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Title: Introduction of the Unlawful Activities (Prevention) Amendment Bill, 2019 (Bill Introduced).

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI G. KISHAN REDDY): Hon. Speaker Sir, on behalf of my colleague, Shri Amit Shah, I beg to move for leave to introduce a Bill further to amend the Unlawful Activities (Prevention) Act, 1967.

माननीय अध्यक्ष: प्रस्ताव प्रस्तुत हुआ:

“कि विधिविरुद्ध क्रियाकलाप (निवारण) अधिनियम, 1967 का और संशोधन करने वाले विधेयक को पुरःस्थापित करने की अनुमति दी जाए।”

...(व्यवधान)

माननीय अध्यक्ष : मैं श्री एन. के. प्रेमचन्द्रन जी के बोलने के बाद व्यवस्था दे रहा हूँ।

...(व्यवधान)

SHRI N. K. PREMACHANDRAN (KOLLAM): Sir, I rise to oppose the introduction of the Unlawful Activities (Prevention) Amendment Bill, 2019. ...(*Interruptions*)

माननीय अध्यक्ष: माननीय सदस्यगण, अगर कोई भी माननीय सदस्य इस विषय पर बोलना चाहता है तो इसके लिए नोटिस दिया जाता है, हाथ खड़ा नहीं किया जाता है। यह ज़ीरो आवर नहीं है, प्रश्न काल नहीं है। अगर आपका नोटिस होगा तो आपको बोलने का मौका दिया जाएगा।

श्री एन. के. प्रेमचन्द्रन।

SHRI N.K. PREMACHANDRAN: Thank you very much, Sir.

Sir, under Rule 72 (2) of the Rules of Procedure and Conduct of Business, I rise to oppose the introduction of the Bill – The Unlawful Activities (Prevention) Amendment Bill, 2019 – on the following four grounds.

Number one is regarding the original Act of 1967. The sole purpose or the intent of the Bill is to address the issues and prevent unlawful actions done by the associations or organisations. Now, the Government, by the new amendment, is proposing to bring in the individuals, for which new clause 4 of the Schedule is to be incorporated which is against the basis of the legislative principle. The original Act is just to address the issue in respect of the organisations and associations which are involved in terrorist activities.

Number two, the proposed amendment to Section 35 is in violation of the fundamental right – Right to life and personal liberty guaranteed in Article 21 of the Constitution, and it will not come within the purview of Article 22 of the Constitution in which exemptions are being stated.

Three, it is against the directions of the Supreme Court in cases related to TADA and POTA. There are various other judgments also which I am not quoting.

Four, the Statement of Objects and Reasons is very vague. It is indefinite. It is unclear. I fully support the view that terrorism and anti-national activities have to be dealt with very stringently and very

seriously. We can never compromise our national security. The integrity of our country can never be compromised.

But in the name of terrorism, the basic Fundamental Rights of the citizens can never be curtailed. We have the experience of POTA; we have the experience of TADA. From 1985 to 1995, the TADA law lapsed on its own. For POTA, I also participated in the discussion in the Joint Session. POTA was passed in 2002. It is a very, very valid point. POTA was passed in 2002 and it was repealed in 2004 at the time of the UPA Government. My point is: why had it been so? There was misuse and abuse of the excessive power by the Executive. ...(*Interruptions*). The individuals are being targeted and charged under the previous laws of TADA and POTA. Here, what is the case? Schedule 4 is being incorporated. As per Section 35, Clause 2, which is the proposed amendment, a Schedule will be incorporated under which any individual can be declared as a terrorist. What is the procedure? What are the criteria? It means unfettered discretionary authority is being provided to the Government so as to take away the right of life and personal liberty guaranteed under Article 21 of the Constitution. In the Statement of Objects and Reasons, it is mentioned that the National Investigating Agencies are finding it very difficult to investigate the cases and also prosecute the cases of terrorism. What are the difficulties?

माननीय अध्यक्ष: माननीय सदस्य, आप बहुत वरिष्ठ सदस्य हैं और सदन के विद्वान सदस्य भी हैं। बिल इंट्रोड्यूस के समय अगर आपको किसी विषय पर विरोध करना है तो आप बोल सकते हैं, लेकिन जब विधेयक पर चर्चा होगी तो आप डिटेल में बात करें और यही सदन में होना चाहिए।

SHRI N. K. PREMACHANDRAN : I am only raising the technical objections. The difficulties being faced by the National Investigating

Agencies are not known to the Parliament. It is not mentioned in the Objects and Reasons. In order to overcome the difficulties faced by the National Investigating Agency, this amendment is being brought in. What are the difficulties? The House is in darkness. Under the Schedule, any person can be declared as a terrorist. So, it is violation of Article 22 and it will not come within the purview of Article 22. Hence, I strongly oppose the introduction of Unlawful Activities (Prevention) Amendment Bill.

