

559 *Stat. Res. re. disapproval of Cess and other Taxes on Minerals (Validation) Ordinance and Cess and other Taxes on Minerals (Validation) Bill* MARCH 30, 1992  
[Sh. Balram Singh Yadav]

*Stat. by Minister 560  
Bofors investigation*

revenue of these States, I propose to introduce a suitable law for the validation of the levies already collected. In the case of Bihar the date upto which the levies were allowed to be retained was 4.4.91. It is also worth noting that it will be very difficult to ensure that the collected levies are refunded to various owners of those minerals who have to bear the burden of these levies.

After examining the above points and also taking into account the pressure from some State Government about refund of levy, the President of India promulgated the Mineral cess and other Taxes (Validation) Ordinance, 1992 on February 15, 1992. Through this Ordinance seven State Governments will have to validate the collection of cess and other taxes on minerals upto 4.4.91.

[Translation]

These seven State Government such as Andhra Pradesh, Bihar, Karnataka, Madhya Pradesh, Maharashtra, Orissa and Tamil Nadu cannot recover levies after this date.

MR. CHAIRMAN: Hon. Minister, Your statement is too lengthy.

SHRI BALRAM SINGH YADAV Sir, I am just concluding. This Bill will replace that ordinance and validate the Acts of the State Government to make them free from responsibility of refunding recovered cess. The Bill is being introduced on the request of affected states, so that their difficulties may be removed. Therefore, I introduce the Bill for the consideration of the House.

[English]

MR. CHAIRMAN : Motion Moved:

"That the Bill to validate the imposition and collection of cesses and certain other taxes on minerals under certain State laws, be taken into consideration."

There are amendments to the Motion for consideration,

SHRI DAU DAYAL JOSHI-not present.

SHRI GIRDHARI LAL BHARGAVA.

[Translation]

SHRI GIRDHARI LAL BHARGAVA: I beg to move-

"That the Bill be circulated for eliciting opinion there on by the 25th June, 1992."

[English]

MR. CHAIRMAN: Now the Minister to make a statement.

17.02 Hrs.

STATEMENT BY MINISTER  
Bofors by investigation

[English]

THE MINISTER OF EXTERNAL AFFAIRS (SHRI MADHAVSINH SOLANKI): Sir, in the morning, hon. Shri Jaswant Singh, hon. Shri Somnath Chatterjee and other hon. Members have sought clarification on my visit to Davos.

I have read the report which has appeared in a newspaper today, I wish to make a brief statement clarifying my position.

Neither the Ministry of External Affairs nor I deal with the Bofors investigation. I am not aware of the details of the pending

proceedings Hence, there was no occasion for me to make any request to the authorities in Switzerland in respect of the cases before the Swiss Courts and I categorically State that I have not done so

However, it is true that when I was in Davos, I made a courtesy call on Mr Felber, Federal Councillor for Foreign Affairs At the end of our conversation, while taking his leave, I handed over a note to Mr Felber This note on the Status of the court cases pending in India had been given to me by a lawyer I now regret that I handed over this note which was caused embarrassment to me and avoidable misunderstanding

The Government of India's position has been made amply clear by the letters written by the CBI to the Swiss authorities On these aspects, I understand that a statement will be made on behalf of the Government in due course

SHRI AMAL DATTA (Diamond Harbour) Who was this lawyer? Please clarify that Other wise nothing is clarified

SHRI MADHAVSINH SOLANKI This is not a suo motu statement, but only clarification to the issues raised in the House (*Interruption*) Who is the Lawyer? He is not a counsellor that he will hand over the paper Is he a responsible lawyer? Is he a lawyer appointed by the State? Please clarify that Shri Basu Deb Acharya (Banarua) You lay a copy of the note on the Table of the House

THE MINISTER OF PARLIAMENTARY AFFAIRS (SHRI GHULAM NABI AZAD) Normally in this House after that statement is made, we do not seek clarifications We have agreed that on 1st April, we will have a full discussion on Bofors in this house

SHRI BASU DEB ACHARIA Before that, that note should be laid on the Table of

the House (*Interruptions*) I am on a point of order

SHRI AMAL DATTA (Diamond Harbour) He should give a statement on what is discussed there to us He said "I have handed over something" but that has not been given to us What is the fun of discussing? You have it laid on the Table of the House

MR CHAIRMAN Mr Basu Deb Acharya, you are on a point of order Please let me listen

SHRI BASU DEB ACHARIA Just now the Foreign Minister said that he had handed over a note to the lawyer who is that lawyer? He should mention the name of the lawyer and also when the Foreign Minister has stated that he has handed over the note, that note should be laid on the Table of the House (*Interruptions*)

(SHRI GHULAM NABI AZAD) No

SHRI BASU DEB ACHARIA Why not?

