialities Ltd. So, you passed off his account as your account in the pleadings.'" So, the Inquiry

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Committee holds against him from these moneys of sale or this account you have not paid any money. Now what does he do when he appears before us? He comes here and says, 'Look so casual and vindictive was this Inquiry Committee that they foisted a false account on me.' Sorry, the truth is otherwise. You passed off a false account as your account. When the bank was called, they detected this fraud and the Committee has, therefore, given a finding against you.

(Contd. by 1z/KSK)

KSK/2.10/1Z

SHRI ARUN JAITLEY (CONTD): So, the first point on which he tried literally to rubbish the procedure of the inquiry was by saying that a false account is foisted on me. The second fact -- and we can check up the record -- is when he says, "The accounts were materially operated between 1993 and 1995. No bank statements are available, and I am being hanged without the bank statement showing expenditure." This worried me a little, Sir. So, I went and checked back the record at night, and from the evidence, which the Committee appointed by the hon. Chairman, I found that before the High Court, he never brought the bank statement. Obviously, he himself had to

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show the bank statement of expenditure. But, the inquiry appointed by the hon. Chairman directed one of the banks to come and show the statement. So, the bank filed the ledger. So, second falsehood where he misled the House yesterday was, “bank statements are not available”. The bank statements are available. They are exhibited in the inquiry appointed by the hon. Chairman. What does the bank statement say? I am just holding the statement of Allahabad Bank where I had mentioned yesterday that some Rs.4,68,000 was deposited. From 24th March, 1993 onwards, by cash, and mostly by cash, some payments by cheque, he withdraws the money. And, Rs.4,68,000, on 8th March, 1996, within two years, becomes Rs.5,378. No money given to any workmen; no money given to Lynx India; all cash and cheque withdrawals for himself. Till date, he has not explained what did he do with this money. It's only in 2006, ten years later, when he got caught, he says, “Okay, I will pay with interest”. So, this House was again misled yesterday by saying that bank statements are not here. Bank statements are available. I hold them in my hand.

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The third thing he said yesterday where he tried to mislead us, “Even if you hold me guilty and remove me, I will still shout from rooftops that I did not misappropriate the money.” Well, you may have a great determination or a pathological conviction that you have not misused the money, but the best proof is : how were the cheques cut out from this account? The cheques can’t lie; individuals can. On the inquiry appointed by the hon. Chairman, what do the cheques show? I am holding zerox copies of the cheques which are on the record of the inquiry. The same names as I mentioned yesterday - cheques in favour of one K.L. Yadav, one Guru Enterprises, one Subroto Mukherjee, Prashed Prasad Chaudhary, Ram Nath Roy and the same names which I had mentioned yesterday. Now, who are these people? These are not workmen. What is the second set of cheques? Now, regarding the second set of cheques, the record is with me. It is in Committee’s record. Any Member can borrow the record from me. All these cheques are cut out ‘self’ and cash withdrawn. You can shout from rooftops that you did not withdraw this money, but these cheques and this misappropriation will hang like an albatross around your neck even when you are shouting from

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rooftops. These are all self withdrawals. These are all withdrawals in favour of a company, S.C. Sarkar and Company, the bookseller, publishers that I mentioned. And, then, there are cheques towards ANZ Grindlays Bank card number so and so which is for VISA credit card. These are exactly the same facts I had given yesterday. Now, you use the money, you utilise the money which is really custodial, as he says, in his possession, which is case property. He holds it as a trustee. And, when he holds it as a trustee, he not only misuses this money, misappropriates this money, but in 2003 when he becomes the Judge, he does not tell the Court that I should now be discharged. He continues this misappropriation. The misappropriation continues to 2006. And, the second limb of his offence is when he is called before Courts, when he is called before an in-House inquiry, when he is called before the inquiry appointed by the hon. Chairman, he tells them, “I made some wrongful investments. There must have been an error of judgement on my part, but there is no misappropriation.”

(continued by 2a — gsp)

GSP-VNK-2.15-2A

SHRI ARUN JAITLEY (CONTD.): Self cheques, credit card cheques, book publisher's cheques, cheques in favour of some other unknown gentleman! And, both the inquiries, the inquiry appointed by the Chief Justice of India, and, the inquiry appointed by the Chairperson of the Rajya Sabha, have come to a finding that this was a case of misappropriation.

He says that I eventually went and returned the money. I mentioned this yesterday, and, some of us who are familiar with this branch, know that the first explanation, in fact, that is the only explanation, to breach of trust deals with a situation when, as a trustee, you hold money which is to be used for a particular purpose. The explanation to section 403 of the IPC states that a dishonest misappropriation for a time only is a misappropriation with the meaning of this section.

So, any kind of misappropriation, even if it is for a temporary period, in this case, this period stretches to almost more than ten years, is a misappropriation. And, as a Judge, between 2003 to 2006, not only he continues the misappropriation but also misrepresents to

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every authority, and, he tells to every authority which is constituted, “well, these were some honest, bonafide investments, which got lost, and, therefore, I paid back after ten years with interest”.

Can we afford to have a Judge whose conduct is of this manner? The plea that he raises is that since the main suit is pending, the issue is *sub judice*. The issue of Justice Sen’s misconduct or proven misbehaviour within the meaning of article 124 and article 217 is not pending in any court. In fact, that is the sole jurisdiction of this House. He then says, “I did not claim a right of silence”. The summons issued to him under the Judges Inquiry Act say, “you can appear in person and through counsel but be prepared to answer all the questions”. So, his counsel appears, and, it is a clever strategy that he does not appear himself nor offer himself as a witness. He is the best available person who can tell us and produce his accounts. What would a Judge do? He will be candid and say, this is how I spent the money. It was an error of judgement. I compensate the loss caused. He does not appear because these cheques would be confronted to him, the accounts would be confronted to him, and, he will have no answers to give.

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So, the second limb of the charge on which he is held guilty is his misconduct during his tenure as a Judge, both continuing the misappropriation and stating incorrect, inaccurate facts. So, on each of these grounds, two different bodies have come to a conclusion, and, in all fairness, we are not really bound by what the in-house inquiry has said; we are not even bound by what the then Chief Justice's letter to the Prime Minister contains. There may be many cases of a grosser impropriety, of which evidence, unfortunately, may not be forthcoming. Therefore, we have to consider how we strengthen the system that even those cases do not go unchecked. But is that a ground that because many people who have committed similar or larger offences have got away, therefore, why pick me up, why single me out? Can we afford to have a Judge whose conduct smacks of this kind of a proven misconduct? Therefore, when an opportunity has come, where a committee of two very eminent Judges and one very eminent jurist has come to a finding, is there anything extraordinary in his presentation saying that they have violated the procedures, or, the substantive facts are incorrect, that

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we should really consider not accepting the committee's recommendation?

And, therefore, I concluded yesterday, and, I am reaffirming that, I support Mr. Sitaram Yechury's motion that this is a fit case of proven misconduct where the Judge concerned must be removed from office, and, the Address to the President should be so recommended by this hon. House.

(Contd. by sk-2b)

-GSP/SK/2B/2.20

SHRI ARUN JAITLEY (CONTD.): Sir, I would now like to make just a few observations. The first thing that comes to our mind is — and this has nothing to do with this particular case — that even in 2003, when this misconduct was continuing, how come such persons get to be appointed? It really seriously means that we have to revisit that process. Originally, when the Constitution was framed, we had a system where Judges were appointed by the Executive Government in consultation with the Chief Justice of India. Ordinarily, the Government would be bound by the Chief Justice's advice. In 1993, that system got changed by a judicial interpretation and the advice of

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the Chief Justice of India was binding on the Executive Government. That is the position today. Today, even though the Government is a part of the consultation process, it can refer back the case once, but effectively, our experience has been, this was the experience when the NDA Government was in power, this is the experience of the present Government, that we are living in a system where Judges appoint Judges. The Government, at best, has only a very marginal say. There is no other process by which there is any kind of a participation in the process of appointment of Judges. Sir, both the pre-1993 system and the post-1993 system had several handicaps. The best in this country are not willing to become Judges. We have to seriously consider why. At times, the selection process, where only Judges appoint Judges and the process is a non-transparent process, will always create situations where rumours in the corridors of the court and those who are close observers of the judicial process will be far too many. It was unthinkable once upon a time; it is not unthinkable today. That is why whereas, on the one hand, I suggested that vigilance has to increase, at the same time, we think of an alternative. My suggestion to the alternative is, I am not going into

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the details but a two-fold alternative. We should seriously consider a system which is being debated about setting up a National Judicial Commission. The National Judicial Commission must have Judges. It must have the participation of the Executive. It can also have participation of the people selected by a collegium of some eminent citizens. It can't only remain the domain of the Judges. Therefore, public interest has to be protected in the matter of appointment of competent Judges, in the matter of appointment of Judges who are men of integrity, men of scholarship. Not only this, the criteria for appointment today does not exist. Is it today the discretion of the collegium? Collegium is also a system of sharing the spoils. When the High Courts recommend, members of the collegium share the spoils. This is an impression which close observers have. Therefore, the discretion whether the collegium system continues or we have a National Judicial Commission must also be now statutorily regulated so that arbitrariness can be avoided. After all, there has to be some objective criteria. Except elected offices, there is no other appointment which is made where there is no threshold criteria for entry. What is your academic qualification? How bright were you

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during your academic days? What is your experience as a lawyer? If you are a Judge, how many judgements have you written? How many have been set aside? How many have been upheld? How many juniors have you trained? How many cases have you argued? How many cases have been reported which you have argued? Have you got laws laid down? Have you written papers on legal subjects? These are all objective criteria. One cannot disregard them and say I pick up a name out of my hat and appoint him because I am in the collegium. Therefore, we need, I am glad the hon. Prime Minister himself is here, a system where this should be seriously reviewed.

Secondly, Sir, the matter of Judges judging Judges and nobody else participating in this is also an issue which requires a serious review and which requires to be referred to, in my opinion, the same National Judicial Commission. (Contd. by 2C-ysr)

-SK/YSR/2.25/2C

SHRI ARUN JAITLEY (CONTD.): The third issue is this. When appointments are made we have to seriously consider how the institution functions, whether it functions without any pressures. Today, whether it is politicised appointments or it is appointments

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which lack credibility or it is subsequent lack of accountability or biases on account of relatives, biases on account of religion, caste, and personal relationship, these are all areas where accountability and vigilance norms have to be improved and increased, so that the independence of the institution can seriously be preserved.

Sir, I have always believed that we must seriously consider this larger issue of almost every retiring judge, barring a few honourable exceptions, holding a belief that he is entitled to a job after retirement. Jobs have been provided in certain statutes; they are created by certain judicial orders. Therefore, search for a job on the eve of retirement begins, as a result of which there is a serious doubt which is raised that retirement eve judgements at times get influenced by the desire to get a job after retirement.

Therefore, I think when there is a Bill pending with regard to increasing the retirement age from 62 to 65 in the case of High Court Judges, we should correspondingly think of increasing the strength of judges, even increasing the facilities, remuneration and pension available, but putting a stop to this practice of everybody being

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entitled to a job after retirement. The desire of a job after retirement is now becoming a serious threat to judicial independence.

Lastly, Sir, it is just a brief comment. I have said in the very beginning that the separation of powers is one of the basic features of our Constitution. At times it's argued that the separation of powers is threatened because Governments of the day don't want an independent judiciary. They want to influence the independence of judiciary. So the theories like committed judges, judges with the social philosophy were all propounded at one point in time. Those are now ideas of the past.

Separation of powers requires that every institution works in its own spheres. And if every institution works in its own spheres, it has to lay down the *lakshman rekha* of its own jurisdiction. But why is it necessary to lay down *lakshman rekha* of its own jurisdiction? What happens if one steps into the other's domain? And I must candidly confess that this attempt to encroach upon the *lakshman rekha* is neither coming from governments of the day in the Centre or the States nor is it coming from the Executive or the Legislature. Some serious sidestepping is coming from the judicial institution itself.

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Therefore, we require a certain element of judicial statesmanship; we require a certain legislative vision so that we can maintain this separation of powers. Otherwise, what should be the economic philosophy of India? What should be our economic policy? Whether we go to the post-91 policy of liberalisation or we go to State controls is the matter entirely for the Executive. Courts cannot say that this is neoliberalism which is creating problems. Courts cannot have an ideology. The only ideology that courts can have is commitment to the rule of law and what law is made by Parliament. Courts cannot tell this to the Government.

There was an incident in the past when a terrorist group was holed up in Kashmir and courts asked our security agencies how many calories were to be fed to the terrorists, because they have a right under Article 21 carrying a gun in their own hands. How Maoism is to be fought or insurgency in the North-East is to be fought, we have gone through these debates in this House. That is the domain of the Government. The Government has to decide the policy. Courts cannot decide that policy. What should be the land acquisition policy? The Government is seriously contemplating a new Land

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Acquisition Act. What should be the quantum of relief and rehabilitation? These are all areas.

I recently came across a fact that a Pakistani prisoner should be released. There may be some space for compassion in any civilised society.

(Contd. By VKK/2D)

-YSR/VKK-NB/2d/2.30

SHRI ARUN JAITLEY (CONTD.): But, whether the Government of India wants to release the Pakistani prisoner or it wants to exchange for another Indian prisoner in Pakistan, is a matter of the foreign policy or the security policy of the Government of India. We have not handed over the management of India's foreign policy to the Supreme Court of India and, therefore, how the Pakistani prisoner is to be treated – released or otherwise – is entirely in the domain of the Government of India. Now, these are all examples of recent past that I am mentioning where the space or line of separation of powers itself gets obliterated and the encroachment, in most cases, is neither coming from the Legislative nor the Executive. Therefore, we need a serious introspection and I, therefore, said that we need a judicial vision, a

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legislative statesmanship and *vice-versa* in this country so that the correct balance of separation of powers can itself be maintained.

Finally, Sir, we were dealing with the case of a delinquent Judge. I am of the clear opinion after going through the reasoning of the Inquiry Committee; detailed reasoning has been given; it's a very well written report which is substantiated by huge number of documents. The conduct of the Judge leaves much to be desired – his conduct as a receiver, his conduct as a Judge, his conduct in the course of inquiry and finally – though not a ground for impeachment, but a ground on the basis of which we must make our own assessment – the kind of statement he made yesterday. I think, this is a case which should leave none of us in doubt that it's a fit case for removal of this Judge and we must so make a recommendation of the Address to the President of India. Thank you.

(Ends)

DR. E.M. SUDARSANA NATCHIAPPAN (TAMIL NADU): Thank you, Sir. I support the Motion for presenting an Address under article 217 read with clause (4) of article 124 of the Constitution followed by the Motion for considering the Report of the Inquiry Committee

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constituted to investigate into the grounds on which removal of Shri Soumitra Sen, Judge, Calcutta High Court was prayed for and Address to the President under clause (4) of article 124 of the Constitution.

Sir, we respect the judiciary in all quarters. We never mention the name of any individual Judge or any action of the Judges or any of the courts. We are following the system of separation of power and more so, under the leadership of Dr. Manmohan Singhji, the Government always obliges and respects the orders and directions of the Supreme Court, the High Courts and all the courts. But, yesterday, we felt very sorry after hearing an eloquent speech of a Judge, who is a sitting Judge, where he attacked the judiciary to the maximum. We can even see that the words he used were never used in the record of the Parliament. Never as a politician or as a Member of Parliament, we used the word 'prejudice'; we never used the word 'pre-judge'; we never used the words 'they don't have any power'; we never said that Order 39 or Order 40 of CPC says that they cannot ask anything from the receiver. We never said like that. We oblige that they have got separate jurisdiction. We have our own jurisdiction. We

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are doing our job; they are doing their job. That was the nature of the speech that we had in Parliament yesterday.

Sir, really, it is a historic day that now we are discussing the issue which was initiated by the judiciary. It is not initiated by any Member of Parliament except the procedure. Under the Judges Inquiry Act 1968, there is a procedure that you have to come forward with a petition or complaint against the sitting Judge of the High Court or the Supreme Court with the signature of 50 or above Members of Rajya Sabha or 100 Members from Lok Sabha. That procedure alone is followed by our side and we initiated this procedure only on the basis of the judicial aspect. The hon. Chief Justice of India had made a request to the President, requesting initiation of these proceedings against a sitting Judge of the Calcutta High Court.

(Contd. by KR/2e)

KR/2E-/2.35

DR E.M. SUDARSANA NATCHIAPPAN (CONTD.): For that I am just quoting from the report of the Inquiry Committee, Volume-II, page 65, item No.9, "On 03-12-2003 Receiver was elevated as a Judge of the Calcutta High Court" This is a date very important for us. From that

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date onwards our jurisdiction starts to discuss on this matter. Then, he cites 20 events which have happened before the single Judge of the Calcutta High Court where it was dealing with a Receiver's petition, how the Receiver has not properly acted and how he has not produced the accounts. In spite of the repeated summons issued to him, he did not appear before the court. He did not give proper answers to the court. Events according to him, have been given on pages 65, 66, 67 and 68.

Finally, Sir, on the 19th item, on 10-04-2006, hon. Justice Sengupta passed a detailed order, directing the erstwhile Receiver to pay a sum of Rs.52,46,454/- after adjusting the said sum of Rs.Five lakhs. The erstwhile Receiver and/or his agent, and/or representative was injuncted from transferring, alienating, disposing of or dealing with right, title and interest in moveable and immovable properties lying at his disposal, save and except in usual course of business, though he was discharged on 03-08-2004.

Sir, it is a very pathetic situation. A Judge, who has assumed a position of a Judge, was continuing as a Receiver also for more than eight months. He was really feeling that he was elevated to a Judge of

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High Court, the entire life of the people, the entire judicial system were in his hands, he should also feel that when the warrant of appointment had come from the President of India, he should have relinquished from the Receivership, he should have deposited the amount in the court and he should have given accounts to the court and then he should have assumed the position of the Judge of the High Court. He has never done it. From the dates of events, he has just passed on he case as a Judge while we are discussing on his misbehaviour and misappropriation only during the period when he was a Judge. He was questioning how could you deal with the person, Receiver, how could you question the Receiver, only the court could do so. Further he quoted Section 40 of the Civil Procedure Code. As a Judge he continued himself as a Receiver also for more than four years, that is, till he was removed. Eight months after the single Judge decided the case on the basis of a petition, he was removed from the Receivership and somebody else was appointed in his place. Subsequently, the proceedings continued for four years. And for four years he was representing the matter through various agents and Advocates. Finally, when the clear order was given by the single

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Judge in 2007, he came forward to deposit the entire amount. He paid the first installment of Rs.40 lakhs. Then, he paid the rest of the amount on 27.06.2006.

I am quoting from page 69 of the report. On his own submission a sum of Rs.40 lakhs has been paid by the erstwhile Receiver. Then, on behalf of erstwhile Receiver the constituted Attorney filed an application for extension of time to deposit the balance amount. This matter was considered by the court when he was also a sitting Judge of the same Calcutta High Court.

Then the pitiable position was, on 17-11-2006 a publication was issued, in the local newspaper. (Continued by 2F)

MKS-SC/2.40/2F

DR. E.M. SUDARSANA NATCHIAPPAN (CONTD.): A publication on this issue was made in the local newspaper. Then, the Chief Justice of that particular High Court, Calcutta, Chief Justice V.S. Sirpurkar, wrote a letter to the Chief Justice of India on 25.11.2006. This I am placing from his own submission, given on page number 3 of the

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reply, which is given before the Inquiry Committee. I am reading it from page number 3, para 1.2:

“This private communication by the Learned Single Judge led to the formation of an adverse opinion by the Hon’ble Justice V.S. Sirpurkar against me on the basis whereof he said, Hon’ble Justice V.S. Sirpurkar wrote a letter to the then Hon’ble Chief Justice of India dated 25.11.06 informing him of the allegations against me and his opinion and/or his views.”

