

Seventeenth Loksabha

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Title: Introduction of the Central Vigilance Commission (Amendment) Bill, 2021.

विज्ञान और प्रौद्योगिकी मंत्रालय के राज्य मंत्री; पृथ्वी विज्ञान मंत्रालय के राज्य मंत्री; प्रधानमंत्री कार्यालय में राज्य मंत्री; कार्मिक, लोक शिकायत और पेंशन मंत्रालय में राज्य मंत्री; परमाणु ऊर्जा विभाग में राज्य मंत्री तथा अंतरिक्ष विभाग में राज्य मंत्री (डॉ. जितेन्द्र सिंह): माननीय अध्यक्ष जी, मैं प्रस्ताव करता हूँ कि केन्द्रीय सतर्कता आयोग अधिनियम, 2003 का और संशोधन करने वाले विधेयक को पुरःस्थापित करने की अनुमति दी जाए । ... (व्यवधान)

माननीय अध्यक्ष: प्रस्ताव प्रस्तुत हुआ:

“कि केन्द्रीय सतर्कता आयोग अधिनियम, 2003 का और संशोधन करने वाले विधेयक को पुरःस्थापित करने की अनुमति प्रदान की जाए ।”

... (व्यवधान)

माननीय अध्यक्ष: श्री के. सुरेश जी, क्या आप बोलना चाहते हैं? आपने नोटिस दिया है?

... (व्यवधान)

माननीय अध्यक्ष:श्री सौगत राय जी ।

... (व्यवधान)

माननीय अध्यक्ष:सबने नोटिस दिया है ।

... (व्यवधान)

माननीय अध्यक्ष: इसके बाद आपको मौका दिया जाएगा ।

... (व्यवधान)

SHRI SUDIP BANDYOPADHYAY (KOLKATA UTTAR): Sir, the House is running very smoothly. Yesterday was a fabulous day and you made it possible up to 12 o'clock in the night.

Telangana is a new and growing State. They are raising some issues. They are the Members of only one party coming into the well and continuously raising their slogans. ... (*Interruptions*)

I would request that there may be a response from an hon. Minister that this matter is going to be taken up and reply will be given at an appropriate time. If such type of a response comes, then the House can run very nicely.

Sir, you can apply your mind to it. That is my only submission.

माननीय अध्यक्ष: मैं चैम्बर में बुलाकर बातचीत करूंगा ।

... (व्यवधान)

माननीय अध्यक्ष जी: श्री के. सुरेश जी ।

... (व्यवधान)

SHRI KODIKUNNIL SURESH (MAVELIKKARA): Sir, I oppose the introduction of the Government Bill, namely, the Central Vigilance Commission (Amendment) Bill, 2021 as the Act was taken into legislative consideration through an Ordinance route, without discussion and deliberation in the Parliament, during the inter-Session period.... (*Interruptions*)

श्री अधीर रंजन चौधरी (बहरामपुर): सरकार अनदेखी कर रही है । ... (व्यवधान) चुप बैठी है । ... (व्यवधान)

माननीय अध्यक्ष: क्या आप उनको बोलने नहीं देना चाहते हैं?

... (व्यवधान)

माननीय अध्यक्ष: आपका नंबर कट गया । आपके नेता ने आपका नंबर कट कर दिया है ।

... (व्यवधान)

माननीय अध्यक्ष: के. सुरेश जी ।

... (व्यवधान)

माननीय अध्यक्ष: यह क्या तरीका है?

... (व्यवधान)

SHRI KODIKUNNIL SURESH : Sir, I oppose the introduction of the Government Bill, namely, the Central Vigilance Commission (Amendment) Bill, 2021 as the Act was taken into legislative consideration through an Ordinance route, without discussion and deliberation in the Parliament, during the inter-Session period.

The Bill states that the tenure of the Director may be extended by up to one year at a time till the completion of five years from the initial appointment. Such extension may be granted in public interest. The provision itself is made to avoid favouritism and malpractice. Such extensions are against the spirit of probity and fairness, and chances of undue influence in subversion of justice are possible. Hence, I oppose the introduction of the Bill.