HON. SPEAKER: Dr. Shashi Tharoor

DR. SHASHI THAROOR (THIRUVANANTHAPURAM): I am sorry to have to oppose yet another Bill because these are very ill-considered and hasty bills that have been brought to the House. Let me stress that Unlawful Activities (Prevention) Act enables the Government only to ban organizations and associations. It is meant to be used against a collective and not against individuals. Actually, if there is a lone wolf terrorist, you have ample powers to arrest him. You have plenty of ways to deal with these people. You can seize their properties also. If it is a Global terrorist recognized by the UN Security Council, then you can incorporate them under the 2007 UN Order, which is read with Section 51A. Why do you want to use UAPA to declare an individual a terrorist? Let the Minister give us examples of terrorists who are not members of banned organizations, due to which we need such a law. As my colleague has pointed out, the Bill really opens up a great deal of scope for misuse.

Secondly, once a person is unilaterally declared a terrorist by the Government, the burden is shifted on to the individual to prove his

innocence before a Review Committee. The organization can do it. How can an individual do it? ...(*Interruptions*).

Thirdly, there is a Pre-Legislative Public Consultation Policy, 2014 under which the Minister is supposed to undertake a public consultation. ...(*Interruptions*)

माननीय अध्यक्ष: माननीय सदस्य, आप किस नियम के तहत बोलना चाहते हैं?

डॉ. निशिकांत दुबे (गोड्डा): अध्यक्ष महोदय, नियम 72(1) है । इन्होंने 72(2) कोड किया, वहीं 72(1) है । वह यह कहता है कि:

“Where a Motion for leave to introduce the Bill is opposed on the ground that the Bill initiates legislation outside the legislative competence of the House, the Speaker may permit a full discussion thereon.”

यहां तो फुल डिस्कशन हो रहा है । लेजिस्लेटिव काम्पिटेन्स के अलावा आप किसी पर चर्चा नहीं कर सकते हैं । यह सभा लेजिस्लेटिव काम्पिटेन्स के ऊपर है । हम बिल बनाने के अधिकार पर हैं और उसमें केवल अमेन्डमेन्ट हो रहा है । यह बिल तो ऑलरेडी बना हुआ है, केवल इसमें अमेन्डमेन्ट हो रहा है, इसलिए इस तरह का डिस्कशन नहीं हो सकता है । वे इंट्रोडक्शन का सपोर्ट कर सकते हैं या विरोध कर सकते हैं ।

DR. SHASHI THAROOR : I have not given my notice under Rule 72(1). I have a copy of my letter, which says about Rule 72(2).

माननीय अध्यक्ष : ठीक है माननीय सदस्य, आप बोलिए ।

DR. SHASHI THAROOR : Sir, let me quickly give my third objection. I have three objections. The third objection is as following:

That the Minister did not undertake a public consultation as required under the Pre-legislative Consultation Policy, 2014.

There is no attempt to improve the due process requirements under the law to prevent the abuse of these powers.

Sir, in 1967, when the UAPA was first adopted, a very distinguished Member, whom you admire, Sir, said the following:

“We cannot agree to this Bill because any activity, which is not tolerable to the Government could be called to account by giving inelastic definition of anti-national activity. ”

Sir, that was Shri Atal Bihari Vajpayee, who said so. Sir, please ask this Government to listen to Shri Atal Bihari Vajpayee’s views, and take this Bill back.

माननीय अध्यक्ष : श्री ई. टी. मोहम्मद बशीर, क्या आप बोलना चाहते हैं?

SHRI E.T. MOHAMMED BASHEER (PONNANI): Yes, Sir.

I very strongly oppose the introduction of this Bill. This Bill is really against the Constitution of India. This Bill tantamounts to curbing of the Fundamental Rights, which have been guaranteed by the Constitution of India.

Similarly, this Bill gives extra-Constitutional powers to the Government and the officers to resort to victimisation and do things according to their will and pleasure.

माननीय अध्यक्ष : एक मिनट, प्लीज आप बैठ जाइए । मैं फिर माननीय सदस्यों को व्यवस्था दे रहा हूं कि बिल इंट्रोड्यूस करते समय आप संक्षिप्त में विरोध कर सकते हैं । जब विधेयक पर पूरी चर्चा हो, तब अपनी बात कहनी चाहिए ।

विधेयक की पूरी चर्चा पर आप जितनी चाहें उतनी बात कहें । अगर संक्षिप्त में कोई विषय है, तो उसे ध्यान में डालिए ।

SHRI E.T. MOHAMMED BASHEER: I fully agree with you, Sir.

As correctly mentioned by my learned friends, we have had the experience of this UAPA Act. Hundreds of thousands of youths are languishing in Indian jails. Even after five years, after ten years, the charge-sheets have not even been filed against them.

Similarly, we all know that officers are getting extra-ordinary powers, which they are misusing. So, I am of the opinion and it is my humble suggestion that the Government must withdraw this Bill. They must withdraw the original parent Act also with immediate effect.

SHRI P.K. KUNHALIKUTTY (MALAPPURAM): Sir, a number of objections have been raised on the introduction of this Bill. There are concerns. The hon. Home Minister knows as to what is happening in the country and how much misuse is taking place using this law. Actually, by missing this UAPA law, a large number of individuals have been detained without any trial. This law is not to give punishment. This law is to detain people. Anybody can be detained and put behind bars by using this law. So, it is being misused. Many people are behind bars by misuse of this law. Everybody knows the story. So many cases are going on. Such is the situation. That is why, there are objections from this side.