In that way, it goes on, Sir. Therefore, this is a *suo motu* proceeding which started with the Chief Justice of a particular High Court and it goes to the Chief Justice of India. Then, subsequently, he started to work on. The Judge -- he is also a sitting Judge in the same Court -- started working on and paid the rest of the amount on 21.11.2006. The Learned Advocate on record of erstwhile Receiver by a letter deposited the remaining balance amount of Rs.12,46,454/- before the Registrar. Then the Single Judge orders, on 31.7.2007, the application being G.A. No. so and so, for recalling the order, dated so and so. In that way, he lifted the injunction imposed on him. Till 31.7.2007, the Judge has never challenged the order of the Single Judge. He has never gone to this Division Bench. He has never gone in for any other review or revision or any proceedings. He has never

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gone for that. He has never challenged it. He accepted it. But, subsequently, when he finds out that Justice Sirpurkar has initiated the proceedings through the Chief Justice of India, then only he files a petition before the Division Bench; that is on 25.9.2007. Hon'ble Justice Pranab Kumar Chattopadhyay and Hon. Justice Kalidas Mukherjee were pleased to re-set aside the impugned judgment on 31.7.2007. Sir, repeatedly, he was telling us, "We have to rely upon this judgment." Sir, nobody who has got small knowledge of law can accept when the initiated proceeding is already on. Whatever thing had happened anywhere, that will not be counted. Already, a Single Judge has passed an order; that was obeyed by the particular person; he paid the deposit. That means, he accepted every misappropriation, mishandling, everything. It was accepted. Then where is the position for citing another Division Bench judgment on which he has initiated afterwards, through his mother and other persons, that this order is wrong and, therefore, you expunge the portion which has commented upon the Receiver who was a erstwhile Receiver, and, therefore, he initiated that proceedings? Therefore, we cannot look into the Division Bench judgment at all. It cannot be a

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binding. He was telling us, “You want to take away the proceedings of the Division Bench judgment and you don’t want to obey the Judge’s order. Sir, the Judge’s order is not a judgment *in rem*. It is not a judgment for the whole world. He has not produced any particular thing. It was a judgment in a particular person per se. That particular person is going to get a relief by that order. If that is so, it is not binding upon anybody. And more so, Sir, he challenged every position afterwards. Sir, being a Judge of the High Court, he should understand how the proceedings of the law have come up, how the Supreme Court has evolved a new system of correcting themselves within their own peer group and how they came out. In 1968, we enacted the law. In 1983, they took their own power of appointing themselves as Judges, and within three years, a lot of complaints started coming. Therefore, many cases have come to light and one of the cases is Ravichandran Iyer vs. Justice Bhattacharya. In that judgement, Justice Ramaswamy and another Judge have passed a judgment saying that the time has come; therefore, we have to rectify ourselves by way of creating an in-house system.

(Contd. by TMV/2G)

-MKS-TMV-MCM/2G/2.45

DR. E. M. SUDARSANA NATCHIAPPAN (CONTD.): By this system we have come forward with a new convention.

Sir, I am just citing from the 21st Report of the Department-related Parliamentary Standing Committee on Personnel, Public Grievances Law and Justice on Judges (Inquiry) Bill, 2006. It is on page 9, paragraph 10 and I quote:

“10.0. In 1997 the Supreme Court of India passed two resolutions dealing with Judicial Accountability *viz* Restatement of Values of Judicial Life and in-house procedure within the Judiciary. The Restatement of Values of Judicial Life Resolution was adopted in the full court meeting of the Supreme Court on May 7, 1997 which included the following:-

‘That an in-house procedure should be devised by the Hon’ble Chief Justice of India to take suitable remedial action against the Judges who by their acts of omission or commission do not follow the universally accepted values of Judicial Life including those indicated in the Restatement of Values of Judicial Life’.

The in-house procedure is essentially meant for disciplining the Judges, against whom complaints of judicial misconduct and misbehaviour were received. The in-house procedure rests on

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the premise that there may be complaints casting reflection on the independence and integrity of a Judge which is bound to have a prejudicial effect on the image of the higher judiciary. In the in-house procedure, a complaint against a judge is dealt with at an appropriate level within the institution. It is examined by his peers and no outside agency is involved, thus the independence of judiciary is maintained”.

This was actually made on the basis of an observation of the Supreme Court in *C. Ravichandran Iyer vs. Justice A.M. Bhattacharjee and others* case. The Law and Justice Department had sent the Bill to all the High Court Judges. That was the first time that the Judges (Inquiry) Bill was sent to the High Court Judges. A full court of ten or eleven High Court Judges was convened by the High Courts and all of them replied in certain ways. They supported the in-house system. They supported the amendment to insert the provision. They opposed certain provisions. This is the kind of reply given by the full court of every High Court. That was a new history which was created during that period. At that time they cited a full bench decision of the Allahabad High Court. They replied to the request of the Standing Committee. They cited the Ravichandran Iyer's case. I am just reading out that portion on page 134:

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“ The Apex Court itself has laid down that the Chief Justice of a High Court has ample power to deal with any Judge who misconduct himself. Self-regulation by Judiciary is the method which has been emphasized by the Apex Court. The in-house remedy for restoring the confidence of the people against errant behaviour or misconduct by any Judge has functioned quite effectively.

The Chief Justice of India being head of the Judicial fraternity does not lack means and power to discipline the Judges. The gap between proved misbehaviour and bad behaviour inconsistent with high office can only be disciplined by self-regulation through an in-house procedure as laid down by the Apex Court in C. Ravichandran Iyer's case”.

This is the position of the Supreme Court. How can a sitting Judge criticise and say that the Chief Justice of India had made his own effort and he had prejudged everything? He also commented that the in-house procedure is not at all correct because there was no resolution passed by Calcutta High Court. Sir, all of us very well know that an annual conference of Chief Justices of all High Courts is

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convened. The hon. Prime Minister also attends that meeting. At that time the Chief Justices of all High Courts come. They make certain procedure for themselves. They make their own resolution. They follow that resolution. That is the convention that we are following in India. It is happening every year. They are making resolutions and they are acting upon them. But he challenged even that. He challenged each and every system and institution. We can't tolerate this just like that. He challenges in-house proceedings. He challenges the Chief Justice of India. He challenges the Judges who were Members of the in-house proceedings.

(Contd. by 2H/VK)

VK/2H/2.50

DR. E.M. SUDARSANA NATCHIAPPAN (CONTD): He says that two judges were elevated as the Supreme Court Judge and another judge was not elevated. These are all the things which he has mentioned. Even we have never mentioned these things in this House. This is the first time when we have heard this from a sitting High Court Judge in this Upper House.

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Sir, I have gone through each and every part of the evidence before the Committee. This Committee was constituted by the hon. Chairman only after the CJI was convinced after the In-House proceedings that there was misbehaviour and misappropriation and he recommended it to the President of India. On the basis of that, hon. Members of this House took this initiative and that initiation has led to the provision of appointing a new Committee. That Committee was also challenged by him. He questions as to what is the right of the Committee to look into receiver's activities; they have got no right on that. He was saying like this. We are not saying who should be appointed as a receiver; we are not asking as to how he was appointed; we are also not asking whether he was doing the work properly or not. No, we are not doing that job. We are trying to find out after being a Judge of the High Court what is his conduct; what misappropriation he has done. From his own submission, we can find out how he misappropriated. As I have submitted earlier, he admitted that by way of submitting to the Court's order he paid the amount after four years, after he became a judge of the same Court. That means after four years he comes out and deposits the amount.

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He says, "I deposited the amount twice; I have deposited all the money in the Lynx India Co. which has liquidated. Therefore, the matter is over." He wants to tell one part of the story. This is like the Shakespeare drama. 'Iron was eaten away by the rat'. That is the story he wants to tell. Subsequently, he says, "No, no, even then I paid from my own pocket; I deposited around Rs. 50 lakhs." Why did you deposit the money? If you have not misappropriated the money in the last 14 years, why did you deposit the money? He deposits the money and he does not challenge the order. Then he comes forward and says that it was purely on a prejudicial matter.

Sir, I would like to talk about another thing. He has even come to a conclusion that the selection process was poor. On page 61, para 3.6, in his reply to the Committee, he says, "Past actions of a Judge long prior to his elevation, cannot be the subject matter of impeachment. If past actions are brought within the ambit of Article 124 (4) read with the provisions of the Judges Inquiry Act, it will make a mockery of the selection process of a Judge of the High Court or the Supreme Court". Here I would like to submit one proposition. After 1993, the procedure which is being followed by the judges is

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totally different. They never consult the Executive. Previously, before 1993, the procedure was like this: The local Chief Minister, through the Governor, will give a list of names, who have got good background and good reputation. That will then be considered by the Chief Justice of the High Court. Then he will make his remark on that and then send it to the Ministry of Law and Justice. The Ministry of Law and Justice, through its apparatus, will find out as to what is the background of that particular nominee. Then they will compile a report on the basis of his background and that is then submitted to the Chief Justice of India. The Chief Justice of India will consider it and finally he will take his decision and then it will be forwarded to the President of India for issuing the warrant of appointment.

(Contd. By 2J)

RG/2.55/2J

DR. E.M. SUDARSANA NATCHIAPPAN (contd.): That was the procedure followed from 1993. Sir, the Constitution never says as to who has to appoint a judge. It is the President's will. At the same time, the settled provision, which was followed till 1993, was the will of the people, the will of the local federal Government, the will of the

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elected representatives. The Chief Minister represents the whole State, and, therefore, his will was to be considered. So, it was routed through him. But they have to find out whether they come within the purview of the judicial system. Therefore, the Chief Justice of that particular High Court made the recommendation. And, finally, they have to find out whether he is a person of integrity, whether he is having the national spirit and whether he will abide by the Constitution. These are all the things which will be considered by the Union Government. Then, it will go to the Chief Justice of India, and it will then go to the President. But, after 1993, they have been totally misled by the Judgement which was rendered by a Bench. Before that, in the Committee on Personnel, Public Grievances and Pensions, Law and Justice, the former Chief Justice of India, Justice R.S. Pathak, former Chief Justice of India, Justice P.N. Bhagwati, and former Chief Justice of India, Justice Ranganath Mishra, all of them deposed before the Committee. I would like to read out the 21st Report of the Committee. On Page No.27, it says: While taking stock of the impact of the post-1993 situation, the former Chief Justice of India, Justice P.N. Bhagwati, stated as follows: “Ask any lawyer,

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standard has gone down. Why? It is because of the mode of appointment. When the Supreme Court gave its Judgement that the appointment should be in the hands of the judiciary, the Government should be bound by it, and it should end with the judiciary, namely, the Chief Justice and first four Judges, everyone thought, perhaps, at least, some people thought, but I never thought myself that this would improve the appointment or quality of appointment of judges.” Also, the former Chief Justice and Judge of the International Court of Justice, Shri R.S. Pathak, says, “So far as the collegium is concerned, I must frankly confess that I have serious reservations about it. In regard to the old practice that we used to follow in appointment of judges, although this is not a matter really for today’s deliberations, in my Judgement in S.P. Gupta’s case, you will find that I thought we were quite happy with the old system provided it worked out *bona fide*.” The former Chief Justice of India, Justice Ranganath Misra, summed up on the issue of appointment of Judges as under:- “I had made a reference, as a Judge or as a Chief Justice, to a larger Bench of the Court to find out how this process will be worked out. It was sent to a Nine-Judge Bench. It was a larger Bench. We wanted

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a decision from the Supreme Court on the question. It was not a matter which was to go beyond a point and decide how the vacancies of the Judges would be filled up. There was a wrong thing, probably, in my own way. I consider that the referring Bench had said that all other questions were closed and that was the only issue to be discussed by the larger Bench.” And it goes on like that. Therefore, all the former Chief Justices of India, very reputed persons at the international level, they have come forward to say that post-1993 situation is bad enough. This particular occasion we can prove it. If, really, this particular appointment was a transparent one, it was known to the Judges of the Calcutta High Court, it was known to the advocates of the Calcutta High Court, it was known to the people of Calcutta because the fate of the State is to be decided by that particular judge when the case comes before him, then, they would have come forward and said, “Sir, he has already cheated up to Rs.35 lakhs. Therefore, he should not be appointed as a judge.”

(Continued by 2K)

2k/3.00/ks

DR. E.M. SUDARSANA NATCHIAPPAN (contd.): They will come out and they will tell the concerned people that this Judge has created a bad precedent. He swallowed the money in the past ten years. He has not placed the accounts before the court. He has not obeyed the orders of the court. Even if we accepted it for the sake of argument that he had deposited the money, the Lynx India Limited was not ordered to deposit by way of the order of the Court; it was done by him. That is the misappropriation. He accepted it in his own reply that he had deposited money. Where is the order for that? No court had ordered that but he had done it. Therefore, such persons are not needed in the Judiciary. And such persons can never be appointed if proper procedures are followed.

Therefore, Sir, my submission is that these proceedings are very clear. The Inquiry Committee has gone through each and every aspect of the case. Sir, he had even challenged these proceedings as 'criminal proceedings'. He wanted his innocence to be proved beyond doubt. It wasn't and it was very clearly explained in the Inquiry Committee Report (Volume I) at page 3, "The proceedings for

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the investigation into the conduct of a Judge under the 1968 Act are not criminal proceedings against the concerned Judge; the Judge whose conduct is under inquiry is not a person who is to be visited either with conviction, sentence or fine; nor is the Inquiry Committee, appointed under the 1968 Act, empowered to make any such recommendations. Besides, the Judge in respect of whose conduct an inquiry is ordered under the 1968 Act is not a person 'accused of any offence' and no fundamental right of his under article 20(3) of the Constitution of India would be infringed by his giving evidence during an investigation into his conduct...". Sir, he avoided appearing before the Committee at every stage and he challenged the veracity of the Committee. And finally, he went on to say if he did not get justice from the inquiry committee, he would go to the rooftop and tell the world that he has not done anything. Such was his position. He misused his eloquence and, that too, at a place where he is not supposed to. Therefore, I finally submit that the impeachment proceedings should go on.

Sir, finally, the judiciary has to be clear in its mind. This is one of the cases, one of the test cases, where they have been challenged.

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We have not challenged them. No politician has challenged them. No parliamentarian has challenged them. But their own people have challenged them. It is high time they had reviewed their own position. They should not cross the Lakshman Rekha. This is how we have to work. This is the way in which the Parliament is working. This is the way in which the Executive is working. Therefore, we have to coexist and we have to protect the Constitution. Thank you, Sir.

(Ends)

SHRI SATISH CHANDRA MISRA (UTTAR PRADESH): Sir, while agreeing on certain issues which both the speakers before me, especially the Leader of the Opposition, have stated, in respect of the role of the Judiciary and the way the Judiciary is now encroaching into the area of the Legislature and the Executive, with great respect, I disagree on certain other issues.

Hon. Chairman, Sir, the Parliament, Judiciary and the Press, the media, are the safeguards of justice and liberty and they embody the pillars and the spirit of the Constitution. But, unfortunately, today, the credibility of all these pillars is being openly questioned now.

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Sir, as junior lawyers we were always taught by our seniors that while arguing cases in the court we should not see who the Judge is, we should not see the face of the Judge and start arguing but we should see the files and the merit of the case that we have. Similarly, at a certain point of time, most of the hon. Judges also conducted themselves with great dignity and did not see the faces of lawyers during the court proceedings. But they used to see the cases on merits -- what was the case which a lawyer was presenting before the hon. Judge.

(cd. by 2s/kgg)

Kgg/2l/3.05

SHRI SATISH CHANDRA MISRA (contd.): But, Sir, today the situation is largely changed and it is unfortunate. Today, in the corridors of courts, and otherwise, when the lawyers are talking to litigants, they are not concerned to know the law—how much with respect to the matter or how expert you are in the law. But, now the question usually put to the lawyer is whether he knows the judge or not. So, that is the unfortunate situation which has now reached which, of course, requires consideration.

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Sir, we always had honourable judges earlier; they used to function in a manner that it was not their job to make the law, that it was the job of the Parliament or the Legislature. But, today what the courts say is not what the Legislature says or what the Act or the Constitution says. But, it is a matter of fact; now they say that under the Constitution, the judge, instead of discovering the law, state the law and apply the law, not making the law. As on date, forgetting the judicial review part, the judges in the courts have started framing the law which is what the hon. Leader of the Opposition had elaborated in detail with respect to the separation of powers--getting into the field where the separation of power is now given a go-bye, which is not correct.

Sir, before coming to the issue of the impeachment and on merits of impeachment which is before us, I would like to say that there are certain issues which the hon. Leader of the Opposition has spoken, and the other colleague has spoken, on the appointment of judges. It was said that in the appointment of the hon. judges, there is a detailed procedure. The judges have taken on themselves the appointment of judges, post-1993, and that is why the denigration in

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the system has been found today. The Executive or other authorities have no role to play now. Sir, I beg to disagree on this because I know that the judge whom we are impeaching today was appointed at a time when we had one of the finest and most eminent Law Ministers; the appointment was done in the year 2003. (Interruption) In 2003, we had Shri Arun Jaitley as the Law Minister. The appointment was made at that time. The scrutiny was also made at that time by him in his capacity as the Law Minister. And, I, as an individual, say before the House that I know that the scrutiny that was done was not a scrutiny which was here and there; but it was a detailed scrutiny. Why I say this? Because I know this. I myself was one of the persons who got scrutinized by him. That is why I am saying this, with great respect. (Interruption)

SHRI SITARAM YECHURY: That is why you were not appointed.

SHRI SATISH CHANDRA MISRA: I am coming to that. Sir, everybody knows; in my family, my father was a judge, he retired as the Chief Justice; my uncle was a High Court judge; my elder brother was a High Court judge, he retired as a High Court judge. But, Sir, when I was called upon by the hon. Chief Justice to give the consent, with

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folded hands I requested and said, “No, I am not the person who is fit to sit on that seat.” But, then, I was asked from various sources; when the collegium members were asked to force me that I should give my consent. One of the hon. judges who was in the collegium is presently a judge in the hon. Supreme Court also and the other retired as the Chief Justice.