PROF. SOUGATA RAY (DUM DUM): Sir, under rule 72(1) of the Rules of Procedure, I oppose the move to introduce a Bill further to amend the Central Vigilance Commission Act, 2003.

माननीय अध्यक्ष : आप मुझे कानून क्यों पढ़ा रहे हैं? मैंने आपको इजाजत तो दे दी है ।

... (व्यवधान)

माननीय अध्यक्ष : यह मेरा अधिकार है कि मैं दूं या न दूं । आप मुझे जो कानून पढ़ा रहे हैं, उसमें यह लिखा है कि 'अध्यक्ष चाहे तो' ।

प्रो. सौगत राय : सर, आपने क्या कहा?

माननीय अध्यक्ष : नियम-72 में लिखा है कि अध्यक्ष चाहे तो इजाजत दे सकता है । मैं आपको इजाजत दे रहा हूं, आप मुझे कानून क्यों पढ़ा रहे हैं?

प्रो. सौगत राय: सर, अभी मुझे बोलने दीजिए । With all the force I want to mention that this Act which was brought in the form of Ordinance is an act to extend the tenure of the Director of Enforcement, ED up to a period of five years. The Enforcement Directorate has become the major arm of the Government and the Prime Minister to harass the opposition leaders and different State Governments. That period was for two years. What is the great necessity to change it? What is the greatness about this Director that he has been given extension up to five years? It is being done to fulfil the political aims of the Government. ... (*Interruptions*)

संसदीय कार्य मंत्रालय में राज्य मंत्री तथा संस्कृति मंत्रालय में राज्य मंत्री (श्री अर्जुन राम मेघवाल): सर, ये गलत जा रहे हैं । ये गलत कर रहे हैं । ये बिल के मेरिट में जा रहे हैं । ... (व्यवधान)

PROF. SOUGATA RAY : Now, if you see, the appointment of officers of Directorate of Enforcement is governed by the Central Vigilance Commission Act, 2003. ... (*Interruptions*)

माननीय अध्यक्ष : आप कानूनी प्रक्रिया पर सवाल उठाइए ।

... (व्यवधान)

PROF. SOUGATA RAY : Clause (d) of Section 25 of the same Act says that a Director of Enforcement shall continue to hold office for a period of not less than two years from the date on which he assumes office. Now, the present Director is sought to be given extension up to five years so that he can pursue the vindictive cases which the Government has launched against the Opposition. This is against all principles of justice and equity. This is to favour the favoured officers from the Government... (*Interruptions*)

माननीय अध्यक्ष : डॉ. शशि थरूर जी ।

... (व्यवधान)

DR. SHASHI THAROOR (THIRUVANANTHAPURAM): Sir, I just wanted to agree with my two colleagues who have already spoken but add briefly four quick points.

1. Article 123 of the Constitution says that selective ordinance making powers must be exercised and yet these Bills have been brought in through the ordinance route.

2. Articles 141 and 144 of the Constitution provide for all civil and judicial authorities to act and aid the Supreme Court. But the Supreme Court in the recent case of Common Cause vs. Union of India stated that extension of tenure granted to officers who have attained the age of superannuation should be done only in rare and exceptional cases. This Bill seeks to make it a routine matter.

3. The Bill promotes arbitrariness by failing to provide clarity regarding the scope of the term 'public interest', and provides a completely unreasonable discretion to the Central Government in matters pertaining to the extension of tenure.

4. The principles of fair investigation and fair trial guaranteed under articles 14 and 21 of the Constitution have been encroached upon. The enactment of the ordinance only days before the expiry of the term of the incumbent Directors amounts to a colourable exercise of power and an unreasonable basis for legislation, and this unreasonableness contravenes article 14 of the Constitution. Given the supremacy of the Constitution in our country, failure to conform to its provisions and infringement of fundamental rights renders any law made by this Parliament liable to be struck down. And, therefore, Sir, I wish to oppose these Bills.

SHRI ADHIR RANJAN CHOWDHURY : Sir, under Rule 72 (1), I oppose the introduction of this Bill. The reasons are loud and clear.