MR CHAIRMAN Mr Basu Deb Acharya, what is the rule which the Foreign Minister has violated?

SHRI BASU DEB ACHARIA He has violated all the rules

MR CHAIRMAN There is no point of order Shri Ram Kapse to speak now No rule has been violated

[*Translation*]

SHRI RAM KAPSE (Thane) Mr Chairman, Sir, it is a very serious issue and just now the hon Minister of External Affairs gave a statement here After that Shri Ghulam Nabi Azad said that on 1st April we will have a full discussion on it in the House But before it, we want to know the name of the lawyer as there is no reason for waiting for

[Sh. Ram Kapse]

*(Interruptions)*

two days. Please tell us the name of the lawyer who handed over the note to the hon. Minister. Along with this, arrangement should be made to lay that note on the Table of the House. We do not understand the reason why that lawyer gave a note on the status of the pending cases. There was no need of giving information and specially in Sweden. Why this was done? It should be clarified. It is my demand and point of order that the hon. Minister should lay the note on the Table of the House and should disclose the name of lawyer also.

MR. CHAIRMAN: I have already said that there is no point of order in it and no rule has been violated. Dr. Laxminarayan Pandeya.

*(Interruptions)*

DR. LAXMINARAYAN PANDEYA (Mandsaur): I would also like that the hon. Minister should clarify the position about the objections reissued by the hon. Member. When a discussion is to take place on Before issue, the name of the lawyer should be disclosed. Please tell us what is the problem in laying the note on the Table of the House?

SHRI BHAGWAN SHANKAR RAWAT (Agra): When the hon. Minister has mentioned about a lawyer, he should also tell the reasons why the need arose for under what circumstances the hon. Minister gave that note? It should be clarified. *(Interruptions)*  
[English]

MR. CHAIRMAN: I have already over-ruled that there is no point of order.

*(Interruptions)*

MR. CHAIRMAN: kindly sit down. All these issues can be raised in the debate.

MR. CHAIRMAN: Kindly take your seats.

SHRI AMAL DATTA : Where is the note? The note is most important.

SHRIBASU DABACHARIA: We should know it.

MR. CHAIRMAN: Kindly take your seats. Shri Acharia, kindly take your seat. What do you want to say?

SHRI BASU DEB ACHARIA: Unless we know what is there in that note, what purpose will it serve by discussion? we should first know what is there in that note and what it contains. That should be laid on the Table of the House. You should ask the Minister to lay it on the Table of the House.

MR. CHAIRMAN: The hon. Member should know that no questions are allowed on the statement.

SHRI AMAL DATTA: We are asking no questions. We are making comments.

MR. CHAIRMAN : you will have sufficient time for it when the discussion starts.

SHRI AMAL DATTA: The question is whether it amounts to clarification or not. This is not a clarification.

SHRI RAM KAPSE (Thane): This statement is incomplete. *(Interruptions)*

MR. CHAIRMAN : I have already ruled that no questions can be asked on the statement. Kindly sit down. The Minister of Parliamentary Affairs wants to say something. Kindly listen. *(Interruptions)*

SHRI GHULAM NABI AZAB : Sir, there was a demand made in this House. I would

like to clear what the position is. In one second, I would just like to make it clear. *(Interruptions)*

SHRI AMAL DATTA: The point is that the Parliamentary Affairs Minister can speak and I cannot speak. Is it correct?

SHRI GHULAM NABI AZAD: You can speak. The hon. Member of the other House wanted a full-fledged discussion on the Bofors, to which the Government has agreed. Today hon. Members Shri Jaswant Singh and Shri Somnath Chatterjee wanted only a pointed answer.

SHRI BASU DEB ACHARIA. I also wanted it.

SHRIGHULAM NABIAZAD: Yes There is a difference between a discussion and a point of clarification. Their only pointed question was whether he has handed over some document, letter or not. In response to that, the hon. Minister has said "Yes". *(Interruptions)* To a pointed query a pointed answer has already been given. So, this is not full-fledged discussion

For a full-fledged discussion, a date and time has already been fixed. So, if you have to have one discussion today and day after tomorrow another discussion, there is no fun of having any discussion *(Interruptions)*

MR. CHAIRMAN: let me understand I allow you one by one. I will control the House. Kindly sit down. The hon. Minister has said something. After the Minister says something, if the Member has to say something, let me listen and then I will rule

*[Translation]*

SHRI HARI KISHORE SINGH (Shedar): Mr. Chairman, Sir, it is not for asking the clarification as the situation has further be-

come more serious and complicated due to the statement given by the hon. Minister.

It cannot be expected of the Minister of External Affairs of India that a lawyer met him and gave a note to him which was handed over to his counterpart when he met him. This issue has become so serious that facts should come before the House about it. It was not expected from him in the manner in which foreign policy of India is being handled.