So, there should be some explanation to be given by the Government that it will not be misused.

Not only that, while giving more powers to the investigating agency, there is no assurance that it will not be misused, in future.

Actually, Sir, this amendment is against the Fundamental Rights that are guaranteed in the Constitution. That is why there is so much of objections on the introduction of this Bill.

माननीय अध्यक्ष : माननीय मंत्री जी कुछ बोलना चाहते हैं । आप सब तालियां बजाइए, क्योंकि मंत्री जी पहली बार सदस्य बने हैं ।

श्री जी. किशन रेड्डी : आदरणीय अध्यक्ष जी, मैं संसद को बताना चाहता हूं कि हमारी सरकार टेररिज्म के विषय पर जीरो टॉलरेंस के साथ काम करने वाली है । इसके लिए जो भी कदम उठाना है, हमारी सरकार उसे उठाएगी । जो अभी प्रश्न उठाए, यह बिल नहीं है, बिल में अमेंडमेंट्स हैं । As on date, there is no provision in the Unlawful Activities (Prevention) Act, 1967 or in any other legislation to designate individual terrorist under Indian legal system; and to meet international obligations, it is proposed to add Fourth Schedule and insert the necessary enabling provisions in the relevant Section of the Unlawful Activities (Prevention) Act.

अध्यक्ष जी, मैं आप लोगों से अनुरोध करना चाहता हूं, अलग-अलग टेररिस्ट ऑर्गेनाइजेशनस हैं, उसके ऊपर निषेध या बैन करने के बाद कुछ लोग बाहर आकर अलग-अलग संस्था खोल लेते हैं, इंडिविजुअली काम कर रहे हैं । आपको मालूम है, ऐसा पहली बार नहीं है । यूनाइटेड नेशन्स ने भी लश्कर-ए-तैयबा के चीफ और जमाते चीफ हाफिज मोहम्मद को इंडिविजुअल टेररिस्ट घोषित किया । पुलवामा की घटना में जो इन्वोल्व थे, उन्होंने घोषणा की कि हम ही पुलवामा घटना के लिए जिम्मेदार हैं, हमने ही किया है । जैश-ए- मोहम्मद के चीफ पुलवामा अटैक की घटना के पीछे थे । मौलाना मसूद अजहर को भी यूनाइटेड नेशन ने इंडिविजुअल टेररिस्ट घोषित किया है । हमें क्या आपत्ति है? हमारे देश

को क्या आपत्ति है? मैं पहले बताना चाहता हूँ कि यह बिल केवल इंट्रोडक्शन है । आप चर्चा के समय जरूर बात कीजिए, हम जवाब देंगे, हम तैयार हैं । हम टेररिज्म के विषय पर कभी पीछे हटने वाले नहीं हैं, हम यह विश्वास दिलाना चाहते हैं । किसी भी गैर-जिम्मेदार व्यक्ति को इस पर कोई आपत्ति नहीं होनी चाहिए । हमारी सरकार केवल टेररिस्ट के खिलाफ है, इनोंसेंट पर्सनस को कोई भी प्रॉब्लम नहीं होगी । हम इस काम को पूरा करेंगे । मैं आपके माध्यम से सांसद महोदय ने जो सवाल उठाया है, आदरणीय सांसद जी से निवेदन करना चाहता हूँ कि जब डिस्कशन करेंगे और डिस्कशन में जो भी समस्याएं उठाएंगे, हम उसका जवाब देने को तैयार हैं ।

दूसरा, एक और विषय है, आपने पहले किसी को नहीं बताया । A pre-legislative consultation was done. This draft amendment Bill was uploaded on the Ministry's website on 19th December, 2016. The suggestions received have been duly considered and examined. यह सजेशन लीगल डिपार्टमेंट गया, होम डिपार्टमेंट गया, उसके बाद वेबसाइट पर जनता के सामने रखने के बाद जितने भी सुझाव आएँ, हम उन सुझावों पर लेकर बिल लाये हैं । यह जल्दबाजी में कार्य करने वाली सरकार नहीं है । हमारी सरकार जिम्मेदारी के साथ कार्य करने वाली सरकार है ।

गृह मंत्री (श्री अमित शाह): यदि इसे वापस लेना है तो मौका दीजिए, इसमें इनका विरोध रिकार्ड पर अच्छा नहीं रहेगा ।

माननीय अध्यक्ष: माननीय सदस्य क्या आप अपना विरोध वापस लेना चाहते हैं?

श्री एन. के. प्रेमचन्द्रन : नहीं ।

माननीय अध्यक्ष: प्रश्न यह है:

“के विधिवेरुद्ध क्रियाकलाप (नेवारण) आधेनेयम, 1967 का और संशोधन करने वाले विधेयक को पुरःस्थापित करने की अनुमति प्रदान की जाए ।”

प्रस्ताव स्वीकृत हुआ ।

SHRI G. KISHAN REDDY: Sir, I introduce the Bill.