(Contd. By tdb/2m)

TDB/2M/3.10

SHRI SATISH CHANDRA MISRA (CONTD.): Then, ultimately, Sir, I had given my consent, in spite of the advice given by my father that I should think it several times, but I was asked to give my consent and I gave my consent. After the consent was given, the collegium met, it cleared the name. The process followed. It went to the Chief Minister. The Chief Minister cleared it. Then, it came to Delhi. In the meantime, when it was being scrutinised in the Law Ministry, at that point of time, the Chief Minister was changed. A new Chief Minister came. Of course, from the same party. But, then, suddenly, a letter was written to the Law Ministry by the Chief Minister saying, “Look here, I have certain reservations for this gentleman, and one more gentleman who

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was there also for different reasons”. The reason for this was, ‘that we have found out that when he was the Chairman, Bar Council of U.P. and the Secretary of the Bar Association, he had led a big agitation of the lawyers because the jurisdiction of the Lucknow was being taken away by the Allahabad Bench. So, there was the agitation and he participated in that’. This was number one. Number two was, ‘that kindly find out, according to an information, he is not an advocate’. I had already become a Senior Advocate by that time. The full court had designated me as a Senior Advocate. But why I was not an advocate was, because it was said, ‘that he has several houses; he has several buildings; he has a building in Noida; he has a building in Nainital; he has a building in Lucknow, and he is getting rent from those buildings. Though he is the highest income-tax payer amongst the lawyers in the State, but kindly scrutinise whether he is actually an advocate or something else or a builder’. So, this went there. When it went there, of course, it was looked into, and the matter was forwarded to the collegium. Then, I wrote a letter saying, “Kindly do not consider my name, if all this is there, and I don’t want to be considered”. But the scrutiny was done. The scrutiny was done at

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that level and that intervention was there. The intervention was so to say that ‘no intervention’. In spite of the fact the allegation is there that you are not an advocate, the fact was, I was not in politics; I was purely a lawyer. At that point of time, I was always engaged by the parties which were in the opposition. Those parties which were not in power used to engage me for their cases. The party which was there in the opposition had engaged me to challenge the President’s rule, I had argued it before the Division Bench and before the full Bench and had won, and strictures were passed against the Presidential Proclamation, but still I was not a lawyer! So, this was the scrutiny which was done.

SHRI RAVI SHANKAR PRASAD: You are better here.

SHRI SATISH CHANDRA MISRA: No, I am thankful. I thank the hon. Chief Minister who was in this House earlier. The day I took oath, I said, “Because of you I am here”. Today, I get this opportunity to see whether a High Court judge should be impeached or not. This is the irony of the fate which is there. Therefore, to say that the appointment of the judges is purely by the judges, Sir, so far as I am concerned, I

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do not agree to that because I personally know these facts for that purpose.

SHRI SITARAM YECHURY: We are glad that you are here with us now.

SHRI SATISH CHANDRA MISRA: I thanked the person for that.

Sir, now coming to the matter which is before us today, i.e., the Impeachment Motion, though the time has been allotted, I have seen the time, but I have made a written request, the time is at your discretion, that the time may be extended because I would be speaking, probably, a bit differently.

MR. CHAIRMAN: Please do economize.

SHRI SATISH CHANDRA MISRA: If I have to stand up and say, “I agree to the proposal, then, I can sit down straightway and I will not require any time”. But this is a serious issue, Sir, where we have to consider the Motion with respect to impeachment of a sitting hon. judge. Therefore, we have to look into the background not only of the case but also the background with respect to what is the scope of article 124 and what is misbehaviour; how is it considered as

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misbehaviour? All these aspects will have to be looked into, and, then, we have to see whether it falls into that category or not.

(Contd. by 2n-cls)

KLS/2N-3.15

SHRI SATISH CHANDRA MISRA (CONTD): And whether it is a case where under impeachment we should accept the Resolution and remove the Judge. I also do not agree to what the hon. learned speaker said before this that the hon. Judge when he was standing yesterday and he was making his submissions that he did not speak properly. He had every right. A person who is coming, who is being questioned that you have to be removed, this right has been given to him and has been considered by the hon. Supreme Court in Constitutional Bench judgments that he has full right. If it is not given, then, of course, it will be violation and the entire action is likely to be struck down even of this House if it is passed. Therefore, he has every right and once he is in the defence he has the right to say that these are the things which have been ignored or which have not been looked into and which should be seen. Therefore, for this purpose, I would refer to what was said by the Committee which was appointed

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in the case of Justice Ramaswamy, in the House Committee Report in one paragraph what they said at that point in time in it was: "The immunity of Judges is not for the protection of a malicious or a corrupt but for public, whose interest it is that Judges should be at liberty to exercise their functions with independence and without fear of consequences. However, the standards of ethical and intellectual rectitude expected of Judges are directly proportional to the exalted Constitutional protection that they deserve to enjoy. The country is entitled to be most exacting in its prescription of the standards of rectitude in judicial conduct. What might be pardonable in the case of an ordinary citizen or officer might in the case of a Judge look indeed unpardonable. His morals are not the standards of marked place but is the punctilio of a higher code."

Sir, in V. Ramaswami vs. Union of India while considering the matter the hon. Supreme Court had observed : "The Judge of the Supreme Court as well as the Judge of High Court is a Constitutional functionary and to maintain the independence of Judiciary and to enable the Judge to effectively discharge his duties as a Judge and to maintain the rule of law even in respect of the **lis** against the Central

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Government or the State Government, the Judge is made totally independent of the control and influence of the Executive by mandatorily embodying in article 124 or article 217 that a Judge can only be removed from his office in the manner provided in clause 4 and 5 of article 124. Thus a Judge either of a High Court or the Supreme Court is independent of the control of the executive while deciding cases between the parties including the Central Government, State Governments uninfluenced by the State in any manner whatsoever. It is beyond any pale of doubt. There is no master and servant relationship or employer and employee relationship between the Judge of a High Court and the President of India in whom the Executive power of the Union of India is vested under the provisions of article 53 of the Constitution. The President has not been given the sole power or the exclusive power to remove a Judge either of the Supreme Court or High Court from his office though the President appoints the Judge by warrant under his hand and seal after consultations with such of the Judges of the Supreme Court or High Court in the States as he may deem necessary for the purpose and in the case of appointment of a Judge of the High Court, the President

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appoints the Judge by warrant but still the only mode of removal of a Judge from his office is on the ground of proved misbehaviour..." The word is 'proved misbehaviour' "...or incapacity as laid down in clauses 4 and 5 of article 124." Here we are on the question of proved misbehaviour; we are not on the question of incapacity with respect to the hon. Judge. Sir, under article 124 of the Constitution action for removal of a Judge is only on proved misbehaviour. The word 'misbehaviour' was not advisedly defined. It is a vague and elastic word and embraces within its sweep different facets of conduct, as opposed to good conduct.

(Followed by 20/NBR)

-KLS/NBR-DS/20/3.20.

SHRI SATISH CHANDRA MISRA (CONTD.): Sir, the word 'misbehaviour' has found place under Article 124. The scope of Article 124 was considered, again, in the case of Krishna Swamy in 1992. Sir, Krishna Swami was a Member of Parliament and belongs to this House. He was also an advocate. He had filed this petition before the hon. Supreme Court. A Constitution Bench had considered the matter and then it had considered the scope of Article 124 and it said

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in para 60, "The Committee as Judicial authority adopts the procedure of a trial of a civil suit under the Code of Civil Procedure; it is not inquisitorial but adversary to search for the truth or falsity of the charges by taking evidence during the investigation like a trial of a civil suit and it should be the duty of the advocate and the learned Judge or his counsel to prove/disprove if burden of proof rests on the Judge, as a fact by adduction of evidence or the affirmation or negation or disproof of the imputation under investigation. The word 'investigation' is to discover and collect the evidence to prove the charge as a fact or disproved. The Evidence Act defined the words 'proved' and 'disproved' as and when after considering the matters before it, the court either believes the fact to exist or not to exist or its existence is so probable/non-existence is probable and the test of acceptance or non-acceptance by a prudent man placed in the circumstances of particular case was adopted. The consideration of the evidence is like a criminal case..." -- hon. Chairman, Sir, this is very important -- "...as the finding would be 'guilty' or 'non-guilty' of misbehaviour under Section 6 of the Act. The test of proof is 'proof beyond reasonable doubt.'"

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So, it is like a criminal case. It has to be either proved guilty or non-guilty. And, it has to be 'beyond a reasonable doubt.' If there is any doubt, you cannot prove him guilty. It has to be completely 'beyond a reasonable doubt.' That is the aspect which has been referred to in this judgment.

Sir, with respect to definition of 'misbehaviour', the same has further been discussed in the same judgment. It says in para 71, "Every act or conduct or even error of judgment or negligent acts by higher judiciary *per se* does not amount to misbehaviour. Willful abuse of judicial office, willful misconduct in the office, corruption, lack of integrity, or any other offence involving moral turpitude would be misbehaviour. Misconduct implies actuation of some degree of *mens rea* by the doer. Judicial finding of guilt of grave crime is misconduct. Persistent failure to perform the judicial duties of the judge or willful abuse of the office would be misbehaviour. Misbehaviour would extend to conduct of the judge in or beyond the execution of judicial office. Even the administrative actions or omissions too need accompaniment of *mens rea*. The holder of the office of the Judge of the Supreme Court or the High Court should,

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therefore, be above the conduct of ordinary mortals in the society."

So, now, after going through this, we have to find out what evidence is and what the charges are. The charges, to which a reference was made, are two. The first one is misappropriation of large sums of money which he received in his capacity as a Receiver appointed by the High Court of Calcutta. The second charge is, making false statements, misrepresented facts with regard to the misappropriation of money before the High Court of Calcutta. Now, the question is what is the finding? Before coming to the findings, a question arises. We have to see whether the misbehaviour is proved as a Judge or we have to see whether misbehaviour is proved as a lawyer. I was only thinking that if my name had been cleared I would have been standing here for the behaviour as a lawyer either today or on some other day. But, is that the jurisdiction and scope under Article 124? We have to see this. We have to look into what the hon. Supreme Court had said. It says 'proven misbehaviour' in the capacity of a Judge. Or, when he was a student or when he was in university or when he was an advocate, he did certain acts which, according to you, were not akin to what an advocate is expected to do, you prove him guilty and oust

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him from the position of Judge. That is not permissible under this. But, here, a reference is made. He did reply yesterday and leave was also taken whether, as an advocate, it would be a ground for his ousting. It is not a case of a person committing murder which remained hidden or involved in dacoit or some other thing which remained hidden earlier and erupted suddenly.

(CONTD. BY USY "2P")

-NBR-USY/2P/3.25

SHRI SATISH CHANDRA MISRA (CONTD.): He was a lawyer in that court from where the name was recommended. It was known that he was 'Receiver'; and, he was functioning as a Receiver when he was appointed. Now, the question is whether that becomes a ground for his removal as a Judge, after having been appointed as a Judge. For this purpose, I would like to refer to the findings of the Inquiry Report. Did the Inquiry Committee go into all those questions and all those grounds that were raised by him in his explanation? We find a very short-inquiry report, which deals, very precisely, with the issues and it appears that the conclusion was in the mind that he has to be guilty, which comes out in the report. Up to page 22 of the report, which

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deal with respect to inquiry, is all with all respect to the conduct OF the inquiry; it is all with respect to the conduct of the Judge as an advocate. After hearing him, I thought he had a case. But after hearing the hon. Leader of the Opposition, I thought he had no case at all and we were just made to hear something for two hours and nothing was there. But, then, I thought that I should go deep into the Inquiry Committee's report and see what it says. Kindly see what the findings say. It says that it is diversion of funds; it is misapplication of funds, so far as the first charge is concerned, as an advocate. It does not say 'misappropriation of funds'. Now, it can be said that since it is misapplication of funds, since it is diversion of funds, therefore, it is a 'misappropriation'. Sir, 'misappropriation' to the understanding of common man, to the understanding of a layman would be that if I had been given some money or some property or anything in trust to me to keep it with myself till required to be returned; and, when I am supposed to return it, I don't return it and I misappropriate that money, then, it would of course be misappropriation. (Interruptions) Yes, diversion. (Interruptions) It is said that there is diversion from one account to another account. That is the finding. Now, if it is

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transferred from this account to that account, it would not become misappropriation. Since reference has been made, I would like to refer to one of the paragraphs of the report, which says that when it was asked to make the payment, when he was directed to give the payment, he immediately paid that. He did not protest. That is the charge. That is the allegation. For arriving at the conclusion that he is guilty, his action of making payment of the entire money with full interest is taken in the report. And, it is said that it means he was guilty. So, this is not the right ground to hold him guilty. Had he taken the money himself, it would have been alright. The second most important thing is that the entire charge with respect to second charge also and the first charge goes through and through only with respect to the hon. Single Judge. It says that the hon. Single Judge said this and the hon. Single Judge said that, completely overlooking — overlooking in the manner in which, probably, the Committee wanted to overlook it — that this entire charge is demolished by the Division Bench. To say that he was called over here and, then, he went back, he filed an appeal and he got it.....(Interruptions)

MR. CHAIRMAN: Conclude please.

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SHRI SATISH CHANDRA MISRA: I am just going to conclude.

But...(Interruptions)

MR. CHAIRMAN: Your extended time is over.

SHRI SATISH CHANDRA MISRA: Sir, I had sought time for this purpose only. Please give me some more time.

(Contd. 2q — VP)

-USY/VP/3.30/2Q

SHRI SATISH CHANDRA MISRA (CONTD.): If the appellate order completely exonerates him from the misappropriation and says that there is no misappropriation, why was this order not challenged in the Supreme Court? Why didn't anybody else go to the Supreme Court? Why didn't anybody else or any of the parties go to the Supreme Court to say that they all had joined with him? Who else has been charged for this offence? Conspiracy cannot be single-handed. There have to be two minds and two people. There is no charge on anybody else with respect to this. It is like casting an aspersion on the Division Bench also to say that he got the orders. Therefore, my submission at the end is this. Charge number one says, 'It is duly proved.' It is not proved. The charge was about misappropriation of large sums of

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money which he received in his capacity as a Receiver. There is no misappropriation. So, to say at the end that it is duly proved is not correct. And the Inquiry Committee's finding on this issue cannot be blindly accepted.

The second charge is about making false statements. It is said that the statements were made by the mother in the affidavit. It was false. There is no misappropriation, and there is no proven misbehaviour.

I would only conclude by saying that I don't agree with the Motion which has been proposed. I feel that it should be rejected. I think all of us should not be swayed and conclude that we have to arrest him come what may. We should look into it. Each one of us has got the material. It is the duty of each one of us that we should tread very cautiously in this field. We should apply our minds. Thank you very much. (Ends)

MR. CHAIRMAN: Before I call the next speaker, may I remind the hon. Members that the time allotted for this debate is four hours. Therefore, a certain time-discipline has to be maintained.

THE LEADER OF THE OPPOSITION (SHRI ARUN JAITLEY): We are glad Mr. Misra did not become a judge. ...(Interruptions)...

SHRI SITARAM YECHURY: Sir, do these four hours include today's timings or is yesterday's time also included in this?

MR. CHAIRMAN: I think there was no ambiguity about it. Today's timing is 2 hours 56 minutes. .. (Interruptions).. We will try to accommodate, but I do request everyone to maintain time-discipline because we have a process to go through at the end of it. . . . (Interruptions). .. No; there is a set procedure. Mr. N.K. Singh, please go ahead.

SHRI N.K. SINGH (BIHAR): Sir, it is an immense privilege to participate in this very important debate. One must feel somewhat handicapped considering that one is speaking after three very eminent lawyers who have already spoken at great length. My preceding speaker was Mr. Satish Chandra Misra. The first non-legal luminary, so to say, given with very ordinary discipline, I would beg to submit before this House eight points for your consideration.

First and foremost, clearly one is reminded of what an eminent jurist, Arthur Schlesinger had said. He said, "The genius of an

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impeachment proceeding lies in the fact that it punishes the man without punishing the office. “ This is precisely what this House intends to do through this very important Motion moved by my senior esteemed colleague, Mr. Yechury. Sir, yesterday, when I heard with careful attention the defence made by Justice Sen, I got three distinct impressions which I must share with this House. First and foremost, the impression which I got was that he sought to create a false hiatus between the sovereignty of Parliament seeking to bring it with the higher Judiciary. He repeatedly quoted what has been happening by the higher judicial functions as if to say that we would really stand up to the underdog in which he claimed to place himself in that position. I do believe, Sir, that for the reasons that I am going to give, that was a false hiatus, and a somewhat misleading thing.

(Continued by PB/ 2 R)

-VP/PB-2r/3.35

SHRI N.K. SINGH (CONTD.): My third important point, Sir, is that in his entire defence, he sought to create straw-enemies and straw-allegations which he then started to destroy. What was that? For instance, Sir, kindly look at page 74 of his written reply where he

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mentions about the fact that an order passed; and he says, ‘Unfortunately, my explanation that these withdrawals were towards payment of workers’ dues pursuant to a Division Bench order ...’ Sir, it was nobody’s case. Nobody had alleged that he was being held responsible for the payment or the delay in the payment of workers’ dues. So, to demolish something which was initially never leveled against him is like creating straw-enemies to be able to then answer that in his own way.

Similarly, Sir, I think that in the Inquiry Commission’s Report, he has clearly sought to alter the meaning of misappropriation. My esteemed colleague, Mr. Misra, has dealt greatly with the meaning of what he believes is misappropriation. As a Trustee, Sir, it is clearly understood that the money which he received was to be held in Trust. That Trust enjoined upon him a responsibility that he could not divert the proceeds of that Trust into some other account. For instance, he could not use it for his personal purposes, no matter whether he reimburses it subsequently or not. As a Trustee, Sir, there are certain obligations which are cast upon him and therefore, any attempt in his

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defence to alter the meaning of misappropriation, in my view, is flawed.

Also, Sir, his suggestion in his defence yesterday — and that is my next point — on biases and predilections of successive high judicial authorities and by successive inquires which were held, in my view, did not seem to be borne out, considering that he himself had not cooperated with any of the processes. If you look, Sir, at the successive adjournments which he sought where he failed to appear himself personally, where he really appeared through his attorney and sometimes really giving petitions in the name of his mother, in my view, suggests that the suggestion of bias and predilection looks to be flawed.

My next point really, Sir, is about the credibility and the integrity of the processes and procedures which you have followed before these judicial findings were reached. I believe that anything which he has said in his defence casts any doubt on the procedures and credibilities. I agree with you, Sir, that a Judge is not supposed to know anything about the facts of life until they have been presented to him in evidence, and, as has been said by very eminent jurists all over

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the world, explained to him at least three times. Indeed, Sir, they were explained to him more than three times. Sir, the findings which have been received in this, clearly, are findings in two parts. One, as very rightly pointed out by my esteemed colleague, Mr. Misra, is regarding his conduct as an advocate. As an advocate, he knows better than I do that you are enjoined upon as an Advocate to follow the Advocates Act. What did his conduct mean? What he did under the Advocates Act? It comes to the conclusion that his conduct was most unbecoming of an advocate. There is a Part II which then deals with his conduct as a Judge. Therefore, Sir, in the findings which have been reached, in the concluding paragraph, in part 8 of the Inquiry Committee Report, the misappropriation is duly proved. This is in two parts, in his conduct as an Advocate and in his conduct really as a Judge.

Sir, I go to my last point which is about some of the broader issues. This Impeachment Motion has enabled this House to deliberate, for the first time, on the area of stalled judicial reforms. Sir, India is seeking to become a major economic power. It is seeking to achieve over 8 per cent rate of growth. Whether we go to John

Rawls Theory of justice which really wants to seek an explanation that inequalities and certain kinds of economic deprivation can only be tolerated if it benefits all sections of society.

(Contd. by 2s/SKC)

2s/3.40/skc

SHRI N.K. SINGH (contd.): And we must ask ourselves this important question whether our present judicial system is adequate to meet India's changing economic realities. In terms of improving, the Prime Minister knows it better than anyone else, in choosing our climate of investment, on transfer of properties, on mergers, on pricing and a whole host of things and addressing it in a manner which really would enable this country to grow. Is our judicial system equipped for a system which is managing rapid economic changes, Sir, while maintaining the social cohesiveness of a social order with a nine per cent rate of growth? Indeed, Sir, as has been very rightly pointed out by the hon. Leader of Opposition, this Impeachment Motion has given us an invaluable opportunity to consider some of these things beyond narrow partisan confines.