SHRI SRIBALLAV PANIGARAH (Deogarh): This is not the time to ask clarifications. The time of the House should not be wasted like this. *(Interruptions)*

MR. CHARIMAN: I am allowing only two Members. Is there a new point?

SHRI SOBHANADRESWARA RAO VADDE (Vijayawada): Sir, the hon. Minister of External Affairs has just now made a statement in this House and it has further compounded certain confessions that are there in the minds of the people because of a very alarming news that appeared today morning. He says that he has handed over a note. He is confirming. But the contents of the note is not made clear

*(Interruptions)*

MR. CHAIRMAN: The Parliamentary Affairs Minister has said something.

SHRI SOBHANADRESWARA RAO VADDE: If the contents of the note are not known, the discussion will not be fruitful. Still, doubts will be there. It is better for the Government to come out with the details of the note. It is better for the Minister of External Affairs to come out with a statement. *(Interruptions)*

MR. CHAIRMAN: I am not allowing them to ask any question.

**SHRI SOBHANADREESWARA RAO VADDE:** Let him say what is there in the memorandum. (*Interruption*)

**SHRI JASWANT SINGH(Chittorgarh):** Mr. Chairman, I would like to put the entire matter in its correct perspective. The hon. Minister is entirely right as indeed the Minister of Parliamentary Affairs that I had sought clarification on a specific aspect. Even then, the Treasury Benches were saying that we could have a full-fledged discussion. It was our submission that the full-fledged discussion will not serve any purpose unless they first come forward with a clarification on certain specific aspects. What the hon. Minister of External Affairs has now done is to clarify what I had enquired along with the other Members in the morning. It is possible that in the process of replying, further queries have arisen. I entirely understand that. Then the limitation of the procedure of this House arises. It would be my advice to the Treasury Benches that the queries that have arisen, that have got voiced had better be settled before the full-fledged discussion takes place on the first of April.

It should better be settled. Therefore, I suggest that at the present moment, it is not in the procedure of the House for us to ask any further clarification from the Minister. We can easily wait until the 1st. But in the process of waiting, the Treasury Benches would be well advised to settle this before we come on the 1st to discuss it.

**SHRI SOMNATH CHATTERJEE:** Sir, it is appreciated that question or clarification are not permitted in this House when a statement is made by the hon. Minister. This appears to be a suo motu statement. He says that it is an explanation. I take it as an explanation, although it is printed as 'statement'. The only thing I am asking is that if the Government is sincere about having a proper and full discussion on this question of Bofors, then I take it that before the discus-

sion takes place or during the opening statement of the speaker on the 1st, they should disclose the statement and the contents of the statement so that House and the country may know about the contents of the document which the hon. Minister for External Affairs was asked to convey to a foreign authority, a Minister. Therefore, let that be also disclosed to us. If he has not got it today or if he wants somebody's clearance let that clearance be obtained and let it be produced on the next day before the discussion starts.

**MR. CHAIRMAN:** I will request everyone to brief. There is only one small point which is involved. This must be remembered that you would not get any reply from the Minister.

**SHRI PAWAN KUMAR BANSAL (Chandigarh):** The Congress has always believed in an open, participatory democracy. It is with due deference to the wishes of the Members of the opposition that the Minister came to make a statement that he has just made. I think, when we ask for some clarification from the Government, it also becomes our duty to at least appreciate that there can be instances when the Government may be of the opinion that it may not be appropriate to lay on the Table of the House or to disclose something at that point of time. (*Interruption*) It is only because of the desire of the Members from the opposition that we have agreed to a tulle debate. I know that subject has been hallucinating our friends on the other side for the last four to five years. But still because they wanted a discussion, we are having a discussion. To insist upon the Government to say as to what the Government has communicated to any agency anywhere would not be appropriate. This is not the right time....

**SHRI SOMNATH CHATTERJEE:** He has expressed his regrets. (*Interruptions*)

**SHRI PAWAN KUMAR BANSAL:** I am

sour the hon. Member are not realising the gravity of the situation that it could lead to. Once we are having a debate, let them come tell us here that we are responsible for anything that comes about and is not called for. In any event, I would request our friends from the other side to bear with the Government for two or three days. When we come for the debate the debate, the debate will be a full-fledged one and everything would be before the House. *(Interruptions)*

**SHRI MANORANJAN BHAKTA** (Andaman and Nicobar Islands): All the time we find that whenever it is convenient to the opposition Member they raise the issue of Bofors. In the past, in the name of Bofors, people gave mandate to a particular group of party. *(Interruptions)*

**MR. CHARIMAN:** Why are you going into details?

**SHRI MANORANJAN BHAKTA:** I am coming to the point. They came to power with the promise to the people that they would unearth everything within fifteen days. They were in power for eleven months. During that time, they could not do anything. *(Interruptions)* Now when the Congress Government has come back again with the mandate of the people, they are raising the issue and trying to malign the Minister and the Government on this issue just to create confusion in the minds of the people. When the Government has agreed for discussion, at that time, asking it to submit this and do that thing will seem to be politically motivated and to malign the Minister.