First, the Statement of Objects and Reasons is confusing and does not speak anything about the actual provisions of the Bill. That is number one. Number two is, such an important Bill is being introduced in violation of Direction 19 (b) also. The proposed extension beyond the two-year term will be contingent upon the appointing authority subject

to pleasure. That is manifestly arbitrary. The promulgation of such Ordinances gives a leeway to the Government to meddle with the affairs of the executive at their own will. This is undemocratic and sets off dangerous precedent. Instead of fixing a tenure of five years, the Ordinances make the ED's tenure subject to the executive discretion of two years after their initial appointment. There were no special circumstances warranting the promulgation of Ordinances because the Parliament Session was scheduled to begin.

I would like to refer to the Supreme Court order which says that no further extension to ED Director Shri Sanjay Kumar Mishra's tenure will be granted. However, the Union Government has managed to resort to rules in order to bypass the Supreme Court's ruling by making an amendment to the Central Vigilance Commission Act, 2003.

Shri Mishra's tenure was scheduled to end on 17th November, 2021 and the Ordinances were promulgated on 14th November, 2021, just three days before his retirement. This is just to make the officials dance to the tune of the flute played by none other than this Government. So, a discussion over this kind of arbitrary legislation should not be allowed because it is nothing but contrary to the established norms and practices of our Constitution and democratic set-up.

That is why, with all the arguments at my hand, I am opposing the introduction of this Bill.

माननीय अध्यक्ष: माननीय सदस्यगण, मैं आप सभी को चर्चा करने के लिए पर्याप्त अवसर और समय दे रहा हूँ ।

... (व्यवधान)

माननीय अध्यक्ष: माननीय सदस्यगण, आप सदन में यह बात मत कहें कि मैं चर्चा करने के लिए पर्याप्त समय और अवसर नहीं दे रहा हूँ।

... (व्यवधान)

SHRI N.K. PREMACHANDRAN (KOLLAM): Mr. Speaker, Sir, I am on my legs.

माननीय अध्यक्ष: श्री एन.के. प्रेमचन्द्रन जी, आप कृपया कानूनी बात बोलिएगा।

... (व्यवधान)

SHRI N.K. PREMACHANDRAN : Yes, I will only point out the constitutional points.

I strongly oppose the introduction of this Bill, that is the Central Vigilance Commission (Amendment) Bill, 2021 on two grounds. The first ground is under 72 (2) of the Rules of Procedure and Conduct of Business in Lok Sabha. Here, I would like to just refer to Kaul and Shakhder. Of course, I am not going to quote them. The Statement of Objects and Reasons should be in consonance with the provisions of the Bill. Kindly see the Statement of Objects and Reasons. Is it in tune with the provisions of the Bill? The Statement of Objects and Reasons runs into two and a half pages. Starting from the menace of corruption, black money, international finance crimes and its link with the drugs, to terrorism and other criminal offences, the Statement of Objects and Reasons runs into two and a half pages. Also, inter-Governmental organisations coming under the United Nation's FATF is also there. So, what all these have got to do with extending the tenure of the Enforcement Director? I would request the Minister to kindly go through the Statement of Objects and Reasons. Either you re-draft the Statement of Objects and Reasons or you withdraw the Bill. Please do

not introduce the Bill. The is not at all in consonance with the provisions of the Bill. That is my first objection.

What is the reason for introducing this Bill to the House? You have to explain to us. Is it because of the reasons mentioned in the Statement of Objects and Reasons? Are they the reasons for extending the tenure of a particular officer upto five years?

My second objection is, this Bill has not been brought forth with *bona fide* intentions. A legislation should be brought forward with *bona fide* intentions. That is what Kaul and Shakhder says. This Bill lacks *bona fide* intentions. As pointed out rightly by Shri Adhir Ranjan and other learned hon. Members, this Bill has been introduced with the *mala fide* intention to protect the interests of a particular officer who is having with good terms with the Government. That means the intention of the legislation is bad. It has *mala fide* intentions, and no *bona fide* intentions.

On these two grounds, I oppose the introduction of this Bill.