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Sir, I strongly believe in the appointment of a National Judicial Commission and the demarcation of responsibilities between the three functions. Indeed, many of us were shocked and I am sure many of us would have been shocked when certain judicial pronouncements were made which questioned the Parliament, which questioned, for instance, whether it was necessary to attend Parliament, which questioned the integrity of this very vital organ, which is the overarching organ of our Constitution. Many of us were so appalled, many of us were ashamed to be part of a process when it was being pronounced, and certain aspersions were being cast on Parliament, and we were mute spectators. Indeed, if we do not consider this opportunity to think about major issues of judicial reforms, setting up a Judicial Commission, a better demarcation of responsibilities, a better examining of whether our present judicial system equips us to deal with rapid economic growth, with issues of poverty and inequalities, we will miss, Sir, a very important opportunity. I, therefore, support this Motion. I support it because I do believe that in the end, if we do not maintain justice, justice will not maintain us. This was a very important saying by Francis Bacon in 1615 at the impeachment of the

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then Attorney General in the House of Commons. You must be reminded of this. We must be reminded also that how easy it is to judge rightly after one sees what evil comes from judging wrongly. We must judge rightly. We must exercise the sovereignty of this House. We must not allow this valuable opportunity to slip away.

I support this Motion and I support also the opportunity of this Motion to bring about a kind of qualitative change in the way in which the demarcation of powers between the three important organs enshrined in our Constitution can be restored and a measure of dignity and respect for each of these organs which the Constitution defines.

(Ends)

MR. CHAIRMAN: Thank you for your precision. Mr. Tiruchi Siva.

SHR TIRUCHI SIVA (TAMIL NADU): Sir, I rise to support the Motion moved by Shri Sitaram Yechury.

Sir, Francis Bacon once said, “The place of justice is a hallowed place, and therefore, not only the Bench but also the foot-space and the confines and the purpose thereof ought to be preserved without scandal or corruption.”

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Sir, we are proud that we have a long-standing tradition of sustaining an independent judiciary which has safeguarded our democracy and Constitution. The Indian judiciary which has got its own tradition is considered to be one of the pillars of democracy and it is duty-bound to uphold the moral values and ethics to secure the trust of the people. The trust in the judiciary by the people of this country and the Constitution is so immense that the day that trust is breached, it is the breach of trust of the people of India and the Constitution.

Sir, it is to be understood that however carefully the institutional forms may be constructed, the final analysis mostly depends upon the actual behaviour and the accountability of the individuals concerned. What is 'accountability'? The Oxford dictionary says, one who is responsible for one's own actions and decisions and is expected to explain when asked for. So, accountability is an inevitable and indispensable part of democracy. No public functionary or no public institution is exempt of this accountability, Sir.

(contd. by 2t/hk)

HK/2t/3.45

SHRI TIRUCHI SIVA (CONTD.): Sir, the judicial accountability may not be on the same lines of the accountability of the Legislature or the accountability of the Executive. But they are also not above scrutiny. Sir, when the faith of the people in the quality, integrity and efficiency of the Government institutions starts eroding, we have a responsibility. The check and balance system comes in between. When we find the breach of trust by the judiciary, the only remedy available is that of the impeachment brought in the Parliament. Sir, in the long history of our Parliament the first impeachment which was brought in the other House fell through, but this is the first ever case -- the case of Justice Soumitra Sen. When we surveyed the pages of the Constituent Assembly, there was near unanimity in bringing the impeachment. Only one Member of the Assembly, Shri R.K. Sidhwa, from Central Province had cautioned on 24th May, 1949 while participating in the debate of the Constituent Assembly that if two-thirds majority of the two Houses sitting together want a judge to be removed it would be quite possible that no judge would be ever dismissed for an act of wrong-doing. This is the only observation, only caution, given by one

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Member. Otherwise, there was unanimity. And, we have experienced that. Even this one case is being criticized and evaluated and there were difference of views which cannot be disputed. This is very essential. The case of Justice Soumitra Sen also puts forward a strong case for judicial reaffirmation in the country. Sir, the method of selection of judges, as earlier spoken by my colleagues here, to the High Courts and to the Supreme Court by the collegium should have to be reconsidered. The Legislature movement towards constitutional amendment in these lines is the need of the hour. Sir, may I quote Dr. Babasaheb Ambedkar in the Constituent Assembly regarding this? In fact, the question as to whether the appointment of judges requires the concurrence of the Chief Justice was seriously debated in the Constituent Assembly. Dr. Ambedkar responded to the said suggestion in the following words: "With regard to the question of concurrence of the Chief Justice, it seems to me that those who advocate that proposition seem to rely implicitly both on the impartiality of the Chief Justice and the soundness of his judgement. I personally feel no doubt that the Chief Justice is a very eminent person. But after all, the Chief Justice is a man with all failings, all the

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sentiments and all the prejudices which we as common people have; and I think to allow the Chief Justice practically a veto upon the appointment of judges is really to transfer the authority to the Chief Justice which we are not prepared to vest in the President or the Government of the day. I, therefore, think that that is also a dangerous proposition." That is the observation made by Dr. Babasaheb Ambedkar, not mine. Now, the Government's approval of the Judicial Accountability Bill is a positive step to check the discrepancies of the higher judiciary and to ensure necessary action to be taken. In this context, I support the Motion moved by my colleague, Shri Yechury. Yesterday, we heard Justice Sen's defence argument. He was eloquent as everyone appreciated. I would like to submit some of the observations, through you, to this august House. In what authority he went to that extent? There are two things. One is that the findings of the Committee appointed by you clearly say that there was a large-scale diversion of funds and such diversion was in violation of the orders of the High Court; the purpose for such diversion remains unexplained. Justice Soumitra Sen was appointed as High Court Judge on 3rd December, 2003. The Committee noted

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that Justice Sen's actions were an attempt to cover up the large-scale defalcation of Receiver's fund. Sir, out of the two grounds of misconduct, the second is misrepresentation of facts with regard to the misappropriation of money before High Court of Calcutta.

(Contd. by 2u/KSK)

KSK/3.50/2U

SHRI TIRUCHI SIVA (CONTD): Sir, this is what Justice Soumitra Sen said in reply to the motion received under article 217, read with article 124 of the Constitution, to the Rajya Sabha. Sir, I will quote. He himself contradicts. At one place, he says, “The respondent was appointed as a Receiver in the year 1984 by Order dated 30.4.1984. Till 2003, neither the hon. Calcutta High Court nor any of the parties required the respondent to render any accounts. For the first time, on 27.2.2003, an application was made by the plaintiff seeking directions for accounts and sale of the remaining goods and handing over sale proceeds. Despite the aforesaid statutory matrix, for about 19 years, nobody sought accounts, which is a clear indication that in Calcutta High Court, a practice had developed of not giving periodical accounts to the Court.” He himself says again, “Rule 15 of the

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Calcutta High Court OS Rules lays down that unless ordered otherwise, the order appointing a Receiver shall contain a direction that the Receiver shall file and submit for passing half-yearly accounts in the Office of the Registrar and that such accounts have to be made at the end of months June and December every year and are required to be filed in the months of July and January respectively.” So, at one place, he says that in the Calcutta High Court, there is no practice of giving periodical accounts to the Court. On the other hand, the rule 15 of the Calcutta High Court clearly says that he has to maintain accounts and give every six months. Then, I come to the second most important point. I am having the synopsis of yesterday’s debate. He has clearly observed that the sale is still not complete. Therefore, the matter is still *sub judice* and it should not be discussed in the House. Sir, nowadays, it has become a fashion to question the sovereignty and the authority of the House. Sir, he says that it cannot be discussed in the House. But, Sir, we are empowered by the Constitution under article 124, clause (4) and clause (5) that we can impeach; we can take the case of a Judge under the provisions of this article. Article 124(5) states, “Parliament may by law regulate the

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procedure for the presentation of an address and for the investigation and proof of the misbehaviour or incapacity of a Judge under clause (4).” Sir, while submitting before the Judges Inquiry Committee, he very clearly says that a Receiver is answerable only to the Court which appoints him and to no one else, and, therefore, the hon. Committee cannot enquire into the conduct of the respondent in its capacity as the Receiver. So, he questions the authority of the Inquiry Committee. He questions the authority of the Parliament even when the Constitution has empowered the Parliament. I second my colleague, Shri N.K. Singh’s observation that it is our foremost duty to uphold the sovereignty and authority of the Parliament.

MR. CHAIRMAN: Would you please conclude?

SHRI TIRUCHI SIVA: Sir, I would like to conclude by quoting hon. Justice J.S. Verma who said, “The existence of power must be accompanied by accountability. Erosion of credibility in the public mind resulting from any internal danger is the greatest latent threat to the independence of the Judiciary. Eternal vigilance to guard against any latent internal danger is necessary lest we suffer from self-inflicted moral wounds.” Mr. Yechury, before he moved this motion, said that

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it is not a motion against the Judiciary; it is only a motion against the misbehaviour of one Judge. On these grounds, and on the arguments that we have placed, Sir, I support the motion moved by Mr. Yechury.

(Ends)

DR. YOGENDRA P. TRIVEDI (MAHARASHTRA): Thank you, Sir. Mr. Arun Jaitley told us that this is rarest of the rare event. I agree with him. Here are so many legal luminaries giving their best, putting their viewpoint in a scintillating manner with eloquence and then is the catch word, all that they are doing is without charging any fees. That is the rarest of the rare event. I was hearing with rapt attention to Shri Sitaram Yechury when he referred to the trial of Robert Clive and Warren Hastings...

(continued by 2w — gsp)

GSP-2W-3.55

DR. YOGENDRA P. TRIVEDI (contd.): He quoted from the oration of Edmond Burke. I also looked into what happened at that trial, and, I would like to quote another eminent jurist who addressed the House of Lords. His name is Sheridan, and, in my opinion, Sheridan even excelled Burke in certain respects, and, this is what he said while the

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trial of Warren Hastings was there. He said, “Not a hair shall be plucked from head to the ground unless legal guilt is established by legal proof.” This is what Sheridan said. Mr. Yechury made out a very spirited and detailed account of what has happened. There was also a very spirited reply by Justice Soumitra Sen. He made out four points, which have to be examined because this House today is acting in the capacity both as jury as well as judge. So, let us look at what was the defence of Justice Sen. He said that he had collected the money as a receiver when he was a lawyer. A struggling lawyer; I can understand. He is in command of some money, which he put in here and there; for the time being, he parked the money somewhere. He parked the money with Lynx India Private Limited, which later went into liquidation. I am little surprised because according to my knowledge, Lynx India Private Limited is still a very living corporation. It has large properties in the city of Mumbai. The building in which I am staying in Mumbai, there also, it has a very valuable flat running into quite a few crores of rupees. So, it is not a dead company. It is Lynx India Private Limited. Then, he said, later on, he returned the money. He gave it to the workers, and, thereafter, returned the

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money. This is his first submission. The second thing which he said was that there is a difference between his role as a Receiver and later as a Judge. He says that as a judge, he has an impeccable career, and, none of his judgement was doubted, and, he has been an excellent and ideal judge.

Later, he talked about *res judicata* and referred to the Division Bench judgement, which has been referred to earlier, and, which is at page 31 of the Inquiry Report. Lastly, he said, and, this is something, which I did not expect from a Judge, that there are others who have done similar crimes and they have all escaped. Mr. Arun Jaitley, thereafter, took us through the facts. I believe that more than law, facts are more important. According to me, facts are like arguments of God. So, we must examine the facts very minutely. How the moneys were parked with Lynx India is mentioned at page 16. For what reason, the moneys were parked with a private limited company, and not with an established undertaking, not with a public sector company, not with a big corporation. We do not know for what reasons it was done. Later, thereafter, moneys were disbursed at various places, and, probably trying to get a soft corner from Mr.

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Yechury, he said that moneys were given to workers. It is a very humanitarian job, but whose money? It was not his personal money. It was the money which was deposited with him on escrow account, which he was holding as a trustee, and, first of all, that money was given to the workers, as he says, and, later, thereafter, it was returned to the court as per the directions of the court, but at what stage? Much after he became the Judge. He became the Judge in 2003, and, moneys were returned sometime later in 2005 after the court's order.

(contd. by sk-2x)

-gsp/SK/2X/4.00

DR. YOGENDRA P. TRIVEDI (CONTD.): This is the catch. If the moneys would have been returned before he became a judge, it was understandable. He could say, "I was a struggling lawyer. I was in possession of money which I might have misused or mismanaged. Now, I want to start a new career. So, I want to atone for my sins or whatever it may be and I am returning the money". But he did not do it. There was no atonement. There was no repentance. There was

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no *pashchataap*. But he continued to keep the money even after he became a Judge. That means it becomes a continuing offence. The offence which was committed earlier, he continued with the offence later also. He did not try to wriggle out of it. He could have returned the money saying ‘sorry, I did it during those days when I was just a young lawyer’. What does this indicate? It indicates that this gentleman who came here, he lacks the basic streak. He is not a man of conviction; he is a man of convenience. When the convenience ran against him, he returned the money. He could have done it the moment he became a Judge. There is something like atonement; there is something like repentance which can absolve a man from any crime. But he did not do that. We know that past always haunts a man, and one has to get rid of that past in a very graceful manner. Otherwise, what happens? We should not only see that justice is done, but, as Justice Vivian Bose, in that famous judgement of *beedi* supply company has said, ‘Justice should not only be done, but it should be seemed to be done’. The same probity which we expect from all sections of the society, including the politicians, we require from the Judges. An ideal Judge is the one who was in Maharashtra,

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Mr. Javadekar you will bear me out, Justice Ram Shastri, who stood before the Peshwas, did not allow the Peshwas elephant to go further. He said, “I will not allow that to happen”. This is the type of ideal Judge which we want. Our judges should be sea-green incorruptible. The argument that some culprits have gone scot-free should not have come from a Judge. One cannot say that because hundreds of murderers have gone scot-free, the murderer who is proved to be guilty before me should also be let off. It is not the argument of a Judge. After hearing Justice Sen, after hearing Mr. Yechury, after hearing Mr. Arun Jaitley, after hearing all the other eminent lawyers here, who just argued their case without charging fees, I have come to the conclusion that it is the rarest of the rare case. I support the Resolution and would not mind that in future also we should be ready and if more such cases come, we should be able to tackle them. Thank you.

(Ends)

श्री किशोर कुमार मोहन्ती (ओडिशा) : सभापति महोदय, आज इस सदन में जो Motion आया है, मैं उसे support करता हूँ और मैं चाहूँगा कि यह सदन अच्छी

तरह से इस पर चर्चा करते हुए एक ऐसी सहमति पर पहुँचे, जिसे आने वाले कल में तवारीख याद रखे।

सर, आज सारे भारतवर्ष में जो हल्ला मचा हुआ है, वह एक ही चीज़ के ऊपर मचा हुआ है और वह है corruption. इसी corruption के ऊपर आज इस सदन में हम एक ऐसी चर्चा कर रहे हैं, जो एक न्यायाधीश के ऊपर है। यह अपने आप में एक बहुत बड़ी चीज़ है। इस सदन की गरिमा को बचाने के लिए हम सबको अच्छी तरह से सोच विचार कर इस कदम को उठाना है। जब मैंने सभी को सुना और मैंने रिपोर्ट देखी, तो मुझे ऐसा लगा कि कहीं पर जब वे एक वकील के तौर पर एक रिसीवर बने थे, तभी से उनकी मंशा में कहीं-न-कहीं खोट था।

(2वाई/वीएनके पर जारी)

-AKG/VNK-VK/2y/4:05

श्री किशोर कुमार मोहन्ती (क्रमागत): महोदय, सौमित्र सेन जी को हाई कोर्ट ने 30.4.1984 को रिसीवर नियुक्त किया था। उस समय कलकत्ता हाई कोर्ट में इन्हें एडवोकेट के रूप में appoint किया गया था और 12.03.2003 को ये जज बने, लेकिन इसी बीच 27.02.2003 में एक केस, GA875-2003 फाइल हुआ था, जिसमें रिसीवर के रूप में टोटल account और proceeding देने के लिए हाई कोर्ट ने इनको कहा था। एक बात यह है कि 03.08.2004 को, जब कि ये जज बन चुके थे, हाई कोर्ट ने एक proceeding में कहा था कि एक और रिसीवर

appoint किया जाए, तब तक ये रिसीवर भी थे। 03.8.2004 से पहले ये वहां पर रिसीवर भी थे और जज भी थे, क्योंकि दूसरा रिसीवर 03.08.2004 को appoint किया गया था। ये 03.12.2003 में जज के लिए योग्य हो चुके थे और इसके बाद ये वहां पर जज होते हुए भी रिसीवर थे, तो ये कैसे कहते हैं कि मैंने गलती नहीं की।

महोदय, मेरे पास एक और प्वाइंट है कि इन्होंने तब तक पैसा रिटर्न नहीं किया, जब तक कि हाई कोर्ट ने इन्हें पैसा रिटर्न करने के लिए नहीं कहा। 2006 में कोर्ट ने कहा कि आप पैसा वापस कीजिए, तब जाकर इन्होंने पैसा वापस किया। अभी एक साथी कह रहे थे कि अगर इनकी मंशा अच्छी होती, तो ये जज बनने से पहले ही मजदूरों का पैसा वापस कर देते। अगर इनके दिल में कोई खोट नहीं था, तो 2006 में कोर्ट के द्वारा कहने के बाद इन्होंने पैसा क्यों वापस किया, इससे पहले क्यों नहीं किया? जब सरकार किसी को नौकरी देती है, तो वह थाने से उसके चरित्र के बारे में enquiry करवाती है और थाना से उसके चरित्र के बारे में लिखित रूप में प्रमाण पत्र मांगती है। चरित्र प्रमाण-पत्र मिलने के बाद ही उसको नौकरी दी जाती है, लेकिन मेरी समझ में यह नहीं आया कि जो पैसा मजदूरों पर खर्च करने के लिए इन्हें दिया गया था, उसको इन्होंने अपने दूसरे account में रख लिया और इतना करप्शन करने बाद भी इनको जज कैसे नियुक्त किया गया?