**SHRI CHITTA BASU**(Barasat): Sir, I do not want to repeat whatever has been said by Shri Manoranjan Bhakta. He has made it a political issue and a party issue. *(Interruptions)*

**MR. CHARIMAN:** Please do not go into those details.

**SHRI CHITTA BASU:** I beg to submit with all humility to you that it is welcomed and appreciated by all of us when the Government side has agreed for a full-fledged discussion on the Bofors matter. I do not seek any clarification but I presume that in the note of the Minister, the status of the Court cases pending in India must have been stated. In the note which he has kindly referred to, according to his statement, it refers to the status of the Court cases in India. Generally, it leads me to presume that this note concerns with something about the cases in India regarding the Bofors. *(Interruptions)*

**MR. CHAIRMAN:** I followed your point, please conclude now.

**SHRI CHITTA BASU:** Therefore, if we want to have meaningful discussion, if we are interested to know the truth of the matter, then the House should have the opportunity of discussing threadbare, leading to a meaningful result. *(Interruptions)*

**Mr. Chairman:** Kindly resume your seat.

**SHRI CHITTA BASU:** I shall just conclude. Therefore, I again reiterate that you should also see that there is a meaningful debate. I want to implore upon you to kindly advise the Government to make available the contents of the note so that the discussion can be meaningful.

**MR. CHAIRMAN:** The hon. Parliamentary Affairs Minister has said whatever he wants to say and the Members have explained their position. *(Interruptions)*

**MR. CHAIRMAN:** Kindly resume your seats. Both of them should take note of the feeling of the House. If they want to make another statement, they can make it afterwards. Now Dr. Laxminarayan Pandeya, to start his speech.

*(Interruptions).*

SHRIGHULANNABIAZAD; the Bill has to be passed and it has to go to the other House (Interruptions)

SHRI LOKANATH CHOUDHURY (Jagatsinghpur) Sir, I am standing for a long time. I have something to say.

MR CHAIRMAN: I have seen you. You can say afterwards. (Interruptions)

DR LAXMINARAYAN PANDEYA (Mandsaur) Mr. Chairman, Sir,

(Interruptions)

MR CHAIRMAN: You can discuss it afterwards, when there is a full-fledged debate. Dr Laxminarayan Pandeya to speak now.

17.24hrs

STATVORY RESOLUTION RE  
DISAPPROVAL OF THE CESS AND  
OTHER TAXES ON MINERALS (VALIDA-  
TION) ORDINANCE

AND

CESS AND OTHER TAXES ON MINER-  
ALS (VALIDATION) BILL *CONTD*

[Translation]

DR. LAXMINARAYAN PANDEYA (Mandsaur) Mr. Chairman, Sir, this Bill is brought to replace the Ordinance which was promulgated by the Union Government to validate the imposition and collection of cesses and certain other taxes on minerals under certain state laws. The Supreme Court by its judgement declared the collection of such taxes as illegal on the ground that the enactments under which the cess was levied were not according to the provisions of the

Constitution. In such a situation the State Government were in serious trouble as they were required to refund crores of rupees collected as taxes under the various enactments. The State Governments such as Madhya Pradesh, Orissa, Maharashtra, and Karnataka requested the Union Government to come to their rescue. Madhya Pradesh Government was facing a problem how to refund crores of rupees because by imposing such taxes, it decided to work in the interest of people of the state. The Central cess on minerals are given to the States in the form of by the Union Government. The amount of royalty is so meagre that the State Government is unable to develop those areas. Therefore, it is frequently demanded by the states such as Bihar, Madhya Pradesh, Orissa etc that the rate of royalty should be increased and due share should be given to the States. It is true that the Union Government increased the rate of royalty to some extent sometime ago, but that was not enough and the State Government were finding it difficult to develop their areas properly.

I would like to draw the attention of the Government towards that judgment of the Supreme Court in which it is stated

[English]

"Having thus concluded that the levy of cess under the Orissa, Bihar and Madhya Pradesh enactments is valid, it becomes necessary to consider the logical consequences of such a conclusion. *Prima facie*, it would seem that all cess levied under the impugned provisions should be directed to be refunded to the assesses, particularly in view of article 265 of the Constitution."

[Translation]

When the question of the refund came, Government of Madhya Pradesh expressed