

श्री सुशान्त राय : ऐसा कोई कर्जा लिये जाने का विचार है ?

श्री शाहनवाज खाँ : फिलहाल तो नहीं है ।

Interception of Coal Wagons

*798. **Shri S. A. Mehdi:** Will the Minister of Railways be pleased to state:

(a) whether about 29 coal wagons meant for textile manufacturers at Amritsar were diverted for Railway use during March and April, 1960;

(b) if so, why and under what rule; and

(c) whether any protest has been received in this connection?

The Deputy Minister of Railways (Shri S. V. Ramaswamy): (a) Of the 29 wagons, 26 were actually diverted for Railway use; the rest were received without any label and remained unconnected.

(b) The distribution of coal is governed by the Colliery Control Order, 1945, as amended from time to time which authorises the Government to divert coal while in transit to a person other than to whom it is originally consigned. Diversion of coal for Railway use has had to be resorted to with a view to maintain the essential train services during emergencies.

(c) Yes, Sir; a representation from the Textile Manufacturers Association, Amritsar, was received and action thereon taken by the Northern Railway who have approached the Coal Controller to make fresh allotments to the party and payment of the price of coal is being arranged in accordance with the rules.

Shri S. A. Mehdi: May I know whether it was due to any emergency or as a matter of policy that this diversion was made?

Shri S. V. Ramaswamy: Certainly not as policy. It was for the sake of an emergency.

श्री नाना पाटिल : क्या मैं जान सकता हूँ कि जो कोल वॉगन डाइवर्ट किये गये और रेलवे में लाये गये, उस से टेक्सटाइल इंडस्ट्री को जो नुकसान हुआ और टेक्सटाइल वर्कम को जो नुकसान हुआ, उस के लिये कोई कम्पेन्सेशन देने का विचार किया जा रहा है ?

Mr. Speaker: It is a suggestion for action.

Shri Tyagi: Was any previous information given to the consignee before the wagons were taken away by the railways?

Shri S. V. Ramaswamy: Under the rules and provisions laid down therein, we informed the Coal Controller of the diversion.

Shri Tyagi: Do the rules permit taking away the goods which have been booked by a particular consignee without the consignee's permission?

Shri S. V. Ramaswamy: Yes, Sir; this order says:

"This authority of diverting coal wagons vested in the Coal Controller can be exercised in the like manner and subject to the like conditions by any officer authorised by him in writing."

The railways have been so authorised by the Coal Controller.

Shri Braj Raj Singh: Previously also certain coal wagons which were booked for Firozabad were intercepted and only some wagons have been given till now. May I know whether the remaining wagons which were intercepted have been given? May I also know whether the Government have examined the position that the rules which permit railways to intercept the wagons are *ultra vires* of the Constitution and whether the Government shall amend the rules in accordance with the provisions of the Constitution?

Mr. Speaker: Did the Government admit the rules are *ultra vires*? What is the good of asking this question? That is his opinion.

Shri Tyagi: Was the approval of Parliament had for these rules? Were they placed on the Table of the House?

Shri Braj Raj Singh: The rules had come into force before the promulgation of the Constitution. That is the difficulty. They are perfectly *ultra vires* of the Constitution.

Mr. Speaker: The hon. Members will look into the Constitution. It says, all rules, regulations, statutes, laws, by-laws and Acts immediately in existence before the Constitution will continue until they are modified and so on. I am only saying it from memory.

Shri Sadhan Gupta: Under article 13, if they are contrary to the fundamental rights and inconsistent with them, they are void to the extent of such inconsistency.

Mr. Speaker: Are we to decide which is *ultra vires* and which is *intra vires*?

The Minister of Railways (Shri Jagjivan Ram): I do not think we are here to interpret the law.

Mr. Speaker: Hon. Members may take it up later on.

Shri Jaipal Singh: May I seek a clarification? Is this authority that is given to the railways a blanket authority or is it something for which permission is to be sought for each specific case?

Mr. Speaker: It is a general authority, it appears.

Shri S. V. Ramaswamy: It is an order of 1945; it has been in force since then and there has been no modification.