महोदय, मेरा कहना यह है कि जजों के appointment का जो प्रोसेस है, इसको ठीक करने के लिए हम लोगों को एक Autonomous Judicial Commission बैठाने की जरूरत है, क्योंकि हम लोग देख रहे हैं कि जब courts के कोरिडोर में बातचीत चलती है, तो वहां पर भाई-भतीजावाद बहुत चलता है। वहां मुंह देखा-देखी बहुत चलता है कि यह जज हमारे क्लब का मेम्बर है या यह हमारा दोस्त है, इसलिए इनके लड़के को जज बना दो। इस संबंध में हम जानते हैं, क्योंकि ओडिशा से एक ऐसे ही जज थे, जिनको वहां के एक जज के प्रेशर के कारण हाई कोर्ट में आने नहीं दिया गया। सौमित्र सेन कह रहे थे कि जिन-जिन को सुप्रीम कोर्ट का जज नियुक्त किया गया, उनके कुछ स्वार्थ हैं, इसलिए वे मेरे विरुद्ध बोले, लेकिन हम जानते हैं कि उनमें ओडिशा के एक ऐसे भी जज थे, जिनके बारे में हम लोग जानते हैं कि वे एक सच्चे जज थे और बहुत अच्छे जज थे, उनके ऊपर भी ये आरोप लगाए हैं। जब ये सुप्रीम कोर्ट के जज के ऊपर आरोप लगा रहे हैं, तो इससे हम लोगों को समझ लेना चाहिए कि इनकी मंशा कितनी अच्छी है।

महोदय, मैं यह कहना चाहूंगा कि होई कोर्ट में जो system of appointment of Judges है, उसमें कुछ बदलाव लाना जरूरी है। आज थोड़ी-थोड़ी चीज के लिए संविधान को बदलने की आवाज उठने लगी है, हमारे संविधान में बदलाव लाने के लिए आवाज उठ रही है। सदन में हमारे काम करने की जो शैली है, उस पर आवाज उठने लगी है। आज लाखों-करोड़ों लोग हमारे

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खिलाफ, करप्शन के खिलाफ, हमारे काम के खिलाफ सड़कों पर candle लेकर आंदोलन कर रहे हैं। अगर हम लोग आज यह नहीं देखेंगे कि हमारे जजों का जो कर्तव्य है, वे लोग उसको सही तरीके से निभा रहे हैं या नहीं निभा रहे हैं, तो ये लोग हमको माफ नहीं करेंगे। हम आज इस सदन में इसको discussion के लिए लाए हैं।

(2z/DS पर क्रमशः)

-VNK/DS-RG/2z/4.10

श्री किशोर कुमार मोहन्ती (क्रमागत): यह इम्पीचमेंट मोशन एक जज के विरुद्ध आया है, लेकिन यह जज अकेला जज नहीं है, ऐसे कई जजेज़ हैं जो करप्शन में डूबे हुए हैं। ऐसी कई अदालतें हैं, जहाँ आदमी अपना हक नहीं पाता है। उनका जजमेंट उसके विरुद्ध जा रहा है। ऐसे जजमेंट्स को रोकने के लिए न्यायपालिका में परिवर्तन लाना जरूरी है। हमारे अपोजिशन के लीडर कह रहे थे कि Autonomous Judicial Commission बिठाना जरूरी है। अगर उसके जरिये जजेज़ अप्वाइंट होंगे, तो हम जरूर कुछ अच्छे जज पा सकेंगे, जो निर्भीक भाव से और अच्छे तरीके से जजमेंट दे सकेंगे तथा हर एक आदमी अपना हक पा सकेगा। यही कहते हुए मैं अपनी बात समाप्त करता हूँ।

(समाप्त)

श्री मोहन सिंह (उत्तर प्रदेश): सभापति महोदय, मैं श्री सीताराम येचुरी द्वारा रखे गये महाभियोग के प्रस्ताव का समर्थन करने के लिए खड़ा हुआ हूँ। दसवीं लोक

सभा में जब 1993 में सुप्रीम कोर्ट के जज के खिलाफ इम्पीचमेंट मोशन आया था, उस लोक सभा का मैं साक्षी हूँ। कपिल सिब्बल साहब ने अपने ढाई घंटे के भाषण में उनके ऊपर लगे आरोपों की जबर्दस्त सफाई दी, लेकिन हाउस का कोई दुर्भाग्य था, क्योंकि जाँच करने वाली जो कमिटी बनी थी, उसके एक मेम्बर पी.वी. सामंत साहब थे। इसलिए एक राज्य के प्रतिनिधि सांसद समझते थे कि इम्पीचमेंट होना चाहिए। चूंकि रामास्वामी के खिलाफ इम्पीचमेंट मोशन था, इसलिए एक राज्य के संसद सदस्य चाहते थे कि यह इम्पीचमेंट मोशन न हो। सरकारी पार्टी प्रांतीयता के झगड़े में फँस गयी, इसलिए उस मोशन के पक्ष या विपक्ष में सरकारी पार्टी ने कोई व्हिप जारी नहीं किया। नतीजा यह हुआ कि दो दिनों की बहस के बाद संसद के भीतर वोट के समय जो रिक्वायर्ड नम्बर्स होने चाहिए थे, वे लोक सभा में नहीं जुट पाये और वह प्रस्ताव गिर गया।

मैं समझता था कि राज्य सभा में सौमित्र सेन को कोई अधिवक्ता नहीं मिलेगा, लेकिन जब हाई कोर्ट की प्रैक्टिस खत्म हो जाती है, तो अपनी प्रैक्टिस का अभ्यास जारी रखने के लिए वह सिलसिला राज्य सभा में जारी रखना चाहिए, इसलिए आदरणीय मिश्रा जी उनकी वकालत के लिए यहाँ खड़े हो गये। मैं उनको धन्यवाद देता हूँ। मुझे खुशी हुई, लेकिन जिस तरह कल सौमित्र सेन ने तथ्यों को दबाया, उसी तरह पौने दो घंटे के भाषण में मिश्रा जी ने भी लिखित दस्तावेज में दिये हुए तथ्यों को बहुत होशियारी के साथ दबाने का काम किया।

सौमित्र सेन ने तीन बातें कहीं। एक तो उनकी समीक्षा के लिए चीफ जस्टिस ऑफ इंडिया के घर पर जाँच करने वाले जो जज साहेबान थे, उन्होंने उनको बुलाया और इस बात का प्रलोभन दिया कि यदि आप त्याग-पत्र दे दें, तो आपको किसी प्राइवेट कम्पनी में अच्छी सर्विस दी जा सकती है। अब यह एक ऐसा आरोप है कि चार लोग एक कमरे में बैठे हैं, हाई कोर्ट का जो व्यक्ति जज हो, वह इस तरह के hearsay को इतने बड़े सदन के सामने रखे, जिसकी पुष्टि का कोई आधार हम लोगों के पास न हो। मैं समझता हूँ कि इस तरह का false evidence प्रस्तुत करना ही इम्पीचमेंट के लिए काफी है, ऐसा मैं आग्रह करना चाहता हूँ।

दूसरी बात उन्होंने यह कही कि बहुत सारे जजों ने ऐसा किया और उनको उस समय चीफ जस्टिस ऑफ इंडिया ने छोड़ दिया। उन्होंने चंडीगढ़ के एक जज का हवाला दिया। उन्होंने इलाहाबाद हाई कोर्ट के जजों, जो प्रॉविडेंट फंड के misappropriation में फँसे हैं, का भी हवाला दिया कि उनको छोड़ दिया गया। यह भी तथ्यों से परे है। सच्चाई यह है कि इलाहाबाद हाई कोर्ट के जजेज़ और जो डिस्ट्रिक्ट जज थे, उन्होंने अपने पद से त्याग-पत्र दे दिया। सीबीआई ने उनके खिलाफ जाँच की। उनके खिलाफ डिस्ट्रिक्ट कोर्ट में चार्जशीट दाखिल की गयी और डिस्ट्रिक्ट जज ने उन जजों को जमानत पर छोड़ा है।

(3ए/एचएमएस पर क्रमशः)

3A/HMS-KS/4.15

श्री मोहन सिंह (क्रमागत) : यह स्थिति है और यही स्थिति चंडीगढ़ हाईकोर्ट के जज के बारे में है कि सी०बी०आई० उन की जांच कर रही है। मैं समझता हूं कि किसी जज के लिए यह safest course था, यदि उन की जांच सी०बी०आई० करती। यदि उन के खिलाफ कोई criminal proceedings जारी होती तो उन को संविधान के impeachment motion के जरिए सजा हो सकती थी। यदि पार्लियामेंट उन के खिलाफ कोई कार्यवाही करेगी तो किसी तरह के criminal procedure से उन के विरुद्ध कार्यवाही करने से पूरी बचत है। इसलिए उन्होंने बहुत आसान तरीका सोचा कि हम इस पार्लियामेंट के जरिए ही अपने को impeach करवा लें और उस तरीके के तहत जैसा कि रिपोर्ट में कहा गया है कि वह कमेटी के सामने आते ही नहीं थे, अपने किसी वकील को भेजते ही नहीं थे और इस के बारे में कहते थे कि एक महीने का समय दो, दो महीने का समय दो। सर, जो जजेज इंक्वायरी के लिए बैठे थे, उन का कहना है कि इस तरह अपने को छिपाकर रखना यह माना जाएगा कि आप तथ्यों से बचना चाहते हैं और दोष को स्वीकार करना चाहते हैं। महोदय, यहां पर बड़ी मार्मिक व्याख्या की गयी कि wishful misbehaviour की परिभाषा क्या है? मैं ऐसा समझता हूं और संविधान विशेषज्ञ इस बात को कहते हैं कि संविधान की धाराएं in letter and spirit, उन की मंशा और उस की भाषा - दोनों को जोड़कर पढ़ी जाती हैं। यदि संविधान में ऐसा लिखा गया है तो misbehaviour की जो मंशा है, उस मंशा पर जाने की हम

को कोशिश करनी चाहिए। महोदय, हमारे क्षेत्र में एक वीडियो कंपनी का ऑफिस था। उस का दफ्तर shift हुआ और एक महीने तक कुल ढाई सौ रुपया उस ने अपनी जेब में रख लिया। उस को कंपनी के सी0डी0ओ0 ने suspend कर दिया। उस ने हाई कोर्ट में याचिका दाखिल की तो हाई कोर्ट ने कहा कि तुम को इंचार्ज की हैसियत से उस पैसे को या तो सेफ में या बैंक में रखना चाहिए था। इस राशि को जेब में रखना अपवंचन है, अमानत में खयानत है और उस आदमी की नौकरी ढाई सौ रुपए के कारण चली गयी। महोदय, यहां तो मामला इतना बड़ा है। अभी मिश्रा जी ने कहा कि "वकील की हैसियत से।" लेकिन यह वकील की हैसियत से नहीं है, वकील की हैसियत से तो कोई केस नहीं हुआ। जब वह जज नियुक्त हुए तो उन के खिलाफ याचिका दायर हुई कि वह ट्रस्टी के रूप में इस पैसे को अपने खाते के अंदर लिए हुए हैं - जज रहते हुए और एक मामले में ट्रस्टी रहते हुए दोनों पलड़ों के ऊपर एक साथ थे। इसे misbehaviour के रूप में स्वीकार किया जाए या नहीं किया जाए?

महोदय, अभी एक मामला सुप्रीम कोर्ट के सामने आया। हिंदुस्तान की सरकार ने एक व्यक्ति को हिंदुस्तान का मुख्य सतर्कता आयुक्त नियुक्त किया गया। उस को हटाने की कोई व्यवस्था नहीं थी। वह सुप्रीम कोर्ट में कहता रहा कि हम को हटाने की कोई व्यवस्था नहीं है। महोदय, मामला यह था कि एक राज्य के सचिव की हैसियत से पामोलिन का आयात करने पर उस के ऊपर कुछ आरोप लगे। उस की कुछ इन्क्वायरी भी नहीं हुई, उस के कुछ तथ्य भी सामने

नहीं आए, लेकिन सुप्रीम कोर्ट ने कहा कि जिस पद पर आप बैठे हैं, वह पद सब की समीक्षा के लिए है। इसलिए आप का पद किसी भी तरह के संदेह से परे होना चाहिए। आप पर आरोप सिद्ध हुए या नहीं हुए, आप दागी थे, इसलिए इस पद पर रहने के हकदार नहीं हैं। महोदय, मैं ऐसा समझता हूँ कि हाईकोर्ट के जज की पोस्ट किसी भी हालत में Chief Vigilance Commissioner से कम नहीं, उस से बड़ी हुआ करती है। ऐसी हालत में misbehaviour की एक तार्किक व्याख्या कर के उस की परिभाषा को बदलने का कोई मतलब नहीं। उस की मंशा पर हम को जाना चाहिए। महोदय, मंशा इस बात को बतलाती है कि जज का आचरण ऐसा हो जिस पर किसी तरह के संदेह की गुंजाइश न रहे। यदि अधिवक्ता के रूप में ही आप ने ऐसा किया तो आप की जज की नियुक्ति ही मैं समझता हूँ गलत है।

महोदय, आप बार-बार घड़ी देख रहे हैं। मुझे बहुत सारी बातें कहनी थीं, एक बात यहां नेता विरोधी दल की ओर से बहुत गंभीर कही गयी। महोदय, पिछले कई वर्षों से मैं हाईकोर्ट/सुप्रीम कोर्ट के जजमेंट्स को पढ़ता हूँ। पिछले कई वर्षों से सुप्रीम कोर्ट ने judicial verdict बहुत ही कम दिए वहीं administrative verdict बहुत से दिए हैं। अभी तीन दिन पहले उन्होंने कहा कि संविधान बड़ा है, संसद बड़ी नहीं है। तो हम जानना चाहते हैं कि संविधान ही यदि सर्वोच्च है, तो सुप्रीम कोर्ट उस से भी सर्वोच्च है?

(3 बी/एनबी पर क्रमशः)

NB/KGG/3B/4.20

श्री मोहन सिंह (क्रमागत) : सुप्रीम कोर्ट, हाई कोर्ट और संसद इन सबकी लक्ष्मण रेखा सुप्रीम कोर्ट ने ही 1964 में तय की थी। जब उत्तर प्रदेश का एक मामला आया - न्यायपालिका बनाम विधायिका, तो उसमें उन्होंने दोनों की लक्ष्मण रेखा को पारिभाषित किया। मैं ऐसा समझता हूँ कि विगत कई महीनों और कई वर्षों से हिंदुस्तान की जुडिशियरी उस लक्ष्मण रेखा का निरंतर उल्लंघन कर रही है और इस संबंध में सारी परिभाषाएं दी जा रही हैं कि जुडिशियरी सर्वश्रेष्ठ है तथा संसद और कार्यपालिका उसके बहुत नीचे हैं। सच्चाई यह है कि भारत का संविधान दर्ज करते समय हमारे संविधान निर्माताओं ने खुद लिखा है कि "हम, भारत के लोग, भारत के संविधान को अपने ऊपर आत्मार्पित करते हैं।" भारत के लोग सर्वोच्च हैं, इसमें कोई दो रायें नहीं हैं, लेकिन वे लोग 5 साल के लिए अपनी संप्रभुता को संसद सदस्य के रूप में हमें दे देते हैं, हमें सांसद के रूप में delegated power है। 5 साल के लिए जनता की संप्रभुता संसद में निहित हो जाती है, मेरे हिसाब से यह संसद की परिभाषा है।

सभापति जी, लोक सभा में 3 दिनों तक बड़ी जबरदस्त बहस हुई थी - न्यायपालिका बनाम संसद, इस पर 3 दिनों की बहस हुई। अगर राज्य सभा में भी ऐसी बहस हो, तो मैं समझता हूँ कि उसके कुछ सार्थक परिणाम निकल सकते हैं। इन्हीं शब्दों के साथ, मैं यह निवेदन करता हूँ कि या तो आप इस impeachment को पास करिए, नहीं तो आज़ादी के बाद जो एक ऐसी धारा

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हमारे संविधान में है, जिसको हमारे संविधान निर्माताओं ने incorporate किया था, उस धारा को निकालकर फेंक दीजिए। इतने वर्ष बीतने के बाद भी इसका इस्तेमाल संसद ने आज तक नहीं किया है, यदि संसद इसका इस्तेमाल नहीं करती, तो इस धारा को संविधान से निकालकर फेंक दिया जाए, इसकी कोई जरूरत नहीं है। यदि यह धारा है, तो इसका एकाध बार इस्तेमाल करके हमको यह बताना चाहिए कि भारत की संसद, न्यायपालिका के भ्रष्टाचार को खत्म करने के लिए कटिबद्ध है, प्रतिबद्ध है। इन्हीं शब्दों के साथ मैं इस मोशन का समर्थन करता हूँ।

(समाप्त)

SHRI D. RAJA (TAMIL NADU): Sir, I rise to support the Motion moved by my comrade, Shri Sitaram Yechury. Sir, it is a historic defining moment in the life of our Parliament. We do not come across impeachment motions to remove a judge quite often. The first impeachment motion was taken up in the Ninth Lok Sabha. The then Speaker, Shri Rabi Ray, admitted that impeachment motion against Justice Ramaswamy. How that impeachment motion fell through, my hon. colleague just now explained and I do not want to go into the details. This is the second impeachment motion. Both the motions are to impeach a sitting judge on the grounds of corruption.

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Sir, right since the days of our struggle for Independence, the national leadership of the country has been stressing on the need for a judicial system based on probity and integrity. Sir, I would like to quote Mahatma Gandhi, the Father of the Nation, who led the non-cooperation movement, who asked people to violate laws even at that point of time. Mahatma Gandhi, in the year 1929 had said on the judge indictment, “Justice is practically unobtainable in the so-called course of justice in India.” Then, Mahatma Gandhi goes on to stress on it in the year 1931. On 6th August, 1931, Mahatma Gandhi wrote, “What we must aim at is an incorruptible, impartial and able judiciary right from the bottom.”

(Contd. by 3c/tdb)

TDB/3C/4.25

SHRI D. RAJA (CONTD.): These are the words of Mahatma Gandhi. Now, we are discussing how to impeach, how to remove a judge. Yesterday, we heard Justice Sen. With due respect for his eloquence, I must point out the Justice himself admitted that he had mishandled the funds. He used the words, “mishandling of the funds.

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Inexperience of that person at that particular point of time, and money has no colour”. These are the words he used while defending his case. He went on to point out, “Mr. K.G. Balakrishnan, the then Chief Justice acted as accuser, prosecutor and judge. If K.G. Balakrishnan can be let off, why not I?” That is how he posed the issue. Sir, money has no colour. Does he think corruption has some colour? Does he think corruption has some bias, some caste basis or religious basis? What does he mean? So, yesterday, the entire defence of Justice Sen was not convincing at all. In fact, it has thoroughly exposed him.

Sir, the Inquiry Committee appointed by you identified two charges. Charge number one, misappropriation. Charge number two, making false statements. They said, “Duly proved as set out in Part IV of the Report.” It is duly proved as set out in Part IV of this Report. I do not know how my colleague, Shri Satish Chandra Misra could not see through these findings of the Inquiry Committee. The Inquiry Committee consisted of Justice Sudershan Reddy, Justice Mukul Mudgal and Shri Fali S. Nariman, very eminent lawyer and we all adore him for his commitment and integrity. Sir, this is the problem.

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Sir, I am not a lawyer like Shri Arun Jaitley or Shri Sudarsana Natchiappan or some others, but as a political activist, how I look at the issue. The judge, when he was an advocate or when he was a judge, he had misbehaved, misconducted himself, and it has been proved. There are evidences and he must frankly admit it. Instead of that, he is questioning the sovereignty of Parliament also by saying, “How Parliament can discuss a *sub judice* matter?” Sir, here, I must say what Pandit Jawaharlal Nehru once said, “No Supreme Court or Judiciary can stand in judgement over the sovereign will of Parliament representing the will of entire community.” This is what Pandit Jawaharlal Nehru had said, Sir. So, I think, it is a clear case, and there is no need to further examining various facts; there is no need to further analyse various facts, evidences and this Parliament, this Rajya Sabha can come to a unanimous understanding to impeach Justice Sen and remove him. That will go a long way in the history; that will go a long way in the life of our Parliament. This Parliament is not a talking shop. This Parliament means commitment; this Parliament means sincere, dedicated work for the country in upholding the Constitution.

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Sir, here, I would like to come to the other larger issue. The larger issue is, Shri Arun Jaitley has also spoken on this -- the powers of the Executive, the Legislature and the Judiciary. How this will have to be seen? Sir, here, we understand there should be a balance. But the point here is, we do not have a National Judicial Commission. We have been asking the Government to come forward to set up a National Judicial Commission. Why do we demand a National Judicial Commission? Accountability and transparency should become the hallmarks of the process of appointment of judges to the High Courts and the Supreme Court.