माननीय अध्यक्ष: माननीय मंत्री जी, आप बोलिए ।

... (व्यवधान)

डॉ. जितेन्द्र सिंह: अध्यक्ष महोदय, आपका धन्यवाद । इस बिल के इंट्रोडक्शन के विरोध में जो बिंदु उठाए गए हैं, मैंने बड़े ही ध्यान से उन सब को सुना है । मुझे लगता है कि in brief, the conclusions have been drawn even before reading the Bill. ... (*Interruptions*). I did not interrupt ... (*Interruptions*) No, I am not yielding ... (*Interruptions*) I did not interrupt when you were speaking ... (*Interruptions*). Every time, each Member has said

that we are leaving room for extending the tenure, and that is the *mala fide*. Okay. I am now speaking your language. I am not a law knowing person, but some of you are law knowing and well versed in law. If you read the Central Vigilance Act, it clearly states, “a Director of Enforcement shall continue to hold office for a period of not less than two years.” It has never laid the limit of two years which is being extended. Rather we are streamlining it by limiting it to five years. ... (*Interruptions*). Now, let me ... (*Interruptions*). I did not interrupt ... (*Interruptions*). If you have been able to misinterpret the clause, it is not my fault ... (*Interruptions*).

SHRI ADHIR RANJAN CHOWDHURY : You should make a provision for a fixed tenure for all ... (*Interruptions*). You are not doing that ... (*Interruptions*)

माननीय अध्यक्ष: माननीय मंत्री जी, आप बोलते रहिए ।

DR. JITENDRA SINGH: Now the point is, you said extension will become routine. I thought that I will raise these points in the course of discussion. During the past Governments, there have been occasions when either the Director, ED or Director, CBI was given extension without going through the process which is laid down in this Act, which we are doing now. ... (*Interruptions*). I will give you the names also, if required, but I thought we will talk in detail during the course of discussion. ... (*Interruptions*).

Thirdly, it is being asked what is the connection with the international angle. There is precisely a connection with the international angle. The entire format of criminology has changed in the

recent years. New methodologies, new technologies and huge international ramifications ... (*Interruptions*). No, I am just responding to that. ... (*Interruptions*). So, I wish that you go through the contents and give it a fair thought. It is not confusing as was being mentioned by Adhir Da. It looks confusing because we have not actually had enough time to deliberate on the Motion... (*Interruptions*). I will give you a number of such observations. ... (*Interruptions*). Rather extensions were happening. ... (*Interruptions*). I am not going to name the officers today. If pressed, I will name them. I have the entire list with me. ... (*Interruptions*). I will name them. ... (*Interruptions*). We will talk in the discussion. ... (*Interruptions*). This is introduction. ... (*Interruptions*) तब चर्चा करेंगे, अगर सारी चर्चा आज ही हो जाएगी, तो हम उस दिन क्या डिस्कशन करेंगे because you are going to repeat what you said today in the discussion. ... (*Interruptions*). I will go beyond this ... (*Interruptions*). We are rather streamlining this ... (*Interruptions*). So, that is one part.

Then saying कि ऑर्डिनेंस क्यों आया? क्षमा कीजिए, जिस तरह से पिछले सत्र में हाउस चला है, चला, नहीं चला, चलेगा, नहीं चलेगा, तो क्या सरकार काम करना बंद कर देगी? Incidentally, today you have had the patience नहींतो, यहां हाउस ही नहीं चलता । जब हाउस ही नहीं चलता है, तो सरकार क्या करे?...*(व्यवधान)*

श्री अधीर रंजन चौधरी : हाउस आप नहीं चलाते हैं ।...*(व्यवधान)*

डॉ. जितेन्द्र सिंह: अध्यक्ष महोदय, मैं आपकी अनुमति चाहता हूं कि इस बिल को इंट्रोज़्यूज किया जाए ।...*(व्यवधान)* हम बाकी के बिन्दु चर्चा के दौरान ला सकते हैं ।...*(व्यवधान)*

माननीय अध्यक्ष: प्रश्न यह है:

“कि केन्द्रीय सतर्कता आयोग अधिनियम, 2003 का और संशोधन करने वाले विधेयक को पुरःस्थापित करने की अनुमति प्रदान की जाए ।

प्रस्ताव स्वीकृत हुआ ।

... (व्यवधान)

माननीय अध्यक्ष: माननीय मंत्री जी, अब आप विधेयक को पुरःस्थापित कीजिए ।

... (व्यवधान).

DR. JITENDRA SINGH: I introduce the Bill.

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... (*Interruptions*)