Mr. Speaker: He wants to know whether in each individual case, whenever the railways want to have it intercepted, they must appeal to

the Coal Controller or has the Coal Controller given general authority that whenever any officer of the railways feels like it, he can divert any coal wagon.

Shri S. V. Ramaswamy: It is a general authority. I have read the provision also. It has been delegated.

Shri S. A. Mehdi: May I know whether these wagons were diverted after they had reached Amritsar station or whether the people were informed before and they were taken away before they reached Amritsar station?

Shri S. V. Ramaswamy: They were taken away in transit.

Shri Braj Raj Singh: On a point of order, Sir. In respect of these rules, you have been pleased to observe that nothing can be done here, since every rule is placed on the Table of the House. These rules were promulgated in 1945 when the Constitution was not in force. This House, being a sovereign body, is empowered to know whether they are within the purview of the Constitution. May I submit they are *ultra vires* of the Constitution and the Government should examine them and get them amended?

Mr. Speaker: We are acting according to the rules and regulations that have been in force. If any hon. Member feels that the rules are *ultra vires*, he may take it up separately. There is a Rules Committee and a Subordinate Legislation Committee in the House. Unless it is so enacted in the statute that all the rules and regulations framed under that Act are to be placed on the Table, it is not that every rule is placed on the Table of the House. We are insisting on it now. It was not so previously. What exactly is the scope of it? Shall I spend away the one hour over this matter? If any hon. Member wants any rules to be examined from time to time, he can write to the Subordinated Legislation Committee or he may write to me. I will refer the

matter to the Subordinate Legislation Committee. In this particular case, if any hon. Member looks into this matter and writes to me, I shall have it certainly examined by the Subordinate Legislation Committee. Certainly the hon. Minister also will be too anxious to know exactly where he stands in regard to this matter.

Shri Tyagi: May I know at what level of the railways is the discretion allowed? Is it the Station Master, the Railway Board or the Minister— at what level is the decision taken?

Shri S. V. Ramaswamy: At the General Manager's level; I am not sure.

Mr. Speaker: He says it is done at the General Manager's level. He is not sure; he is not in a position to answer that question.

Shri Jagjivan Ram: I am not sure; but I can assure him that it will be fairly at a high level and not at the Station Master's level.

Shri Raghunath Singh: On whose orders were these wagons diverted?

Mr. Speaker: He has been asked at what level the orders are sent and he has said he is not sure.

Shri Braj Raj Singh: As a matter of fact, the railways are trustees of the goods entrusted to their care.... (Interruption).

Mr. Speaker: I cannot decide this matter here.

Shri Narasimhan: May I know whether those affected are given notice before it is done?

Mr. Speaker: The railways write to the Controller, whose business it is to give them notice.

Shri Jagjivan Ram: Ordinarily, it is very difficult to give the information beforehand. But when the wagons are intercepted and diverted, they are informed.

Mr. Speaker: I will ask the Subordinate Legislation Committee to look into this matter.

Foreign Exchange for Shipping Industry

+

*799. { **Shri Ram Krishan Gupta:**
Sardar Iqbal Singh:

Will the Minister of Transport and Communications be pleased to refer to the reply given to Starred Question No. 1458 on the 13th April, 1960 and state at what stage is the proposal to place requisite foreign exchange quota for the import needs of shipping industry at the disposal of Director General of Shipping?

The Minister of State in the Ministry of Transport and Communications (Shri Raj Bahadur): With a view to assessing the requirements of foreign exchange, the shipping, ship-building and ship-repairing interests have been requested to furnish information regarding their requirements of various items to be imported. The matter will be processed further on receipt of their replies.

Shri Ram Krishan Gupta: May I know what will be the foreign exchange requirement of the shipping industry for the current year and what arrangements have been made for this?

Shri Raj Bahadur: I cannot possibly give of-hand the exact amount of foreign exchange requirement for the current year.

Shri Raghunath Singh: What amount of foreign exchange is needed for III Plan?

Shri Raj Bahadur: My main reply is clear. As a result of the recommendations of the ancillary committee, we have issued a questionnaire in consultation with technical officers to shipping companies and, ship-repair and ship-building concerns. They will give us their annual requirements on a certain basis. After we get the required informa-