(Contd. by 3d-cls)

KLS/3D-4.30

SHRI D. RAJA (CONTD): This can be achieved only by providing for an independent authority which is accountable to the Parliament exercising the power of selection to appoint Judges to these courts. Whether the Government, at least, now is prepared to set up a Judicial Commission and when the whole nation is agitated on the issue of corruption, I do not think the Government can delay on this issue further. Sir, if we have to draw lessons from some other

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countries I can refer to the Constitution of South Africa, how South Africa has evolved a mechanism to appoint Judges, even to remove Judges. I suggest to the Government, at least, you must be aware of the Constitution of South Africa which has a fair workable mechanism of appointing Judges, removing Judges. We can try such a mechanism. The point here is that we need at this point of time a Judicial Commission.

MR. CHAIRMAN: Please conclude.

SHRI D. RAJA: Sir, I am concluding. ...(Interruptions).. Sir, all Judges are not like Justice Kapadia. It is Justice Kapadia who said 'integrity is the only asset which I have got. Integrity is my asset.' I quote Justice Kapadia. All Justices cannot be Kapadias and are not Kapadias. That is why when the issue was discussed in the Constituent Assembly and later also, I quote what Sardar Patel had said. Sardar Patel...

MR. CHAIRMAN: Please conclude. ...(Interruptions)..

SHRI D. RAJA: Sir, I am concluding. ...(Interruptions).. I will conclude by only quoting Sardar Patel and Dr. Ambedkar. ...(Interruptions).. Sardar Patel in his letter on 8th December, 1947

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addressed to the Governor-General of India regarding dealing with the procedure for filling up vacancies in High Courts to the following effect: "Purity of motive is not the monopoly of the Chief Justice nor nepotism or jobbery devices of politicians." Sardar Patel wrote this in 1947, Sir.

MR. CHAIRMAN: Thank you, Mr. Raja.

SHRI D. RAJA: Then I quote Dr. Ambedkar. He also in the same way talked about, 'who are our Chief Justices: Chief Justice is a man with all the feelings, all the sentiments and all the prejudices which we as common people have.' They are not super human beings. They come from the same society. Sir, that is why Thomas Jefferson once quoted, 'our judges are as honest as other men and not more so.'

MR. CHAIRMAN: Thank you very much.

SHRI D. RAJA: That is why we need a Judicial Commission. ...(Interruptions).. I am finishing, Sir. ...(Interruptions).. You have rightly asked because it was Karl Marx who said that every one should be equal and people should have their basic needs and no question of exploitation and no question of discrimination, no question of..

MR. CHAIRMAN: Thank you, Mr. Raja.

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SHRI D. RAJA: This is what Karl Marx said, Sir. On the basis of this, I strongly support the motion moved by Shri Sitaram Yechury and this impeachment motion should be accepted by the entire House unanimously and we should see that Justice Sen is removed. That is my request. Thank you.

(Ends)

SHRI PAUL MANOJ PANDIAN (TAMIL NADU): Mr. Chairman, Sir, I thank you for giving me this opportunity to speak on this historic motion. Sir, since I have been allotted only four minutes, I would like to submit to you only four points. The first point is with regard to the admissibility of this motion which was questioned. Whether this motion can be taken up by this august House was the first query of Mr. Sen. Mr. Chairman, Sir, I would only invite your attention to rule 238 of our Rules of Procedure where it is mentioned about the Members' rights that while speaking a Member shall not refer to any matter of fact on which judicial decision is pending. Admittedly, there is no judicial decision pending with regard to the impeachment of justice Sen.

(Followed by 3E/KLS)

(MR. DEPUTY CHAIRMAN IN THE CHAIR)

SHRI PAUL MANOJ PANDIAN (CONTD): Further they referred to the charge against another member. And finally clause 5 - due to paucity of time- 'reflect upon the conduct of persons in high authority, unless the discussion is based on a substantive motion drawn in proper terms.' Sir, explanation is also given, the words 'persons in high authority' mean persons whose conduct, in the opinion of the Chairman can only be discussed on a substantive motion drawn in proper terms under the Constitution or such other persons whose conduct in the opinion of the Chairman should be discussed on a substantive motion drawn in terms to be approved by him.' This is a substantive motion admitted by the Chairman and in terms of article 124 and 217 and in terms of the Judges Inquiry Act, 1968. Therefore, Sir, this august House is supreme to discuss a motion against Justice Sen irrespective of any judgment of any Division Bench or any court. That is my first submission, Sir.

My second submission, Sir, is that Mr. Sen was referring to the judgment of the Division Bench stating that he had been exonerated of

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the charges. Sir, I would only refer that the In-House Committee went into the allegations against Justice Sen. The Inquiry Committee which went into the allegations against Mr. Sen had examined five witnesses, had examined documents, had conducted a thorough inquiry and had conducted a trial. Mr. Sen did not offer to give any explanation before the Committees. Sir, it is the contention of Mr. Justice Sen that the principles that apply to an election petition must apply to his case. Sir, I would submit that the principle in the election petition with regard to corrupt practices when the initial evidence is established, a prima facie case is established by the petitioner, thereafter, the burden shifts on the other party who has to rebut the evidence. In the absence of rebuttal of evidence adverse inference has to be drawn. In this case since the guilt of Justice Sen during the inquiry, by adequate evidence, was established, it was Justice Sen who had to go personally, offer an explanation to get exonerated before the Committee which he has not done. Therefore, Sir, it cannot be a case that the Division Bench judgment will help him, support him. Even otherwise the Division Bench has not gone into the same facts, the same evidence and the same witnesses, and, therefore, there

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cannot be protection for Justice Sen. Sir, if the same facts, if the same evidence and the same documents are scrutinized and full trial is conducted by the Division Bench, then there can be a case stating that it was considered by the Division Bench.

My third point is, even in ordinary cases where Government servants are acquitted of criminal charges, courts have upheld judicial principles that the departmental proceedings will continue. Sir, on the same principles the misconduct has been established and now we are initiating action under the Judges Inquiry Act by virtue of article 124, clause 5, wherein the Parliament is empowered to make a law to make an inquiry with regard to the conduct of a judge. This is in pursuance of an Act of Parliament, pursuant to a Constitutional provision, Sir. Therefore, the action, despite the Division Bench Judgment, can be maintained against Justice Sen in accordance with this principle.

My fourth point would be that he has stated that...(Interruptions).. He has stated that the order of the Division Bench had exonerated him and therefore, that must be taken into account. Sir, the only ground on which the Division Bench went into this whole issue was ground No.8 which was referred to by the mother

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of Justice Sen. It had not gone into any other issue, Mr. Deputy Chairman, Sir.

(Followed by 3F/USY)

-KLS-USY/3F/4.40

SHRI PAUL MANOJ PANDIAN (CONTD.): Finally, Can a non-judicial body can decide this issue, which is settled by a Division Bench? Sir, the Parliament is supreme. The Constitution provides for the removal of a judge. The Constitution provides for the enactment of a law by way of Judges Inquiry Act. The entire proceedings have been gone into and endorsed by the In-House Committee, thereafter endorsed by the Judicial Inquiry Committee and all the facts have been clearly established by the Leader of the Opposition. Therefore, keeping in view the above legal propositions, I support the Motion moved by Mr. Yechury. I request that the Motion be passed unanimously.

(Ends)

SHRI H.K. DUA (NOMINATED): Mr. Deputy Chairman, Sir, I rise to support the Motion moved by Shri Sitaram Yechury, and very ably and clinically supported by Shri Arun Jaitley, Dr. Natchiappan and other legal luminaries. The House, for two days, has witnessed a

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unique debate where I find there is a cross-section of opponent views converging on one issue. This kind of consensus, which if available on many other issues of national concern, will be helpful. Sir, yesterday, it was a said time, however, for the House to see a Judge standing in the dock before the House for doing what he should not have done. None of us here is drawing any pleasure to get an opportunity to punish a Judge for straying from the righteous path. I wish Justice Sen, now a respondent before the House, almost an accused, had resigned from his job as soon as it came to be known established that he had indulged himself with public money for private gains. The Chief Justice of India had, after due deliberations with his colleagues, advised him that he, in his own interest, better send in papers and say good bye to the Bench. But Justice Sen, for reasons known to him, would not listen to a reasonable advice even from the Chief Justice of India. If he had resigned, he would have saved this House the pain of impeaching a Judge. If this House decides to impeach Justice Sen, as it should, this will be the first of its kind for the Rajya Sabha. And, none of us, sitting here, is really enjoying the authority to remove a Judge given to Parliament under the

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Constitution. All of us this there should have been no need to use this authority, but we have to do it. None of us, sitting here, is keen to go through the experience that will set historic precedent for the future. I hope another opportunity of this kind does not arise. But the way the institutions are declining, although I am not very sure, the process for removal of a Judge itself by impeachment is, indeed, painful for the House. It is always unpleasant. But, we have to carry this out. It is our duty to do so to save the Judiciary from someone who has frittered away his right to sit on the august Bench of the Calcutta High Court. Justice Sen, yesterday, told us that he had committed no fault while being on the Bench and that the charges against him pertain to the period before he was appointed a Judge. Sir, the real question is that of the integrity of a Judge. And, integrity has no cut off date. A judge is supposed to have integrity even to qualify for being appointed a Judge. Integrity cannot be acquired only when the oath of office is taken and the Judge sits on the Bench. That is the real question. And, Justice Sen has given no evidence that integrity has not been compromised by him before he was appointed.

(Contd. by 3g — VP)

-USY /VP/4.45/3G

SHRI H.K. DUA (CONTD.): I will come to that point later on. Why was care not exercised by the collegium which selected him as a judge? This point was taken up by many Members, led by Shri Arun Jaitley and by Mr. Nachiappan also. Sir, the case for the removal of Justice Sen is absolutely sound and valid for impeachment. There were allegations which tended to suggest that Justice Sen had kept public money with himself and used it for private gain. He was advised by his friends at the Bar and the Bench that he better resign as a judge. Mr. Sen, would not listen. Mr. Deputy Chairman, Sir, maybe, he thought that his conscience was clear. But, Sir, we all know, how flexible conscience has become these days. The elasticity of conscience of many leads to greed and most often to untruth and kind of complications which this House is sorting out today.

Mr. Deputy Chairman, Sir, despite the advice, he continued to serve on the Bench. He must have thought he could get away with it. That could be the reason. Otherwise, I don't see why any sensible person in that position would not take that advice. He would have

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known what later consequences could be. He was denied work, but, even then he would not take the message that he was needed no longer.

Mr. Deputy Chairman, Sir, this House has taken up the issue after much thought and a great deal of care. We, in this House, don't want to interfere with the independence of the Judiciary. And the last man who would suggest any interference with anything that falls in the Judicial domain was the Chief Justice of India who wrote to the Prime Minister in the year 2008 seeking his intervention in initiating impeachment proceedings against Mr. Sen, a sitting judge of the Kolkata High Court. The CJI gave detailed information about Justice Sen's misdoing or misconduct or the word, 'misbehaviour' that is being used during the debate and otherwise when he was appointed Receiver in the case called the Steel Authority of India *versus* the Shipping Corporation of India way back in 1993. The CJI also appointed an in-House committee of judges to inquire into the allegations and came to the conclusion that Justice Sen is not the kind of a judge who should adorn the Bench. Hence, the CJI's letter to the Prime Minister seeking Justice Sen's removal under article

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124 (4) of the Constitution. The matter later fell in the lap of the Chairman of the Council of the States, which has assembled here today to decide Justice Sen's fate. Our Chairman is known for following the letter and spirit of law. He appointed a Committee comprising of Justice B. Sudershan Reddy of the Supreme Court, Justice Mudgal, Chief Justice of Punjab and Haryana High Court and Mr. Fali Nariman. They are all men of great integrity and calibre. Mr. Nariman, incidentally, sat on these benches where some of us are sitting. The Committee has spent considerable time and effort and came to well thought out two conclusions, which I have no reason, the House will differ with. One, that Mr. Sen is duly proved guilty of misappropriation of large sums of money which he received as a Receiver appointed by the High Court of Kolkata. Two, that Justice Sen is duly proved guilty of making false statements by misrepresenting facts with regard to misappropriation of money before the Kolkata High Court. I won't go into the details or the background in which they have come to these conclusions. Legal luminaries in the House have already gone into that. So, I would not

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like to take more of the time. But, no one is supposed to speak nothing but the truth to the court. (Continued by PB/3H)

-VP/PB/3h/4.50

SHRI H.K. DUA (CONTD.): Justice Sen did not choose the simple course either. I wouldn't go into the details of the Committee's Report. Other Members have already gone into it. The Committee was meticulous in its approach. It also gave enough opportunities to Justice Sen but he thought it below his dignity to personally explain to the Committee as to why he did what he should not have done.

Sir, this House needs only to go by the Report of Justice Sudershan Reddy, Justice Mudgal and Mr. Fali Nariman. There is no need for further investigation or cross examination of Justice Sen. Sir, yesterday, he had about 100 minutes of opportunity to present his case with which I was not fully convinced.

I would commend to the House the Motion before it that an Address be sent to President that Justice Sen be removed.

Having said this, I would like to just draw the attention of the House to one disturbing aspect of the case, and, Sir, this is very

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important. Though others have touched on this issue, but this is very important. This House will have to take up again this question after disposing this Motion of Impeachment. How did Justice Sen get elevated to the Bench of Calcutta High Court while he, as a receiver, had the temerity to misappropriate large sums of money and tell untruth to the court? His selection as a Judge of the High Court shows that a drastic review of the present system of selection of Judges by the collegium has become urgent. I hope this House will have an early opportunity to discuss the entire system of appointment of Judges to the higher Judiciary. The present system is totally unsatisfactory and unacceptable to the people. Sir, on the way the Judges are appointed in the collegium, if you talk privately to the people who practise law or people who have been Judges, horrendous stories of selection process come. Collegium consists of a few people which are said to be the senior most Judges of the Supreme Court. We often hear that if there are 7 posts, they will divide two each and possibly Chief Justice will get one extra. I am told that influences are brought to prevail upon them, bargaining takes place and much else. There have been allegations of favouritism also. One

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hears all that. I won't go more on that except to say, do we know or anybody in the country knows what are the criteria of selection of Judges. The Delhi High Court came with a Judgment laying down criteria for nursery school admissions. That was some years ago. Delhi University has the criteria where you require 100 per cent marks for getting admission in some colleges. Do our Judges ever get 100 per cent mark for selection to the Supreme Court? I would like to ask it. Have their criteria been spelt out like the criteria for nursery school children in Delhi?

Sir, the people have the right to know what makes a good Judge. Often in the districts, in the State Capital where the High Courts are located, the people are disappointed with the state of the Judiciary at this time. They are also disappointed with Parliament; they are also disappointed with the Executive, but *Kachahri* is the last hope of the people. If that suffers the loss of faith, if the people stop disbelieving the *Kachahri*, then, I am sure, the country suffers a lot.

With that I end my speech with a plea that this Motion should be passed.

(Ends)

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DR. BHARATKUMAR RAUT (MAHARASHTRA): Thank you, Sir, for having given me this opportunity.

Today, Sir, is a historic day in the history of this House. It is because when this House is voting for impeaching a sitting Judge of the High Court, for the first time, outside this House and in the nation, the people have awakened to the struggle to eradicate corruption from public life. So, this is definitely a historic day.

(Contd. by 3j/SKC)

3j/4.55/skc

DR. BHARATKUMAR RAUT (contd.): Sir, I am morally bound to support the Impeachment Motion because I am one of those 58 signatories who have demanded the impeachment. Therefore, I will be supporting it. However, since I am not a legal luminary, I have not studied or practised law, I am a bit ignorant. I only fear that often in the legal and intellectual battles between, the first casualty is of the truth. So, I am a bit skeptical.

Yesterday, let me confess, I was a bit confused after hearing the emotional speech by Justice Sen and I was wondering whether we were living up to our responsibility of being the custodians of the faith

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of this nation or whether we were just making an innocent man a scapegoat. But, after hearing the speeches of the hon. Leader of Opposition and later speakers, I am convinced that Justice Sen seems to be guilty and needs to be impeached. So, I support the motion.

However, I would like to bring it to your notice, Sir, that some questions still remain unanswered and I would request, rather I would pray, for those who speak later, particularly, Shri Sitaram Yechuryji, to reply to these queries.

Sir, Justice Sen said that he was exonerated by the Division Bench. I do not know how it was. But the Division Bench has exonerated him. Is the CJI empowered to question the validity of the Division Bench of a High Court when there was no appeal pending before the Supreme Court? Can he take action *suo motu* and question the verdict given by a Division Bench? I would like to know that.

Then, a point which has also been touched upon by some hon. Members, is that Justice Sen — I am taking it with a pinch of salt but still I am mentioning it — claimed that the then CJI had called him to his residence and in the presence of two other Judges offered him

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VRS and a good posting. Is that true? Sir, it is the responsibility of this House now to either prove the guilt of Justice Sen, or, if there is some iota of truth in what he has said, to find out whether the CJI is empowered, morally or legally, to offer VRS to a person who, in CJI's opinion was guilty of corruption. Can you offer the Judge a lucrative position in an informal chat? We need to know; the nation needs to know and somebody has to give the answers. Otherwise, we should institute a probe into this aspect. But I don't know by which method we can do it.

Sir, it means a corrupt Judge can be rehabilitated if he resigns from his position. Is that the law? I would like to know if any law permits that.

The third thing, Sir, is about what Justice Sen talked about the wrong account. He explained in detail about how he was being hanged because of a wrong account and the hon. Leader of Opposition has torn into his arguments. Now, the question is, if there was a wrong account, it amounts to a bogus account, a fake account, a *benami* account. Do our banks allow the operation of such *benami* accounts? If a bank account is to be opened by a man like me, I need

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my photograph, my ration card and then only I can open an account. How can one Soumitra Sen with a different father's name open an account and operate? Has any committee checked with the bank officers as to how they open such an account? If this fraud could be unearthed, there could be thousands and lakhs of such *benami* accounts which are being operated all over the country. What are we going to do about it?

Fourthly, Justice Sen said that he had made payments to the worker. I go by his word that he has made payments to the workers. Is it not our responsibility to ensure and to bring the truth to the fore that he had not made that payment to the workers? If he had made payments to the workers, there must be cheques, there must be receipts. Have you traced those people to whom he claims to have made the payments?

(Contd. by 3k/hk)

HK-DS/3k/5.00

DR. BHARATKUMAR RAUT (CONTD.): How can we say that he has not made the payment, or, how can we believe that he has made the payment? There is a nexus which has to be proved. We cannot leave

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these loose ends left when we pass the impeachment. The last point which I would like to bring to your notice is that, as Mr. H.K. Duaji and others have also mentioned, he was a practising advocate when this crime was committed. After that, he is made a judge. Judge-making is a process which goes on for some months. When I was a working journalist, at that time I was made a special executive magistrate by the Government. The job of a special executive magistrate is to sign true copies of secondary school certificates and birth certificates. Even then Police came to my house to verify my validity, my address and my पूरा चरित्र। You appoint a person as a judge who is guilty of fraud, who is guilty of corruption and who is taking away workers' money. If you appoint him as a judge, it is a grave injustice to the people of India because a sitting High Court Judge plays with my life and death. He has the power to hang me; he has the power to send me to life imprisonment. If a guilty man, sitting as a judge, exercises this power, where do I go? As a common citizen, I don't have the right to come to you and impeach the judge. How do I do? Sir, this entire process of appointment of judges through collegium, I think, needs to have a relook. किसी का मामा, किसी का चाचा या किसी का बेटा

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they should not become judges. A judge should be made strictly on merit. Corruption in the process of judge making is rampant.

MR. DEPUTY CHAIRMAN: Please conclude. ...(Interruptions)..

DR. BHARATKUMAR RAUT: Sir, I am supporting the Motion with reservation that unless we come to the final conclusion and bring the entire truth to the nation, we cannot hang only one person. By hanging one person, we cannot cleanse the system. To cleanse the system, sending one person out is not enough. This process, if it has started now, should go to its logical end. Thank you.

(Ends)

SHRI KUMAR DEEPAK DAS (ASSAM): Sir, I am here to support the Motion moved by hon. Member, Shri Sitaram Yechury. In fact, I am one of the Members who signed this Motion for the impeachment of Justice Soumitra Sen for his involvement in financial misappropriation before he was appointed as judge. We want a fearless, independent and non-controversial judiciary. It should be incorruptible and impartial. Sir, fair image of the judiciary is a must. Sir, we have taken this step as essential in the interest of the republic to strengthen the judiciary as well as to stop the corruption in the higher places. Sir, a

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member of the higher judiciary can be removed from his service only through the process of impeachment under Article 124(4) on the ground of proven misbehaviour. A three-members Committee was constituted by the hon. Chairman to look into the complaint and determine whether it is a case fit for initiating the process of impeachment. The Inquiry Committee after examining all the pros and cons came to conclusion that Justice Soumitra Sen is guilty of misbehaviour under Article 124(4) read with proviso (b) of Article 217(1) of the Constitution of India.

(Contd. by 3I/KSK)

KSK/HMS/5.05/3L

SHRI KUMAR DEEPAK DAS (CONTD): Sir, before this impeachment motion, we have the example of impeachment of Justice V. Ramaswamy who faced impeachment in 1991 in the Lok Sabha. That attempt failed due to the absence of a political consensus. We must agree that dismissal of a Judge is too serious an issue to be determined by political consideration. Again, we must have to

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examine whether the Parliament can discuss the correctness of any judicial order, and if the Parliament sits on judgment, would it create a constitutional crisis? Sir, as there is no other way to punish errant Judges, the present Government is bringing a new law to punish errant Judges. We are eagerly waiting for such steps in this direction. But, the big question has been raised by some hon. Members that how Justice Soumitra Sen was selected a Judge. Yesterday, Justice Sen, in his defence, spoke for long. Sir, there is an urgent need of more transparent procedure on what should be the provisions for selecting a Judge. Sir, I would cite an example. In Guwahati High Court, in the years of 90s when I joined as a young lawyer, I found that one Judge, * .

MR. DEPUTY CHAIRMAN: Don't take the names.

SHRI KUMAR DEEPAK DAS: He was appointed as a Judge and he had to go for oath-taking ceremony. But, in the meantime, the Bar Association of Guwahati High Court came to know that this person,

* Not recorded.

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who was selected as the Justice of Guwahati High Court, did not have the qualification that was required to become a Judge. In the High Court, one of our senior colleagues filed a *quo warranto* petition. At that time, Justice Sangma had passed an order and stayed the matter and that was appealed in the Supreme Court. That was held right. But, I want to say that the transparency in the procedure of selection of Judges has to be further examined. We have to look into the provisions for selecting a Judge. I just want to give an example of an hon. High Court Judge who has recently given an opinion that 25 per cent of the superior Judges are corrupt. This is horrible. So, we need a transparent procedure and a Judicial Commission on this so that all these factors can be examined and appropriate action can be taken. With these few words, I again support this motion of impeachment and I thank you for giving me time to give my observations.

(Ends)

श्री राजनीति प्रसाद (बिहार) : सर, सब से पहले तो मैं श्री सीताराम येचुरी जी को धन्यवाद देना चाहता हूँ जिन्होंने इस ऐतिहासिक पृष्ठभूमि में हम लोगों की गवाही दर्ज करायी।

सर, यह केवल impeachment of a judge का मामला नहीं है बल्कि हमारा ध्यान आज पूरे देश में व्याप्त Judiciary की हालत की ओर खींचता है। सर, मैं इस impeachment का समर्थन करता हूँ। इस impeachment के बारे में मुझे यही कहना है कि अगर आप सोचते हैं कि आज की Judiciary 50 साल पहले वाली Judiciary है, तो वह गलत होगा।

(3 एम/एनबी पर क्रमशः)

NB/GSP/3M/5.10

श्री राजनीति प्रसाद (बिहार) : क्योंकि अगर हम किसी कोर्ट में जाते हैं, बाहर के कोर्ट में जाते हैं, तो सबसे पहले यह सोचते हैं कि कौन सा आदमी पहचान वाला है। हम यह नहीं पूछते हैं कि कौन जज है, बल्कि यह पूछते हैं कि कौन सा वकील पहचान वाला है और उसी को हम लेते हैं। यह गजब बात है कि हम लोग जज को नहीं देखते हैं, बल्कि वकील को देखते हैं कि वह किस जज का favorable आदमी है और कौन क्या करने वाला है? हमारे हिंदुस्तान के कई जज हैं, जिनके बारे में कहा जाता है कि यहां किसी particular lawyer की चलती है। मैं किसी जज का नाम नहीं लेना चाहता हूँ, लेकिन यह चलता है, क्योंकि अगर उसके दादा भी जज हैं, तो वह पूरी lineage में आता है। दादा, बेटा, पोता, नाती, नातिन - इन सभी को जज बनाने का काम होता है। यह देश कैसे चलेगा? इसलिए इसके बारे में हमें विचार करना चाहिए। आदमी का जो बुरा कर्म होता है और अच्छा कर्म होता है, वह साए की तरह उसके साथ चलता

है। इसलिए जजों को किसी भी तरह से doubtful नहीं होना चाहिए। मैं यह कहना चाहता हूँ कि - virtues are solemn to life but vices are the way of life. हम लोग यह कहते जरूर हैं, लेकिन करते नहीं।

उपसभापति जी, जजों को कैसा होना चाहिए और कैसा नहीं, आप इसके बारे में जरूर विचार करिए। आप सोच रहे हैं कि जज लोग बिल्कुल छनकर आते हैं, लेकिन ऐसा बिल्कुल नहीं है। यहां कई लोगों ने कहा है कि 2003 में जो जज बहाल हुए - सेन साहब, इन पर 1984 में ही मामला दर्ज हो गया था, वहां से defalcation चल रहा था, क्या आपने इसको देखा नहीं, आपने उसको महसूस नहीं किया? जब एक खलासी का appointment होता है, तो पुलिस का verification होता है कि यह चोर तो नहीं है, बेईमान तो नहीं है, बदमाश तो नहीं है, इस पर 107 का मुकदमा चला या नहीं चला, इस पर 307 का मुकदमा चला या नहीं चला? आप एक जज को बहाल कर रहे हैं, जिनके बारे में पहले से एक केस pending है, उनके defalcation का केस pending है और आपने इसे देखा नहीं, उनको बहाल कर दिया। जब वे बहाल हो गए, तो आपने उनसे कहा कि आपने 1984 में defalcation किया और आप पैसा खा गए। यह पैसा खाने वाली बात तो पहले भी थी। जब वे 2003 में जज appoint हुए, तो आपने इन चीजों को क्यों नहीं देखा?

श्री तारिक अनवर : आप किससे बोल रहे हैं?

श्री राजनीति प्रसाद : मैं चेयर को address कर रहा हूँ, लेकिन आदमी इधर-उधर भी देखेगा। मैं कहता हूँ कि अब जुडिशियल कमीशन बनाने का वक्त आ गया है। जब एक चपरासी का appointment होता है, तो आप इंटरव्यू लेते हैं, उसको इंटरव्यू के लिए बुलाते हैं। इसलिए मैं कहना चाहता हूँ कि आप जुडिशियल कमीशन बनाइए, इससे अच्छे जज आएंगे और उनका इंटरव्यू होगा। अगर आप जुडिशियल कमीशन नहीं बनाएंगे, तो फिर वही होगा कि किसका बेटा जज बना है, किसका बच्चा जज बनकर आया है, वही चलेगा।

उपसभापति जी, 1993 तक एक नियम था कि जजों की नियुक्ति में चीफ-मिनिस्टर का भी consent लिया जाता था, लेकिन अब वह व्यवस्था खत्म हो गई, collegium में चली गई, अब consent वगैरह कुछ नहीं होता। अब सीधे यह देखा जाता है कि वह आदमी कौन से खानदान का है? अगर उसका खानदान ठीक है, तो चलिए, जरा इसका bio-data निकालिए। उस bio-data से अगर यह पता चलता है कि इनके परिवार में पहले कभी कोई जज नहीं था, तो वह आदमी कभी जज नहीं बन सकता है। कभी-कभी exceptionally कोई आदमी जज बन जाता है, दिखाने के लिए बना दिया जाता है। इसलिए मैं कहना चाहता हूँ कि हमें इस सिस्टम को बदलना पड़ेगा। हम अगर सिस्टम को नहीं बदलेंगे, तो यह चलता रहेगा और जुडिशियरी में करप्शन prevail करता रहेगा। इसलिए मैं

चाहता हूँ कि आज हम लोग इस बात पर विचार करें कि कैसे हमारा जुडिशियल सिस्टम ठीक होगा? इन्हीं शब्दों के साथ मैं आपको धन्यवाद देता हूँ।

(समाप्त)

(Followed by 3N/SK)

SK/3N/5.15

SHRI RAM JETHMALANI (RAJASTHAN): Mr. Deputy Chairman, Sir, a patient two days' wait is justified when today we are on the point of reversing a somewhat unpleasant precedent that we set up nearly 11 years ago. I can see that the House is in almost full attendance and I can see that the Motion will be carried by the requisite majority required by the Constitution. I fully support it. But, Sir, instinctively, whenever I see a dissenter, I start respecting him. Ultimately, it is dissent which keeps democracy going, and I found a great dissenter right here in my neighbourhood. Sir, I admire his bravery; I admire the use of his legal talent. But I wish he had reserved these for a better occasion. Sir, if he had cared only to go through the report of these three Judges, he would have realised that they knew as much law as we all know. They perhaps knew better. They did not rest content

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with finding this gentleman. I will call him Respondent. I refuse to call him learned Judge as some people have called him. This Respondent is not convicted because he misbehaved as a Receiver. Of course, his misbehaviour started when he was a Receiver. The first misbehaviour was that he has produced before you this whole document of an explanation of his conduct. Read this document. Not at one place does he say that I am a trustee, that I was a trustee of the funds which came into my possession. Sir, every child knows, and I don't wish to take you through authorities, but here is a small little line from a famous dictionary, Black's Law Dictionary, which everybody knows about, "A Receiver is a fiduciary of the court". Means, he is a trustee of the court. He is a trustee of the court; he is a trustee of the parties and he is also a trustee of the property or the fund entrusted to him. This property came into his hands as a trustee. But, Sir, he ceased to be a Receiver when he became a Judge. His Receivership came to an end but the trust which was attached to the property which was in his hands did not come to an end until the trust became extinguished and the property got purged of the character of a trust property. If he has realised that I have now ceased to be a

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Receiver, it was his duty to walk up to the court and say, “I am now becoming a Judge. Please relieve me of this trust property which has been in my hands and here is that property. Take charge of it”. Sir, he did not do this. He thought that when he has become a Judge, all people surrounding him will turn into sycophants and will forget the rupees fifty two lakhs which he had pocketed. But, unfortunately for him, there was a fellow Judge in the High Court itself who did not become a sycophant and he carried on an investigation into the trust property which was in his hands. Sir, look at this explanation. At page 31, he propounds a doctrine and I want you to hear this doctrine. “It is judicially settled that till such time I, as a Receiver, am not directed to return the sum lying with me, I cannot on my own return the same”. In other words, he is telling you to accept the proposition that even though he ceased to be a Receiver and it was his duty to go and give an account of the property which he received as a Receiver to the court which appointed him a Receiver, he is not bound to do anything of that kind until he is asked to do so.

(Contd. by VK-3O)

VK/30/5.20

SHRI RAM JETHMALANI (CONTD): In other words, the trust property becomes personal property and I can deal with it as I like. Sir, this receiver lawyer should have known that as a trustee he is bound by the provisions of the Indian Trust Act. The Indian Trust Act has an express provision, Section 20, which deals with investments. A trustee can invest trust property in seven specified investments which are permitted under that Section and if you invest in any unauthorized deal, that itself renders you liable for a prosecution for criminal breach of trust. The law does not permit a trustee because the law says, "In these seven ones and no other" -- so clear is the law -- and yet he went and invested this property in a private financial business which is not a Government authorized entity in which he could have put this money. He claims that that entity became insolvent, went into liquidation, and he thought that everybody would forget about that money.

Sir, now for Mr. Mishra's bravery. If you had read this Report and if you had come up to page 22 -- because I don't blame anybody for losing patience after you read the 22nd page -- at page 22, the

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Report starts dealing with his misbehaviour as a judge. I am reading the last paragraph on page 22. It says, "All that is stated above took place during the period when Sen, the receiver, was an advocate. The assessment of the Inquiry Committee is that as an advocate and as an officer of the High Court of Calcutta, Sen's conduct was wrongful and not expected of an advocate. But his conduct in relation to matters concerning the moneys received during his receivership after he was appointed a judge was deplorable, in no way befitting a High Court judge". From here starts their dealing with this misbehaviour as a judge of the High Court. I regret to say that if there was a more vigilant method of appointment of judges, this man did not deserve to be appointed, but having been appointed, he has no business to stay as a judge for even one day. And this House will be committing a hara-kiri of its judicial functions, if you don't rise to the occasion and see that not only this judge goes, but other judges who similarly misbehave do not occupy judicial offices for a day longer.

Sir, there was a reference to his eloquence. Eloquence is, doubtless, a quality which people should possess. I must tell you

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that I have never heard Shri Mohan Singh speak, but today I was so impressed while I was hearing your Hindi eloquence, I said, I hope before I die, I will one day be able to deliver a speech like you. But, Sir, eloquence has nothing to do with moral sense; eloquence has nothing to do with the quickened conscience. Eloquence is often the property of the biggest cheats and charlatans. After all, unless you know this glib talking art, you will not be able to cheat people and it is not a matter of surprise that today the glib talkers are at the top of the world and people who can't speak are not.

This gentleman gave a demonstration of his eloquent deception. But why did he not appear before those three Judges which were inquiring into his conduct? Because he is afraid of answering questions. I wanted to ask questions while he stood there. In three questions I would have demolished his eloquence and he would have faltered, he would have fallen down here right in this House and would not have been able to go back.

(Contd. By 3P)

RG/5.25/3P

SHRI RAM JETHMALANI (contd.): You can speak as much untruth as you like so long as there is no risk of interrogation and cross-examination. That is why, in the court of law, we do not believe a witness who has not submitted himself to cross-examination. Examination, in itself, is useless unless it has survived the filter of cross-examination, and, cross-examination by people who would know how to cross-examine. Before every judicial authority where he could be questioned, he did not get up and answer. To those three Judges, who were holding an inquiry, when they called him, he said, “I am pleading the Fifth Amendment.” Fifth Amendment is not meant for crooks like this. Fifth Amendment is meant for illiterate accused who, by answering questions, might implicate themselves in offences which they have not committed. That, of course, is the origin of the rule. Now, Fifth Amendment is a Constitutional right. But that right is available in a prosecution for a criminal offence. This Judge was not being prosecuted for a criminal offence. He was being prosecuted for his ability and for his qualifications of being a judge and continuing to remain a judge of the High Court. He is not going to be sentenced to

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imprisonment. So, Sir, don't be impressed by the kind of eloquence. He becomes eloquent wherever he cannot be questioned.

The next question is that he has paid Rs.52 lakhs. He paid that amount of Rs.52 lakhs, while that single judge caught hold of him and asked, "Where is that money which you got as receiver? You have not given it." So, he paid that money. Sir, my fellow Members in this House tell me outside, "The man has paid Rs.52 lakhs. So, why not let him go?" Please understand what he got by paying those Rs.52 lakhs at that late stage! He should thank his stars for that. But he is an ungrateful man. He eats and gobbles up the hand which feeds him. These brother judges, who, unfortunately, continue to practice some kind of trade unionism to save their brother judges, have saved him from being prosecuted and punished for a serious offence of criminal breach of trust, punishable under Section 409 of the Indian Penal Code, where the maximum punishment is life imprisonment and imprisonment which may extend to ten years. But, by paying off that money which he had pocketed, -- though, of course, I am sure, his poor mother made some contribution to that money — he has earned his freedom from jail. And, I assure you that if he had been

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prosecuted, he would have been in jail for, at least, five or ten years. He has earned that freedom by that money. Therefore, please do not entertain any sympathy for this man, that this man has paid Rs.52 lakhs, and we should let him go. This is not settlement of a civil dispute. He was guilty of a non-compoundable offence under which you can pay millions and millions but you cannot compound that offence. It is only an extenuating circumstance on the question of punishment. But that extenuation value he has already got out of that money because he has escaped the whole prosecution under Section 409, and the ignominy which he would have gone through, which his family would have gone through, as a result of prosecution, and, ultimately, appealing to the Court to give him a lighter sentence, because he has paid off. So, I would like to tell my friends that this is a case in which we are dealing with a judge who ought not to have been made a judge, if there were better methods of appointment, and who, fortunately, has been caught as a result of another vigilant judge. He talks of the Division Bench. If a single Judge had no jurisdiction to go into matters in which he went into, what was the Division Bench doing? The Division Bench merely said, “All right, you

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have paid this money.” Therefore, again, out of that true trade unionism and a little sense of mercy, they said, “We will remove that remark which the single Judge has made. We will expunge that remark.” That judgement was a bad judgement, and that judgement is a judgement which was, certainly, considered by the Chief Justice to whom a complaint went from the Chief Justice of the Calcutta High Court.

(Continued by 3Q)

3q/5.30/ks

SHRI RAM JETHMALANI (contd.): Sir, that Chief Justice of India may be somewhat controversial, but so far as this Judge is concerned, this Chief Justice helped him. He gave him an extra hearing. He gave him a hearing in his house. He listened to him and then he said, ‘I would give you an extra-Constitutional opportunity to establish your innocence’, and gave him that in-House Committee of Judges who sat and listened to this man and said that ‘you seem to be a hypocrite’. You don’t give him any mercy, and it says ‘You face the consequences of the conduct in which you have indulged.’

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So, Sir, this is not a matter in which the House can take a lenient view. Let us settle a good precedent today so that Judges who are of the same mould of mind as this Judge realize that the Parliament of this country will rise to the occasion and not do things which we have done in the past. Of course, this is not an occasion to enter into a debate about the appointment of an extra-judicial commission; we may do that some other time. But today, I hope that even Mr. Misra would withdraw his dissent and the decision shall be unanimous. Thank you.

(Ends)

SHRI RAVI SHANKAR PRASAD (BIHAR): Sir, I am extremely grateful to you for giving me this limited time. I have to make very few points.

(MR. CHAIRMAN IN THE CHAIR)

What is Justice Soumitra Sen's conduct as a Judge? He became the Receiver in the 80s; got the sale proceeds in the early 90s. He became the Judge in December, 2003. The first thing that was required to do was to submit to the court that 'I do not want to be named the Receiver any further'. He did not do so. For the whole of 2004 and for the whole of 2005, he did not submit any account. When

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the Single Judge issued him a show cause notice, he did not reply. The notice was given thrice. Most importantly, Sir, when a final order was passed asking him to pay Rs.33 lakhs with an interest of Rs.55 lakhs, he went and prayed for more time. He made a part-payment.

A question has been asked about the Division Bench. The Division Bench relies upon his affidavit but in the inquiry conducted by your committee it has been found that it was a case of misrepresentation. He said that he had invested in Lynx India Limited but that was not a fact. He did not invest this received amount of the Receiver. It is a case of misconduct as a lawyer; it is a case of continued misconduct and misrepresentation as a Judge.

Therefore, Sir, I request that this impeachment has to succeed.

I have to make only one more point at the end. What is the authority of a Judge? Is it the source of law? Is it the power of contempt? Or, is it something more? Sir, we have seen Additional District Judges giving capital punishment and, after their retirements, moving around in their *mohallas*, with all the mafiosi whom they had awarded punishments never dared to challenge them. We have rarely heard a District Judge or a retired Additional District Judge ever

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getting threatened or any revenge being taken against them by those criminals who had been given conviction by them. Why is it so? It is the moral authority of a Judge. This is a great tribute to our Judiciary and our rule of law that the moral authority of a Judge is the most important authority and, for that, integrity is very important. If that integrity is found to be wavering, it is time to take action.

I will conclude, Sir, with what the hon. Leader of the Opposition has stated. There is a need for a lot of improvement in judicial appointments. This whole case of appointments by the collegium is a kind of constitutional appropriation by the judges from the Executive and the Constitution. This is not permissible. This needs to change, Sir.

There is one thing more which is very important in the present context. Yes, judges' activism in probity, in the fight against corruption is okay, but all over the country we see that judges are taking away power by appointing committees -- MCD should work like this; this committee should work like this. Sorry, Me Lords, this is not your function. May be, the authority is not functioning properly, but for that you are not the authority. Let the democratic process, the

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rule of the law and parliamentary accountability set right the course.

That is important.

With these words, I fully support the Motion which Mr. Yechury has moved. Thank you, Sir.

(Ends)

(fd. on 3r/kgg)

Kgg/3r/5.35

SHRI SITARAM YECHURY (WEST BENGAL): Mr. Chairman, Sir, we are reaching conclusion of a historic debate on the Motions that I had moved which is on the brink of creating history, not only in the history of Parliament but, I think, also in the history of our democracy. As I said at the outset, Sir, I had moved these Motions, not as an indictment or a reflection of our opinion of the Judiciary as a whole, but I had moved these Motions in order to strengthen the independence of the Judiciary, in order to establish the integrity of the Judiciary which was getting besmirched by the acts of one particular individual and, while moving these Motions, I had said that we are doing this with no jubilation or elation, neither vindictiveness nor vendetta, but we are invoking legitimate Constitutional provisions to

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ensure that the sanctity of our Constitution is maintained and the supremacy or the centrality of our Constitution, which is the sovereignty of the people, is established through their elected representatives, that is the Parliament. In doing so, I think, we have today, in a sense, also reflected the general mood that is there in the country. We have seen the waves of protests against corruption at high places. We have seen the concern and the actual disgust that many in our country are reflecting in their own ways against this sort of corruption; and, in the midst of that, the Parliament rising to the occasion and saying that we will invoke our Constitution, we will invoke the supremacy of the Parliament in order to ensure that corruption in high places will be checked and when anything wrong is brought before us, we will act to correct it. That, I think, is a very important element today to convey to the country and our people--the will and resolve of this House in tackling corruption at high places. I think, this is something the debate has established. That is why, Sir, it is truly impressed with the richness of the debate and it only further strengthens my own confidence that when the occasion demands, this august House has risen to the occasion, and has risen to the

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occasion in a splendid manner with no acrimony or no personal attributes. We have discussed an issue as serious as this and on the merits of it; it is a matter also that we have the Leader of the House, the hon. Prime Minister, sitting through the entire debate; we had the hon. Leader of the Opposition not only being present but also contributing richly to the content of this debate which was shared by all, cutting across the political-lines. I think, the richness of the debate also naturally transcended the limited purpose of the Motions. It is only natural, Sir. It naturally transcended the barriers of these Motions in talking of the separation of powers between the Legislature, the Executive and the Judiciary. It talked of the issues of separation of these powers, what should be the role of the Judiciary, how the appointments should be done and I am very glad that these issues have been brought into public domain and in the disposal of the Parliament so that in the coming days we should address them in all seriousness and, if time permits, I will return to that shortly.

But, Sir, there have been some questions that have been raised. Notably, my distinguished friend and colleague, Shri Satish Chandra Misra, who of course told me personally that he apologised for saying

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that he opposed the Motions. I said, “What is the debate if there were no dissent?” Like Ram had said, I must thank Shri Ram Jethmalani; I must dare say--Sir, I do not want to use this--but who else will come to the defense of Sita Ram but Ram? In that sense, he has made my job much easier by taking up some of these matters. But, Sir, an important question has been raised by Shri Misra and also by my distinguished colleagues, Shri Bharat Singh Raut and others, on the question of the word and the concept of misbehaviour. Now, the question of what was the role of Shri Soumitra Sen after he became a judge? That has been answered by Shri Jethmalani and I do not want to repeat it.

(Contd. By tdb/3s)

TDB/3S/5.40

SHRI SITARAM YECHURY (CONTD.): And, Shri Ravi Shankar Prasad has answered some of the other issues. I do not want to repeat only for the sake of time, and also respecting the reminding that Mr. Ahluwalia has said about the Iftar and the timing of it, I don't want to go into all those aspects of it. But there is the word 'misbehaviour'. Sir, the Inquiry Committee that you had established actually goes into

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the genealogy of this particular word, which due to paucity of time, I did not read out at the time of introducing the Motions, but I will read out now. It is a short passage. It says, I quote, “The word ‘misbehaviour’ in the context of the judges of the High Courts in India was first introduced in proviso (b) to Section 202 of the Government of India Act, 1935.” Under the 1935 Act, it was initially the Privy Council and later the Federal Court of India that had to report to India’s Governor General when charges were made of misbehaviour against a judge of a High Court. In the Report of the Federal Court in respect of charges made against Justice S.P. Sinha, a judge of the High Court of Allahabad, one of the charges made by the Governor General against the judge were, “That Justice S.P. Sinha has been guilty of conduct outside the court, which is unworthy of and unbecoming of the holder of such a high office,” which was then particularized. Since this charge was not substantiated against the Judge by evidence, it was held to have been not established. But the charge as they framed has tersely but correctly described the scope and ambit of the word ‘misbehaviour’, namely, guilty of such conduct whether inside or outside the court, i.e., “Unworthy and unbecoming of the holder of

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such a high office.” The same word ‘misbehaviour’ now occurs in the Constitution of India in article 124(4) when read in context with proviso (b) to article 217(1). These provisions state that a judge of the High Court shall not be removed from his office except on the grounds of proved misbehaviour. The prefix ‘proved’, which my friend had quoted, only means proved to the satisfaction of the requisite majority of the appropriate House of the Parliament, if so recommended by the Inquiry Committee. The words ‘proved misbehaviour’ in article 124 have not been defined. Advisedly so because the phrase ‘proved misbehaviour’ means such behaviour which, when proved, is not befitting of a judge of the High Court.”

Sir, the entire discussion we have had in the last two days here has only proved that there is a misbehaviour on the part of Shri Soumitra Sen. And since this is now being proved in my opinion and contention, which we will decide upon through a vote subsequently, that this has been proved in a House of Parliament on the basis of this discussion that we have had, after giving all the time required, in fact, extended the time required for Justice Soumitra Sen to make his defence, if after that we come to that conclusion, Sir, that is the

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meaning of proved misbehaviour. And that proving we have to do. Are we convinced about that proving? That is what we have to stand up to, and that is what we have to do, Sir, and that is the issue that is there. But with regard to the other thing, Mr. Jethmalani answered it, about the role of Mr. Soumitra Sen after he became a judge, and, in fact, he just quoted the introductory paragraph, but if you just go through the Inquiry Committee Report, Sir, there are, at least, four major sections and, at least, seven sub-sections where the Inquiry Committee has established, after becoming a judge, the misbehaviour of Mr. Soumitra Sen. This is all there on record from pages 22 to 26, and I do not want to take time reading them out, and it is all there on record, and as part of the evidence that we have. So, today, it is not a question of our passing judgement or discussing about Mr. Soumitra Sen as an advocate and not as a judge. And, also, as I said, when I was moving the Motion, it is no longer tenable to say that these charges were made against Mr. Soumitra Sen before he became a judge, therefore, the Judges Inquiry Act does not apply to him since it was not when he was a judge. That has also been established under law, that it is not the question of what is established on the issue of

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misbehaviour that I have just quoted to you; it is not a question of when you are a judge or when you are not; it is not a question whether you are doing it in the court or you are doing it outside. But the question is whether your behaviour will cast aspersions not only on your character and integrity but the character and integrity of the entire Judiciary.

(Contd. by 3t-nbr)

-TDB/NBR-VNK&DS/5.45 & 5.50/3T & 3U.

SHRI SITARAM YECHURY (CONTD.): You are liable to be drawn under this section. Mr. Bhartkumar Raut has also raised the issue of the Division Bench. Mr. Ravi Shankar Prasad has referred to it. But, let me just take up this matter on behalf of what the Enquiry Committee has said. Mr. Jethmalani also answered to that and, of course, Mr. Arun Jaitley, answered it in the morning. We also exposed that and I am not repeating that deliberately. When Mr. Soumitra Sen also made a lot of false and misleading statements here with -- he claims -- authenticated documents, I would want him to authenticate and place the same before the House and make them the property of the House. I will come as to why I am saying this

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subsequently before I conclude this reply. But, I would only request the hon. Leader of the Opposition to do so.

Sir, this what the Enquiry Committee has said on the Division Bench. It says, "The observation in the judgment dated 25th September, 2007, of the Division Bench of the Calcutta High Court to the effect that there was no misappropriation of Receiver funds by Justice Soumitra Sen was, after considering the uncontested Affidavit filed on his behalf by his mother which categorically asserted that the entire sum received by him from the sale of goods i.e., Rs. 33,22,800 was invested in M/s Lynx India Limited and that the company has gone into liquidation a couple of years later. This statement, along with further misleading and false statements, in Ground 13 of the Memorandum of Appeal that they have appended to this Report were material misrepresentation made by and on behalf of Justice Soumitra Sen before the Division Bench of the High Court of Calcutta. The finding by the Division Bench in its judgment of 25th July, 2007, that Justice Soumitra Sen was not guilty of any misappropriation was made on a totally erroneous premise induced by the false representation made on behalf of Justice Soumitra Sen." Sir, I don't

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think you require a greater clarity than this. Therefore, what was the misbehaviour or what was misappropriation that was done has to be understood.

Sir, Mr. Jethmalani has referred to Section 403 of IPC. What was the deal? Why did he pay back the money back when he was asked to pay back? It is only to escape imprisonment. Sir, the questions were raised on the question of misappropriation. Is diversion a misappropriation? Is using that money temporary for some purpose constitutes misappropriation? We have heard the labours of Mr. Soumitra Sen yesterday when he said, 'you tell me one paisa that is there in my account. Have I made any money at all from holding this money? So, therefore, there is no misappropriation that I have committed.' But, Sir, what is the definition of 'misappropriation' under Section 403 of IPC? Section 403 of IPC says, 'Whoever dishonestly misappropriates or...' -- please underline -- "...converts to his own use any movable property.....shall be punishable with imprisonment..." It clearly says if a person 'coverts to his own use.' Then it goes on to clarify in the explanation, "A dishonest misappropriation for a time only is a misappropriation within

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the meaning of this section." So, whether it is for a short time or whether it is for personal use only to be returned even if you are a fiduciary and a trustee. If money is deposited with me, I cannot borrow that money even temporarily. Sir, even temporarily I cannot borrow that money for my personal use and return back that money. I may be very honest and return back that money. But, the very act of borrowing that money makes me guilty of misappropriation. That is the Indian law. Our laws are very clear -- it is both the acts of omission and commission. You cannot say, 'I don't have any money that I have put in my bank accounts and, therefore, I am not guilty.' But, your acts of omission that have led to such acts of guilt are actually breach of law. Therefore, on all these counts -- whatever matters that we have discussed earlier -- he is guilty. In 1984 he was appointed as Receiver and the matter finally settled in 2006. In 2002, SAIL asked for the accounts as to what happened to that money. He does not reply immediately. Yesterday he was telling us in a much laboured manner. In the whole two hours of his presentation, there was only one mention about SAIL and that one mention came in the term of reference to the learned counsel of the SAIL. When the whole

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case of misappropriation centers around the money of dispute between SAIL and the SCIL, he was made the trustee of it and for that there is no reference. But, he, of course, asked me to go back to my workers and find out if they have been paid. I am grateful if that had happened. Sometimes, justice can be done by these courts also and by such Judges. If the workers have been paid, it is good. But, that is not the issue. The issue is, who gave you the right of Rs. 70 lakhs given to you to pay to the workers to divest Rs. 25 of that and invest in a private company which was going into liquidation? Is there any scam involved in this? That needs to be investigated, Sir. You have divested Rs. 25 lakhs of money that was meant and set aside for wages and compensation to the workers to be invested in a private company which goes burst within a couple of years! Was it done with knowledge that it is going to go into liquidation? What is the feedback there? That also needs to be investigated today, Sir. So, these are various issues which have come up. They all have come on record now. We all came to know how fictitious accounts have been recorded, how cheques have been issued for the payment of Credit

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Cards. Therefore, keeping this in mind, as I mentioned, the case, according to me, is a closed case.

Finally, the point I want to make is, the labour behind the entire argument yesterday was that there was a great conspiracy against him. What is the conspiracy? You have the Chief Justice of India. You have noted Judges like Justice A.P. Shaw, Justice A.K. Patnaik and Justice R.M. Lodha. Have they all conspired against Justice Soumitra Sen? You have the Chief Justice Justice B.N. Agarwal and Justice Ashok Bhan. They are all the senior most Judges. Do you mean to say that they have conspired against Mr. Sen? And, now, do you mean to say that Justice Sudarshan Reddy, Shri Mukul Mudgal and Fali Nariman have all conspired against Mr. Sen. We have the pleasure of serving Mr. Nariman. I mean, he is our colleague here. We have known him upright here. To question the integrity of such people and to say that all of them have colluded in a great conspiracy to prosecute Mr. Soumitra Sen is a great conspiracy theory that has been woven yesterday and that conspiracy theory needs to be broken.

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Therefore, Sir, finally, I think, the issues that have been raised by the hon. Leader of the Opposition echoed by many other hon. Members here on the larger issues connected with Judiciary, Executive and the Legislature, this Motion today has to be adopted and should be used as the trigger for us to continue with these discussions, so that we, as parties -- CPI (M) has always been asking and continues to ask even now -- have to ask for establishment of the National Judicial Commission along with the Lokpal. We think that both should go together. And, these are the issues, finally, we have to take up, because our constitutional scheme of things talks of judicial review, not judicial activism. And, that is where, Sir, the hon. Judges will interpret the law. But, unfortunately, the power to make law lies with Parliament and that is the supremacy. And, it is that supremacy we should uphold.

Finally, Sir, let me quote what Pandi Jawaharlal Nehru has said during the Constituent Assembly debates. He said, 'No Supreme Court and no judiciary can stand in judgment over the sovereign will of the Parliament representing the will of the entire community. If we go wrong here and there, it...' -- the Judiciary -- "...can point it out.

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But, in the ultimate analysis, where the future of the community is concerned, no judiciary can come in the way. Ultimately, the fact remains that the Legislature must be supreme and must not be interfered with by the court of law in measures of social reform." So, this is something which we will have to uphold.

I thank all those who participated, and, through you, urge that the Motions that I have moved yesterday be accepted.

(CONTD. BY USY "3W")

-NBR-USY/3W/5.55

SHRI SITARAM YECHURY (CONTD.): I, therefore, recommend, once again, that these Motions be accepted by the House.

(Ends)

MR. CHAIRMAN: I shall now put the Motions, moved by Shri Sitaram Yechury, for presenting an Address to the President for removal of Justice Soumitra Sen, Judge, High Court of Calcutta, from his office, along with the Address to the President, under clause (4) of Article 124 of the Constitution, to the vote of the House.

As I have informed earlier, the Motions, along with the Address are required to be adopted by a special majority. The question is:

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“This House resolves that an address be presented to the President for removal from office of Justice Soumitra Sen of the Calcutta High Court on the following two grounds of misconduct:-

- (1) Misappropriation of large sums of money, which he received in his capacity as receiver appointed by the High Court of Calcutta; and
- (2) Misrepresented facts with regard to the misappropriation of money before the High Court of Calcutta.”

The Address shall be as follows :

“Whereas a notice was given of a motion for presenting an address to the President praying for the removal of Shri Soumitra Sen, from his office as a Judge of the High Court at Calcutta by fifty-seven members of the Council of States (as specified in Annexure ‘A’ attached herewith).

AND WHEREAS the said motion was admitted by the Chairman of the Council of States;

AND WHEREAS an Inquiry Committee consisting of —

- (a) Shri B. Sudershan Reddy, a Judge of the Supreme Court of India;

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- (b) Shri Mukul Mudgal, Chief Justice of the High Court of Punjab and Haryana at Chandigarh; and
- (c) Shri Fali S. Nariman, a distinguished jurist, was appointed by the Chairman of the Council of States for the purpose of making an investigation into the grounds on which the removal of the said Shri Soumitra Sen from his office as a Judge of the High Court at Calcutta has been prayed for;

AND WHEREAS the said Inquiry Committee has, after an investigation made by it, submitted a report containing a finding to the effect that Shri Soumitra Sen is guilty of the misbehaviour specified in such report (a copy of which is enclosed and marked as Annexure 'B');

AND WHEREAS the motion afore-mentioned, having been adopted by the Council of States in accordance with the provisions of clause (4) of article 124 of the Constitution of India, the misbehaviour of the said Shri Soumitra Sen is deemed, under sub-section (3) of section 6 of the Judges (Inquiry) Act, 1968, to have been proved;

NOW, THEREFORE, the Council of States requests the President to pass an order for the removal of the said Shri Soumitra Sen from his office as a Judge of the High Court at Calcutta.”

Under clause (4) of Article 124 of the Constitution the Motion and the Address will have to be adopted by a majority of the total

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membership of the House and by a majority of not less than two-thirds of the Members of the House present and voting.

(Followed by 3x — VP)

-USY/ VP/PB/SKC/6.00, 6.05 & 6.10/3X, 3Y & 3Z

The House divided.

MR. CHAIRMAN: Subject to correction: Ayes : 189

Noes : 16

(Here enter the Division Lists for Ayes and Noes arranged in alphabetical order)

The Motions and the Address are adopted by a majority of the total membership of the House and by a majority of not less than two-thirds of the Members of the House present and voting.

(Ends)

MR. CHAIRMAN: The House stands adjourned till 11 a.m. on Friday, the 19th of August, 2011.

The House then adjourned at ten minutes past six of the clock till eleven of the clock on Friday, the 19th August, 2011.